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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9025/2016

GIRISH CHANDRA GUPTA

..... Petitioner

Through Mr. A P Dhamija and Mr. J P Singh,
Advs.

versus

UNION OF INDIA AND ANR

..... Respondent

Through Mr. Vivekanand Mishra, Senior Panel
counsel for R-1

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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04.10.2016

1. The impugned order dated 26th April, 2016 rejects the interim prayer of the petitioner that he would not retire when he attains the age of 58 years on 30th April, 2016 and he should be allowed to continue to work till the age of 60 years.

2. Learned counsel for the petitioner submits that paragraph 7 of the impugned order wrongly records that the guidelines dated 19.05.1998 (wrongly mentioned as 19.05.1958 in paragraph 7 of the impugned order) had to be implemented. He has drawn our attention to annexure P4 dated 22.10.1998. It is submitted that paragraph of 2.41 of the manual orders was amended. Thus, the impugned order

proceeds on wrong footage.

3. On being asked, the learned counsel for the petitioner accepts that the enhancement of age was rolled back to 58 years by order dated 26.02.2001 (page 56).

4. In these circumstances, reliance placed on the order dated 22.10.1998 would be questionable, if not entirely irrelevant. Admittedly, several officers of the respondent corporation post 26.02.2001 have retired at the age of 58 years.

5. With regard to enhancement of age to 60 years, post 26.02.2001, the learned counsel for the petitioner has referred to the minutes of the Board Meeting dated 30th December, 2015. The minutes as recorded state that presidential directive for enhancement was mandated and necessary. Presidential direction has not been issued till today. Learned counsel for the petitioner submits that the Ministry is sitting over the matter and has not yet communicated the presidential directive, as a result petitioner was retired at the age of 58 years.

6. We have noted the said contentions to highlight the issues raised by the petitioner in the OA. These are aspects and issue which will have to be adjudicated and answered when the original OA is decided. We agree with the Tribunal that at this stage, no interim order in the nature of mandamus should be issued. Interim prayer if accepted would amount to deciding the OA and would have serious repercussions and consequences. Other employees would be entitled to similar benefit. The Tribunal had, therefore, rightly observed that without commenting on merits, and without prejudice, the interim

relief seeking stay of retirement should be declined. It has rightly held that balance of convenience does not warrant interim stay on retirement.

7. In view of the above, we do not find reason to interfere with the impugned order. We clarify that the observations made above are to dispose of the writ petition and would not be construed as final and binding findings on any issue. We have deliberately refrained from elaborate and detailed discussion, least it causes prejudice to any side.

8. With the above observations, the writ petition is dismissed.

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 04, 2016
VLD