(2008) 08 PAT CK 0143

In the Patna High Court

Case No : CWJC No. 11033 of 2007

Sheo Bachan Lal — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

Date of Decision : 20-08-2008

Acts Referred:
Constitution of India, 1950 — Article 14, 16

Citation : (2009) 1 PLJR 460

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Advocate : Rajendra Prasad Singh, Rajeev Kumar Singh, Arvind Kumar Singh, Shashi Bhushan Kumar Singh in 11033, M/s Yogendra Mishra, Raghunath Kumar in 1367, M/s Atul Kumar Pandey and Nityanand Mishra in 1523, for the Appellant; Ishwari Singh, for the Respondent

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—All the petitioners in the set of writ applications are/were employees of the respondent-Central Co-operative Bank Limited, Ara. Their grievance is that they have been made to retire at the age of 58 years even though in principle both the Bank as well as the State Government have no objection to allowing enhancement of age of superannuation of the employees of the Co-operative Societies. A decision to enhance the age of retirement was taken by the Board of Directors on 26.7.2006 but while implementing and giving effect to the said decision the respondents have taken a categorical stand that it can be given effect to only from the date the said decision has been notified which is 30.4.2007. This benefit therefore cannot be made available to such employees who had the misfortune of retiring in the meanwhile. One thing is clarified that the basic impediment which was coming in the way of a decision for enhancing the age of retirement was an order No. 1305 dated 15.5.2006 issued by the Secretary, Department of Co-operative, Government of Bihar. It had laid down certain conditions before a decision could be made in this regard. Based on the said parameters the Board of Directors in its meeting dated 27.7.2006 came to a considered opinion that the bank fulfils those conditions and they are in a position to enhance the age of retirement to its employees.

2. In a subsequent development vide order dated 27.11.2007 passed in L.P.A. No. 752 of 2007 and analogous cases a Division Bench of this Court however has held that Order No. 1305 dated 15.5.2006 is not an order u/s 66B of the Co-operative Society Act as it did not have the approval of the Cabinet. If this is the finding with regard to the Secretary''s letter then in the opinion of the Court other impediments also will disappear while taking a decision for enhancing the age. Be that as it may, the present position is that Board of Directors had taken a decision to enhance the age of its employees. However, when it came down to implementation, they have picked up or fixed 30.4.2007 as the date from which such benefit can be extended to its employees.

3. Fixing a date which is the date of issuance of letter cannot be the basis for enhancing the age of superannuation of the employees under the respondents. Notionally the date is being given merely because the follow up to the decision to enhance the age has taken some time. By giving the benefit from the date of decision and allowing the benefit to certain employees to continue till the age of 60 years and others to retire at 58 will create an anomalous situation. In the opinion of the Court such an action would be violative of not only Articles 14 and 16 of the Constitution of India but also alien to service jurisprudence. There has to be a uniform date of superannuation of employees working under an organization.

4. In view of the above it is hereby held that benefit of enhanced age of retirement to the petitioners shall be available to them irrespective of the date of issuance of letter fixing 30.4.2007. All the petitioners will be permitted to rejoin their duty and will be allowed to continue till the age of 60 years. It is also clarified that they shall be entitled to salary and wages for the period they were kept away from service due to reaching the age of 58 years. The writ applications stand allowed.

