

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.VASHA

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WA.No. 2458 of 2015 IN WP(C).25611/2013

AGAINST THE JUDGMENT IN WP(C) 25611/2013 of HIGH COURT OF KERALA DATED 13-11-2013

APPELLANT/PETITIONER:

DR.KERALA SREEMATHI.T
TC 25/1056, ALANADU GEETHALAYAM, THYCADU P.O.
THIRUVANANTHAPURAM-695 014.
[RESEARCH OFFICER (SANSKRIT),
STATE COUNCIL OF EDUCATIONAL
RESEARCH AND TRAINING (SCERT)]

BY ADVS.SRI.JACOB PALEX
SRI.JOSEPH P.ALEX

RESPONDENTS/RESPONDENTS :

-
1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF GENERAL EDUCATION,
GOVT.SECRETARIAT
THIRUVANANTHAPURAM.
 2. STATE COUNCIL OF EDUCATIONAL RESEARCH & TRAINING(SCERT)
REPRESENTED BY ITS DIRECTOR, VIDYA BHAVAN, POOJAPPURA
THIRUVANANTHAPURAM-695 012.
 3. GOVERNING BODY OF SCERT
REPRESENTED BY ITS MEMBER SECRETARY, VIDYA BHAVAN
POOJAPPURA, THIRUVANANTHAPURAM-695 012.
 4. UNION OF INDIA
REPRESENTED BY ITS SECRETARY
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
SHASTRI BHAVAN, NEW DELHI-110 115.

R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R BY SR. GOVERNMENT PLEADER SRI.M.A.FAYAZ
R BY SRI.V.A.MUHAMMED, SC, STATE COUNCIL OF EDUCATION R

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.A.2458 OF 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1: TRUE COPY OF THE GO(P)NO.184/2015/G.EDN. DATED 10.7.2015.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & P.V.ASHA, JJ.

Writ Appeal No.2458 of 2015

Dated this the 16th day of November, 2015

JUDGMENT

Asha, J.

The appellant, who was the petitioner in W.P.(C)25611/13, challenges the judgment of the learned Single Judge declining her prayer for enhancement of retirement age to 58 years. In this writ appeal, she claims the benefit of Annexure 1, Special Rules which provides for the retirement age of employees of SCERT as 60 years. Petitioner, relying on Ext.P2 judgment, wherein this court allowed the petitioner therein to continue in service upto 58 years, contends that she is also similarly situated employee and therefore entitled for similar treatment.

2. We heard the learned counsel appearing for the appellant as well as the learned Standing Counsel appearing for the SCERT.

3. The learned Standing Counsel appearing for SCERT pointed out that the petitioner covered by Ext P2 judgment had continued in service on the basis of the interim orders and by the time the writ petition was disposed of she had reached the age of 58. By the judgment under appeal, the learned Single Judge declined relief to petitioner, following the

judgments of the Apex Court in ***S.Sivaguru v. State of Tamil Nadu & others (2013) 7 SCC 335; Jagadish Prasad Sharma v. State of Bihar (2013) 8 SCC 633 and State of U.P. v. Dayanand Chakrawarty (2013) 7 SCC 595*** observing that the fixation or alteration of retirement age are matters of policy decision and there is no scope for interference unless in a case of discrimination. It was observed that even in cases where UGC regulation provided for retirement age at 60 years, the apex court held that it is upto the State Govt to fix the retirement age and court cannot interfere with the matter.

4. Annexure 1 Special Rules have been issued only on 10.7.2015 and the same has no retrospective effect. Rule 10 of Chapter II in the General Conditions of Service of the Special Rules provide for the retirement age of the employees as 60 years. It is observed by the learned Single Judge that the service conditions including the retirement age of the employees of SCERT was covered by Kerala Service Rules (KSR). It is only on the basis of Annexure I Special Rules issued in the year 2015 a provision has been introduced fixing the

retirement age of employees of SCERT as 60 years. Till such time, the retirement age was 56 as in the case of Government employees, as provided in Rule 60 of Part I KSR. Petitioner has already crossed the age of 56 and since retired from service. Just because the petitioner in Ext.P2 judgment was allowed to continue in service till the age of 58, on the basis of interim orders, we do not find any reason to direct the respondents to extend the same benefit to petitioner and to re-induct her in service, in the absence of any Rule providing for the same.

5. In the above circumstances, we are perfectly in agreement with the finding of the learned Single Judge and we do not find any reason to interfere with the same.

Appeal fails and it is dismissed accordingly.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
P.V.ASHA
JUDGE

jes