THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE MRS. JUSTICE ANIS

<u>WRIT APPEALS No. 872, 874 AND 875 OF 2015</u>

<u>COMMON JUDGMENT:</u> ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

These Writ Appeals are preferred by the Andhra Pradesh State Cooperative Bank Limited as well as the Krishna District Cooperative Central Bank Limited aggrieved by an interlocutory order passed by the learned Single Judge, whereby the services of the writ petitioners were directed to be continued until further orders on the premises that the age of superannuation has been enhanced from 58 to 60 years.

The entire gamut of controversy centers around as to whether the respective employer of the writ petitioners has taken any policy decision/resolution duly enhancing the age of superannuation from 58 to 60 years or not. The answer that is furnished to the Court by the learned counsel for the writ petitioners is that the Andhra Pradesh Cooperative Banks' Association has passed an unanimous resolution for enhancing the age of superannuation of the employees of the Cooperative Credit Societies/banks from 58 to 60 years. Since the Andhra Pradesh State Cooperative Bank Limited and the Krishna District Cooperative Central Bank Limited are members of the said Association and since the resolution passed by the Association is an unanimous one and in view of the fact that the State Government has granted autonomy to the Cooperative Credit Societies through Section 115-D(2)(iv) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, the Act'), the age of superannuation of employees of the credit societies and cooperative banks stood enhanced to 60 years.

We are not in a position to appreciate this contention, for, it is one aspect of the matter that an Association of the employers has passed an unanimous resolution for enhancing the age of superannuation from 58 to 60 years, whereas it is altogether a different thing for the respective employers from passing any such resolution enhancing the age of superannuation from 58 to 60 years. So far, according to Sri P. Venu Gopal, learned Senior Counsel appearing on behalf of the learned Standing Counsel for APCOB, no such resolution has been passed by the Board of Directors of the APCOB, enhancing the age of superannuation of its employees from 58 to 60 years. The learned counsel for the writ petitioners would also strenuously submit that NABARD, the Apex institution for rural credit societies has also made the necessary recommendation for enhancing the age of superannuation from 58 to 60 years, but however, the fact remains that the resolution that was passed by the APCOB on 10.08.2015 is to the effect to request the State Government either to delete, modify or exempt from operation of Rule 28(6) of the Rules framed under the 1964 Act, wherein the age of superannuation is fixed as 58 years. Therefore, in the face of the age of superannuation reflected in Rule 28(6) standing at 58, granting the interim relief to continue the employees beyond the age of 58 years is contrary to law. It is, no doubt, true that on 10.08.2015, APCOB has passed a resolution seeking exemption from the operation of Rule 28(6) and based upon the said resolution, when the proposals have been taken up with the State Government, the State Government in Agriculture and Cooperation Department, through their memo dated 12.08.2015, suggested to the Special Commissioner for Cooperation and Registrar of Cooperative Societies to furnish revised proposal for deletion of Rule 28(6) of the Andhra Pradesh Cooperative Societies Rules, 1964 to the government immediately and the Special Commissioner for Cooperation-cum-Registrar of Cooperative Societies has also submitted such a proposal on 22.08.2015 to the State Government recommending for deletion of Rule 28(6) of the Rules or incorporating enhanced age of superannuation of 60 years therein instead of 58 years, but however, the State Government has not passed any orders on such proposal submitted by the Registrar of Cooperative Societies. Consequently, as of now, neither Rule 28(6) got deleted from the Rules nor was any employer exempted from the operation of Rule

28(6) by the government so far. It is also submitted by the learned counsel for the writ petitioners that for the delay that is occasioning at the hands of the government, either for deletion of Rule 28(6) or for granting exemption from operation thereof to the respective employers, the writ petitioners shall not be made to suffer.

In view of the legal regime prevailing as of now, in the form of Rule 28(6), wherein the age of superannuation is fixed and standing at 58 years, and so long as the same is not enhanced to 60 years or so long as the respective employers are not exempted from the operation of Rule 28(6), in view of the autonomy granted by virtue of Section 115-D(2) of the 1964 Act, the Court cannot but view the age of superannuation of the employees of APCOB and respective District Cooperative Credit Societies as standing at 58 but not 60 years. In this view of the matter, the interlocutory direction granted by the learned Single Judge for continuing the employees in service even beyond the age of 58 years cannot be sustained.

However, it shall be open to the respective employers to firm up their mind and take an appropriate decision with regard to enhancement of the age of superannuation and regulate the conditions of service of their respective employees accordingly.

The Writ Appeals stand allowed. The order passed by the learned Single Judge directing continuance in service of such of those employees, who have crossed 58 years of age, cannot be sustained. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

NOOTY RAMAMOHANA RAO, J

ANIS, J

26th October 2015

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