

THE HON'BLE SRI JUSTICE M.S.K. JAI SWAL

WRIT PETITION No.4937 of 2002

ORDER:

This writ petition is filed for a mandamus to strike down the Notification No.CCS/14/10686/01, dated 18.12.2001, issued by the 2nd respondent, by and under which, it is directed that the petitioner will be retiring from service on attaining the age of superannuation of 58 years by 31.03.2002.

The petitioner joined the 2nd respondent society initially as L.D.Clerk on 27.09.1971 and subsequently, he got promotions as Senior Clerk, Head Clerk and OSI. The contention of the petitioner is that the employees of the 2nd respondent are to be treated as employees of the railways and they are entitled to continue in service till the age pf 60 years. The 2nd respondent without considering the service conditions, erroneously issued the impugned notification, retiring the petitioner on completion of age of 58 years.

The learned counsel for the petitioner submitted that the same issue fell for consideration in W.P.No.8415/2003, which was filed by another employee of the 2nd respondent society, and this court, having heard both sides and having gone into the service conditions of the society, held that the employees of the 2nd respondent society are to be treated as employees of the railways and they are entitled to continue in service till the age of 60 years.

Having carefully perused the order and the averments contained in the affidavit filed in support of the present writ petition, I am satisfied that the petitioner raised the issue, which is identical to the issue raised in

W.P.No.8415/2003, stated supra, and that the order passed therein squarely covers the issue raised in the present writ petition.

In view of the above, this writ petition is allowed in terms of the order, dated 19.04.2017 with the direction that the same shall be read as part of this order. Accordingly, the impugned notification is set aside. As the petitioner had already retired from service, the 2nd respondent is directed to pay salary etc., to the petitioner for denying two years of service. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 01.11.2017
Dsr

M.S.K.JAI SWAL, J

