
(2010) 07 AHC CK 0142
In the Allahabad High Court

Vijay Kumar Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-07-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2009) 120 FLR 855

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Judgement

Arun Tandon, J.—The controversy with regard to the age of retirement of employees working in Jal Nigam subsequent to the enforcement of Uttar Pradesh Water Supply and Sewerage Act, 1975 is engaging the attention of this Court in large number of writ petitions.

2. The petitioner under the impugned order has been informed that he shall retire on attaining the age of 58 years i. e. on 31.07.2010.

3. According to the petitioner he is to retire at the age of 60 years. Reference is made to various interim orders passed by this Court permitting such continuance of employees till they attain the age of 60 years.

4. On behalf of the respondent an order passed by the Division Bench of this Court in Writ Petition No. 1424 (SB) of 2009; Mahesh Chandra Gupta v. State of U.P. and Ors. dated 04.02.2010 has been produced before this Court. The Division Bench has recorded following reasons for refusing to grant the interim order:

In the present case, the petitioner was appointed in Jal Nigam on 25.5.1983 after the Jal Nigam was set up on 18.6.1975 and that prima facie his services will be regulated by the regulations made by the U.P. Jal Nigam Employees Retirement on Superannuation Regulations, 2005. The retirement age of all those employees, who were appointed in Jal Nigam is provided in the Regulations of 2005, to be 58 years. The petitioner, therefore, cannot prima facie at this stage

be given the benefit of the judgments in Radhey Shyam's case decided by the Supreme Court or in Ram Singh's case decided by learned Single Judge. In Radhey Shyam's case the Jal Nigam did not place on record the Regulations of 2005 and that the judgment in Ram Singh's case in which regulations were found to be violative of Article 14 and 16 of the Constitution of India has been stayed in special appeal.

Further we do not find any justification to grant interim order as the petitioner can be compensated in terms of pay and allowance, if the judgment in Ram Singh's case is upheld or this writ petition is allowed. The stay application is rejected.

5. Such reasons recorded in the order of the Division Bench have not been noticed in the subsequent interim order dated 17th June, 2010 (Annexure-9 to the writ petition) passed by another Division Bench in Special Appeal No. 975 of 2010.

6. This Court would rather follow the reasons recorded in the order dated 04.02.2010 instead of following an order which does not deal with the reasons recorded by a Division Bench in an order passed prior in point of time.

7. Accordingly, this Court refuses to grant interim order in this petition for the same reasons.

8. Let a counter affidavit be filed by the respondents within three weeks.

9. Writ petition be tagged and placed along with Writ Petition No. 1424 (S/B) of 2009.