
(2012) 11 JH CK 0096
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3669 of 2005

Shankar Ram @ Shankar

APPELLANT

Vs

Administrator, Ranchi Municipal Corporation and Others

RESPONDENT

Date of Decision : 26-11-2012

Acts Referred:

Citation : (2013) 2 AJR 509 : (2013) 3 JLJR 287

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Altaf Hussain, for the Appellant; R.R. Nath, Advocate for the RMC, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The petitioner is aggrieved by the Memo No. 1714 dated 6th of August 2004 issued by Health Medical Officer, Ranchi Municipal Corporation, Ranchi (Respondent No. 2) whereby he was informed that he will retire from service on 31st of August 2005 after completion of 40 years of service. By subsequent amendment, another prayer has been introduced by the petitioner in the nature of a direction upon the respondents to reinstate the petitioner on the post he was continuing on 31st of August 2005 with all consequential service benefits.

2. The petitioner who belongs to the scheduled caste category, was appointed as Coolie (Safai Karamchari) in Class-IV service of Ranchi Municipal Corporation, Ranchi on 1st of September 1965. According to the petitioner, he was born on 27th April 1952. The petitioner was taken by utter surprise by the impugned notice dated 6th of August 2004 asking him to retire on 31st of August 2005 on completion of 40 years of service against which he raised objection and requested the respondents to allow him to continue till he attains the age of superannuation. It is submitted on behalf of the petitioner that the State Government had taken a decision to increase the superannuation age of employees from 58 years to 60 years but he was not allowed to avail such

enhanced superannuation age of 60 years Counsel for the petitioner has relied upon the Division Bench judgment of this court rendered in the case of Ranchi University Grade-IV Staff Association and Another Vs. State of Jharkhand and Others, wherein teaching/non teaching employees of the Universities/constituent colleges within the state of Jharkhand were being made to retire on completion of 42 years of service. It is stated that in the circumstances, the Division Bench of this court allowed the writ application by setting aside the order of the learned Single Judge, reinstating the persons who were forced to retire prior to attaining the age of superannuation i.e. 60 years with all consequential benefits.

3. Respondents have appeared and filed their affidavits, stating that the State Government by letter dated 28th of May 1990, directed the Chief Executive Officer/Administrator of all Municipal Corporations to superannuate all such employees of the corporation concerned who had completed 40 years of service. The aforesaid letter was challenged in CWJC No. 553/94 (R) [Radhe shyam Pathak vs. Dhanbad Municipality] but the same was dismissed on 10th of March 1995 and the order passed by the writ court was confirmed by Division Bench vide order dated 31st of December 1995 passed in LPA No. 91 of 1995 (R) Pursuant thereto, vide letter dated 6th of January 1997, Chief Executive Officer/Administrator of all Municipal Corporations were directed to superannuate the employees who had completed 40 years of service and in such circumstances, the petitioner was made to retire on completion of 40 years of service on 31st of August 2005. It is submitted that if the contention of the petitioner is taken to be correct, he had joined service only at the age of 13 years. It is further submitted that the aforesaid issue was again under consideration before the Division Bench of this court in relation to the employees of the Ranch Municipal Corporation where aggrieved persons were retired after completing 40 years of service Counsel for the respondent Municipal Corporation submits that in the case of Shri Raja Ram Sharma vs. The Ranchi Municipal Corporation, Ranchi & others [2004 (2) JLJR 1], decision to retire the concerned employees after completing 40 years of service, was comprehensively upheld after taking into account the decision relied upon by the respondents. It is submitted that the ratio of the case referred to herein above, squarely apply to the case of the petitioner who is an employee of the Ranchi Municipal Corporation.

4. I have heard learned counsel for the parties and gone through the relevant materials on record including the judgment relied upon by the petitioner and the respondents. Facts are not in dispute that the petitioner had entered the service of corporation on 1st of September 1965 and his date of birth was 27th of April 1952 meaning thereby that he was just above 13 years of age at the time of his appointment By 31st of August 2005 he had obviously completed 40 years of his service Respondents, acting upon the instruction issued by the Government, had chosen to issue the impugned notice to retire him The issue in the present writ application was squarely under consideration in the case relied upon by the respondents in the case of Shri Raja Ram Sharma (Supra) wherein this court categorically upheld the decision of the corporation to retire the employee

concerned after completing 40 years of service by referring to the Rules framed under the Municipality Act wherein no officer/ servant of the corporation shall be appointed unless he is above 18 years of age and below 25 years of age. In the aforesaid facts and circumstances, judgment relied upon by the petitioner was rendered in the facts situation of forced retirement of the teaching/non teaching employees of the University/constituent colleges wherein relevant provisions of section 67 of the Universities Act providing for the age of retirement at the age of 58/60 years was under consideration. In those circumstances, the impugned action of the authorities were set aside by which the teaching/non teaching employees of the university/ constituent colleges were made to retire on completion of 42 years of service as being contrary to the statutory provisions of section 67 of the Universities Act. The present case is squarely covered by the judgment rendered by the Division Bench in the case of Shri Raja Ram Sharma (Supra) and as such, no fault can be found with the impugned action of the respondents in retiring the petitioner on completion of 40 years of service. Accordingly, the writ petition is devoid of any merit and is accordingly dismissed.