IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision:5.1.2016

1. LPA No.1501 of 2015(O&M)

Anand Sarup ....Appellant

VERSUS

Union of India and others .....Respondents

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2. LPA No.1502 of 2015(O&M)

Khem Chand and others ....Appellants

VERSUS

Union of India and others .....Respondents

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3. LPA No.1503 of 2015(O&M)

Pritam Singh and others ....Appellants

VERSUS

Union of India and others .....Respondents

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4. LPA No.1562 of 2015(O&M)

Suresh Chand and another ....Appellants

VERSUS

Union of India and others .....Respondents

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5. **LPA No.1563 of 2015(O&M)**

Iqbal Singh and another ….Appellants

VERSUS

Union of India and others .....Respondents

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6. **LPA No.1564 of 2015(O&M)**

Balbir Singh ….Appellant

VERSUS

Union of India and others .....Respondents

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7. **LPA No.1565 of 2015(O&M)**

Rajinder Handoo and another ….Appellants

VERSUS

Union of India and others .....Respondents

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8. **LPA No.1566 of 2015(O&M)**

Harmohinder Singh Chhabra ….Appellant

VERSUS

Union of India and others .....Respondents

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9. **LPA No.1567 of 2015(O&M)**

Sat Phool and others ….Appellants

VERSUS

Union of India and others .....Respondents

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10. **LPA No.1568 of 2015(O&M)**

Ghulam Hussain Mir ....Appellant

VERSUS

Union of India and others .....Respondents

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CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. S. S. Salar, Advocate for the appellant(s).

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HEMANT GUPTA, J.(Oral)

By this order, we shall dispose of LPA Nos.1501, 1502, 1503, 1562, 1563, 1564, 1565, 1566, 1567 and 1568 of 2015 raising identical question of laws and facts. However, for facility of reference the facts are being taken up from Letters Patent Appeal No.1501 of 2015.

The present appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 24.07.2015 whereby the claim of the appellants for asserting their age of superannuation as 60 years remained unsuccessful.

The appellant claims to have been appointed by Hindustan Machine Tools Limited in the year 1975 (since renamed as HMT Limited). It was on 19.07.2001 (Annexure P-4) services of the appellant were transferred to HMT Machine Tools Limited w.e.f. 01.04.2001 without there being any change in the service conditions and without any break in service pursuant to the arrangement approved by the Company Law Board and accepted by the Central Government under Section 391 and 394 of the Companies Act, 1956. It is thereafter, the appellant continued to serve HMT Machine Tools Limited.

It was on 07.04.2003 (Annexure P-8), the age of retirement of the employees of HMT Limited (the holding company) and HMT Machine Tools Limited (the subsidiary company) was reduced to 58 years from 60 years. Such decision has been taken as approved by the Board of Directors of the subsidiary companies. The relevant clause from the circular (Annexure P-8) reads as under:-

> "This order shall ipso facto amend the relevant Rule pertaining to the age of superannuation in the Conduct, Discipline & Appeal Rules of the Subsidiary Companies viz., HMT Machine Tools Limited, HMT Watches Limited, HMT Chinan Watches Limited, HMT Bearings Limited and HMT (International) Limited as approved by the Board of the Board of Directors of the said Subsidiary Companies."

The grievance of the appellant is that thereafter, the age of the employees working with HMT Limited has been increased to 60 years whereas the employees of subsidiary company i.e. HMT Machine Tools Limited has not been increased. Therefore, the employees of HMT Limited would attain the age of superannuation at 60 years whereas the employees of HMT Machine Tools Limited (the subsidiary company), such as the appellants, would attain the age of superannuation at 58 years. Such different treatment between employees of the holding company and the subsidiary company is arbitrary, discriminatory and not sustainable in law.

We have heard learned counsel for the appellant and find no merit in the present appeal.

Learned Single Bench has considered the Standing Orders approved under the Industrial Employment (Standing Orders) Act, 1946 wherein the age of superannuation of the employees of the company in question, the employer of the present appellant, is 58 years whereas the Standing Orders approved for the HMT Limited, the age of superannuation is 60 years. It was thus held that the age of superannuation fixed in the Standing Orders applicable to the company in question, cannot be said to be illegal and unwarranted. However, liberty was given to the appellant to seek modification of Clause 24 of the Standing Orders in relation to the age of superannuation.

The entire claim of the appellant is based upon the circular on 07.04.2003 wherein uniform conditions of service relating to age were made but the said circular itself makes it absolutely clear that such decision was taken because of the decision of the Board of Directors of the each of the subsidiary company. It is thus apparent that each of the subsidiary company has decided that the terms of service conditions including the age of superannuation should be 58 years. Therefore, mere fact that HMT Limited has increased the age of superannuation to 60 years would not be ipso facto applicable to the employees of subsidiary company such as HMT Machine Tools Limited, in the absence of any conscious decision to increase the age of superannuation.

In view thereof, we do not find any error in the order passed by learned Single Bench which may warrant interference in the present intra-Court appeals.

Dismissed.

(HEMANT GUPTA)
JUDGE

JANUARY 5, 2016 **(SNEH PRASHAR)**
'D. Gulati' **JUDGE**