
(2011) 03 RAJ CK 0007

In the Rajasthan High Court

Case No : Civil Writ Petition No. 9470 of 2009

Sudhindra Mohan Gautam

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 18-03-2011

Acts Referred:

Citation : (2011) 03 RAJ CK 0007

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Judgement

Govind Mathur, J.—A dispute whether the Rajasthan Dairy Cooperative Federation vide resolution No. 109(13) decided to enhance the age of superannuation of the employees and subsequent thereto, under the resolution No. 109(13) authorized the Managing Directors of various Milk Unions to enhance the age of superannuation was given or not was adjudicated by Co-ordinate Bench of this Court and it was held that a resolution was undertaken as an additional item for enhancement of the age of superannuation, though subsequently a decision contrary thereof was taken. Being aggrieved by the judgment given by the learned Single Judge certain appeals were filed by various Milk Unions including Respondent Milk Union.

2. The special appeal so preferred came to be disposed of by Division Bench of this Court on 8.3.2011 with observations as under:

Let the matter be considered by the cooperative societies within 15 days and by the RCDF within a period of 15 days thereafter. Let a considered reasoned decision be taken in sympathetic manner within a period of one month from today duly considering the directives issued by the Registrar.

However, we are compelled to observe that since there were so many allegations and counter-allegations whether resolution was passed or not shall not influence the decision to be taken by the RCDF or the concerned cooperative societies, they have to take a decision fully considering the current realities also the fact

that the State Government has enhanced the age of superannuation of its employees and other bodies. Let a sympathetic consideration be made in terms of order dated 17.09.2008. The decision cannot be taken arbitrarily, whimsically or capriciously. It has to be taken in accordance with law and it should be so reflected in the action so taken.

We set aside the order of Managing Director and also subsequent resolutions passed by RCDF deciding not to enhance the age. We make it clear that no observation shall come in the way of sympathetic consideration by the Respondents. The order passed by the learned Single Bench is set aside. Let fresh consideration be made as agreed to as on the date the Registrar has passed the order.

In the circumstances, it is stated at Bar that some of the employees are continuing in service as on today. They shall continue till the decision is taken afresh and those employees who are not in service as on today shall be entitled for continuity of service for the period which they have not been able to work in case of enhancement of the age of superannuation. With respect to back wages, concerned societies to take decision.

Appeals are accordingly disposed of.

3. The issue involved in the present writ petition, as a matter of fact, is covered by the directions given by the Division Bench in Special Appeals aforesaid. However, it is submitted by learned Counsel for the Petitioners that the order passed in the special appeals is a consent order and therefore, the same is not binding to the present Petitioners.

4. I do not find any merit in the argument advanced.

5. The question sought to be adjudicated is of general nature and implication of its outcome is relating to all the employees of the Respondent-Milk Union and therefore, the individual case of the Petitioner cannot be singled out. This case is also required to be dealt with as of the other similarly situated employees.

6. In view of it, these petitions for writ are also disposed of in terms of the directions given by Division Bench of this Court in D.B. Civil Special Appeal No. 165/2010 (Paschimi Raj. Dugadh Utpadak Sahakari Sangh Limited v. Kanti Lal Ojha and Ors.) decided on 8.3.2011.