

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 29879 OF 2014

ORDER:

The petitioner herein is working as a Junior Assistant with Vijayawada Guntur Tenali and Mangalagiri Urban Development Authority at Vijayawada. He sought for a writ of mandamus for declaring the action of the respondents in issuing the retirement notice to him on 26.09.2014 indicating that he would be retiring from service on attaining the age of superannuation of 58 years on 30.09.2014, as bad in law.

It is the case of the petitioner that the State Legislature has amended the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 2014 (for short, 'the Act'), by way of Amendment Act 4 of 2014, by which the age of superannuation of every government employee has been raised from 58 to 60 years. This amending Act has been brought into force on 27.06.2014. In that view of the matter, the petitioner, who has secured the age of 58 years during the month of September 2014, would not have prematurely retired from service on 30.09.2014 on a wrong premise that he has attained the age of superannuation.

Learned counsel for the petitioner would strenuously contend that the age of superannuation now stood upwardly revised from 58 to 60 years. Hence, all such employees, who have not attained the age of superannuation of 60 years working with the 2nd respondent, shall have to retire from service upon attaining the age of 60 years but not 58 years. However, it is important to notice that unless the petitioner's case is covered by the sweep of sub-section (2) of Section 1 of the Act, he will not get covered by the provisions contained in Section 3 of that Act as well as the amending Act 4 of 2014. To put the issue in a proper perspective, the State Government in its Municipal Administration and Urban Development Department, through its letter dated 13.10.2014, addressed to the 2nd respondent herein, has clarified that the amending Act 4 of 2014, through which the age of superannuation has been raised from 58 to 60 years, is not applicable for the staff of urban development authorities, like that of the petitioner. In fact, there is no such challenge made in the enactment with regard to the inapplicability of the provisions contained in that enactment. Hence, in the absence of any demonstrable right of the petitioner

to get governed by the age of superannuation of 60 years, the declaration sought for in this Writ Petition cannot be accorded. As of now, the service regulations framed by the 2nd respondent urban development authority would only disclose the age of superannuation as 58 but not as 60 years.

Hence, there is no merit in this Writ Petition and it is accordingly, dismissed, after hearing Ms. Mani Deepika, learned Standing for the respondent urban development authority. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

02nd February 2015

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