

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

LPA No.425 of 2015

Date of Decision: 19.03.2015

Laxmi Dutt

.....Appellant

Vs.

The State of Haryana and Others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B.BAJANTHRI**

Present:- Mr.Vikram Punia, Advocate for the appellant.

SURYA KANT, J. (ORAL)

This Letters Patent Appeal impugns the judgment dated January 20, 2015, whereby learned Single Judge has dismissed a bunch of writ petitions in a matter where reduction in the age of superannuation of State Government employees from 60 to 58 years was challenged.

It is not necessary to refer the facts in extenso. Suffice it to state that the Council of Ministers in their meeting held on 25.08.2014 took a decision to increase the age of superannuation for Haryana Government employees from 58 years to 60 years and in the case of Class-IV employees, from 60 to 62 years. The decision taken by the Council of Ministers was given effect by way of Executive Instructions issued by the Chief Secretary to Government of Haryana on 26.08.2014.

In the State Assembly Elections held in October, 2014, the political regime changed. The new Council of Ministers in their meeting held on 25.11.2014 reversed the previous decision and consequently

reduced the age of superannuation from 60 years to 58 years and in case of Class-IV employees from 62 years to 60 years. Another set of Instructions for implementing the abovesaid decision came to be issued by the Chief Secretary, Haryana on 26.11.2014, wherein it was stipulated that all those employees who had reached the age of superannuation but could not be retired till date, be now retired/superannuated w.e.f. 30.11.2014.

The aforestated later decision of the Council of Ministers and the resultant Instructions issued by the Chief Secretary were challenged in a bunch of writ petitions by various employees of the State Government. Those writ petitions have been dismissed by the learned Single Judge.

We have heard learned counsel for the appellant at some considerable length and gone through the record.

It is not necessary to refer to various other aspects including the circumstances in which the previous decision to increase the age of retirement was taken, for this is an admitted fact that under the Statutory Service Rules, namely, Rule 3.26 (a), it is categorically provided that “every Government employee shall retire from service on the afternoon of the last day of the month in which he attains the age of fifty eight years. He must not be retained in service after the age of retirement, except in exceptional circumstances, with the sanction of the competent authority on public grounds, which must be recorded in writing.”

The aforesaid Rule was concededly not amended while enhancing the age of retirement of State Government employees from 58 years to 60 years and also in the case of Group-D employees from 62 years to 60 years.

It is a clear case of conflict between Executive Instructions and the Statutory Rules. Learned Single Judge has rightly ruled that in the case of such a head-on collision the Statutory Rule must prevail and sustain.

The subsequent decision taken through Executive Instructions dated 26.11.2014 merely averted that collision as it has withdrawn the conflicting instructions dated 26.08.2014.

As regards the competence of the State in determining conditions of service including the age of retirement on superannuation, learned Single Judge has relied upon the settled principles contained in a catena of decisions including *K.Nagraj and others v. State of Andhra Pradesh and another, (1985) 1 Supreme Court Cases 523*.

For the reasons aforestated, we do not find any ground to interfere in the order passed by the Learned Single Judge.

Dismissed.

(SURYA KANT)
JUDGE

(P.B.BAJANTHRI)
JUDGE

19.03.2015
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