
(2011) 02 MP CK 0054
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 413 of 2010

Surendra Kumar Pandey

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 17-02-2011

Acts Referred:

Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 — Section 2(1)

Citation : (2011) 02 MP CK 0054

Hon'ble Judges : S.R. Alam, C.J.; Ravi Shankar Jha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard the learned Counsel for the parties and perused the record.
2. This intra-court appeal preferred u/s 2(1) of the M.P. Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 arises from the order passed by the learned Single Judge in W.P. No. 3476/2009, dated 25-3-2010.
3. It appears that the Appellant being aggrieved by the order of the Manager, Jyoti English Medium High School, Jayant Colliery, Singrauli (Respondent No. 3), dated 1-3-2009 intimating him that he will retire on 31-01-2009, filed the writ petition claiming that he has legal right to continue in service with the Respondent No. 4 till he attains the age of 62 years. The writ petition was dismissed by the learned Single Judge on the ground that the institution being a private educational institution is not amenable to writ jurisdiction of this Court.
4. Learned Counsel for the Appellant, however, submitted that the Appellant has the right to continue with the Respondents till he attains the age of 62 years and thus, the impugned order superannuating the Appellant on completing his age of 60 years cannot be sustained. We do not find any force in the submission, for the reason that a perusal of the impugned order indicates that the same has been issued pursuant to the Satna Diocesan Society By-laws (Service Conditions of the

employees of the educational agency of the diocese of Satna, Para 25, page 6) wherein the age of retirement is prescribed as 60 years. From a perusal of the impugned communication it is also clear that the Appellant's date of birth being 15-8-1948 he was to retire from service on 14-8-2008, however, since it was in between the academic session, he was permitted to continue in service till 31-3-2009.

5. Learned Counsel for the Appellant could not show us any provision, rule, regulation, by-law etc. of the Society or the State governing the Petitioner's services which provides that a teacher of the aforesaid institution shall continue in service till he attains the age of 62 years.

6. Therefore, without going into the other issues raised by the Appellant, in view of the above mentioned factual position and the fact that no provision to the contrary has been placed before us, we find no reason to hold that the Appellant is entitled to continue in service till he attains the age of 62 years.

7. Thus, we do not find any merit in this appeal. Accordingly, it deserves to be and is hereby dismissed.