

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9111 OF 2015

Bhagwan Kashinath Bhalerao,
Age : 61 years, Occupation : Service,
R/o Janpriya Colony,
Near Adarsha Vidyalaya,
Karegaon Road,
Parbhani, District Parbhani.

...PETITIONER

-VERSUS-

1 The Chief Manager (Administration),
Maharashtra State Seeds Corporation
Ltd., Mahabeej Bhavan, Krishi Nagar,
Akola, District Akola.

2 The District Manager,
Maharashtra State Seeds Corporation
Limited, Behind ITI College,
Jintoor Road, Parbhani.

...RESPONDENTS

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Advocate for Petitioner : Shri Kalani Pravin N.
Advocate for Respondents : Ms.Dube Anjali (Bajpai) a/w Shri Akshay
Kulkarni.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st February, 2017

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The Petitioner is aggrieved by the judgment of the Industrial Court dated 31.07.2014 by which his Complaint (ULP) No.58/2011 has been dismissed.

3 I have heard Shri Kalani, learned Advocate for the Petitioner and Mrs.Dube, learned Advocate on behalf of the Respondents, at length.

4 There is no dispute that the Petitioner joined employment as a Junior Processing Assistant in November, 1978. He was confirmed in employment on 29.12.1987. On 01.03.2011, he was served with a notice indicating that on completion of 58 years of age, he would stand superannuated on 31.05.2011.

5 The Petitioner filed the ULP complaint before the Industrial Court alleging that he should retire at the age of 60 years considering the effect of the Standing Order-27 under the Bombay Industrial Employment (Standing Orders) Rules, 1959. By the impugned judgment, the Industrial Court has dismissed the complaint.

6 The grievance is that the contentions of the Petitioner have not been considered. Rule 10(2) prescribing the age of retirement as 60

years, has not been taken into account. The Standing Order-27 has not been considered. It is, therefore, prayed that this petition be allowed and the Petitioner be held entitled to all monetary and service benefits by concluding that he would retire at the age of 60 years.

7 Mrs.Dube, learned Advocate for the Respondents, has defended the impugned order.

8 Rule 59 of the Service Rules applicable to the employees of the Respondent, specifically prescribes that the date of retirement of an employee shall be the date on which he attains the age of 58 years. Proviso indicates that the Managing Director may retire an employee, who has attained the age of 50 years or has completed 20 years earlier than the normal date of retirement, by giving three months notice of an intention to retire.

9 The record produced before the Industrial Court indicates that the offer of appointment, its acceptance and the order of confirmation clearly indicate that the parties have agreed to be governed by the Service Rules prescribed by the Respondent Corporation. The bond has been executed accordingly. As such, it is resolved between the parties that the age of retirement would be 58 years.

10 The Petitioner had averred that two employees, namely, Smt.Gangabai Dhole and Smt.Rahemabee Shaikh Ibrahim were allowed to work till they reached the age of 60 years. There is no dispute that the Rules applicable to the permanent employees prescribe the age of retirement as 58 years. There was no evidence brought before the Industrial Court to indicate that identically or similarly situated employees, who are comparable with the Petitioner, were allowed to work till the age of 60 years and the Petitioner was retired at the age of 58 years.

11 The Petitioner has further canvassed that a proposal has been put forth in the 252nd meeting of the Sub Committee of the Respondent held on 24.01.2014 to indicate that the age of retirement would be enhanced to 60 years. The Petitioner has been retired on 31.05.2011 and the proposal dated 24.01.2014 cannot be made applicable with retrospective effect.

12 In the light of the above, this Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.