

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39368 of 2015

Dated : 04.12.2015

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Between:

K.Veera Bhadra Rao,
S/o.Bullabbai, 58 yrs,
R/o.2-60, Pithapuram Mandal,
Jalluru, East Godavari District.

.. Petitioner

And

State of Andhra Pradesh,
Rep., by its Principal Secretary,
Excise Department,
Secretariat Buildings, Secretariat,
Hyderabad-500022 & 2 others.

.. Respondents

This Court made the following :

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ORDER :

The petitioner is presently working as unskilled worker in the respondent-Corporation on adhoc basis. Petitioner is challenging the notice issued to him on 02.11.2015 informing him that he is attaining the age of 58 years and would be retired from service on 05.12.2015.

2. The said retirement order is challenged on two grounds i.e.,(1) consequent to enhancement of the age of retirement to 60 years to Government servants, the age of retirement ought to have been extended to all the employees of the Corporation uniformly; and (2) enhancement of age vide circular dated 30.06.2014 only to regular

employees and denying such benefit to adhoc employees like the petitioner is illegal. Learned counsel for petitioner contends that age of unskilled worker ought to have been extended till 60 years without any restriction. He further submits that according to circular instructions of the respondent-Corporation, for an unskilled worker the normal age is prescribed as 58 years. But if the work is available and there is necessity of service of unskilled worker, subject to assessment of fitness, the age of retirement can be extended to 60 years. Even though, such a provision is available and even though a request is made by the petitioner on 16.11.2015, so far no orders are passed and no extension is granted.

3. Learned Standing counsel for the respondent-Corporation, states that similar issue has come up, for consideration before this Court in W.P.No.18370 of 2013 and batch and this Court rendered judgment on 12.09.2014 holding that for unskilled workers like the petitioners, who have to retire at the age of 58 years, the extension of age of retirement to State Government service is not applicable and the persons have to retire on attaining the age of 58 years unless a specific order is issued, for extension of age from 58 to 60 years. He therefore submits that the claim of the petitioner for continuation in service is not valid and is liable to be rejected.

4. As noticed by this Court in the above decision, according to Rule (d) of the Certified Standing Orders, an unskilled worker like the petitioner has to ordinarily retire on attaining the age of 58 years. However, power is vested in the Board to extend the age of retirement of an unskilled worker subject to his physical and mental alertness, as assessed by a qualified medical practitioner and if there is requirement of such continuation of service for the Corporation.

5. Relying on the said provision, the petitioner made a representation on 16.11.2015 for further continuation of his service.

6. Having regard to the above, without expressing any opinion on merits, the writ petition is disposed of directing the respondent-Corporation and in case the Board is not functioning, the designated authority discharging the functions of the Board to consider the request of the petitioner, having regard to the provision contained in Rule (d) of the Certified Standing Orders, as applicable to unskilled worker for continuation of service beyond 58 years and take a decision, if necessary by subjecting him to medical examination of his suitability and if the petitioner is found to be suitable for continuation in service, he may be admitted to duty. The

entire exercise shall be completed as expeditiously as possible, preferably within a period of four (4) weeks from the date of receipt of copy of this order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

_____**P.NAVEEN RAO,J**

04th December, 2015

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