

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

I.

Civil Writ Petition No.17667 of 2015

Date of decision: 25.8.2015

The Child Development Project Officer (CDPO), Rohtak

... Petitioner

Versus

Smt.Kamla and another

... Respondents

II.

Civil Writ Petition No.17677 of 2015

The Child Development Project Officer (CDPO), Rohtak

... Petitioner

Versus

Smt.Dhanno and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.J.S.Bedi, Addl., AG., Haryana,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

This order will dispose of two writ petitions, i.e., CWP No.17667 of 2015 and 17677 of 2015 as common questions of law and facts are involved in both the petitions. The facts are taken from CWP No.17667 of 2015 for convenience.

The issue presented is trifling. The workman was a low paid helper to the Auxiliary Nurse Midwife in ICDS Scheme. She was paid a honorarium of only ₹ 75/- per month for landing a helping hand to do things

like administering polio drops to children. She worked from February, 1989 to July, 2004 whereas the worker insisted that she worked till December, 2005. Be that as it may, I would not like to interfere with the award of the Labour Court as no substantial injustice has resulted to the Department. It may be noted that Mr.J.S.Bedi informs the Court that the respondent-worker is beyond the age of 60 years which is supported by document [P-6]. To this, I would only say that the worker does not hold a post under the State or is any financial burden on its chequer and, therefore, there are no present rules applicable to her service or could be shown. Besides, age limits are not involved in the case as the nature of the job is such which she can easily continue to be performed even beyond 60 years. After all, she was paid only ₹ 75/- per month and even while the award is affirmed, she would only go back to the original position held and earn no more than a meagre ₹ 75/- per month. Mr.Bedi has not shown any rule to me which prescribes age of superannuation for a worker of the present kind and thus she stands in no-rule territory. Nor has it been shown with respect to the regional or in the industry of the kind the management is, that there is any age limit fixed for superannuation. In the absence of rules fixing age of retirement and in the absence of any labour law principle of a general nature, then it cannot be assumed as a legal proposition that a part time worker earning ₹ 75/- per month would retire at the age of 60 years or cease to be a “workman” within the meaning of Section 2(S) of the Act.

For the foregoing reasons, both the petitions are dismissed.

(RAJIV NARAIN RAINA)
JUDGE

August 25, 2015

Paritosh Kumar