

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

CWP No.19792 of 2017

Date of Decision.01.09.2017

Surinder Kumar and another

.....Petitioners

Vs

Union of India and others

.....Respondents

Present: Mr. Aman Chaudhary, Advocate and
Mr. R.S. Dadwal, Advocate
for the petitioners.

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

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AMIT RAWAL J.(ORAL)

The petitioners, having remained unsuccessful before the Central Administrative Tribunal, Chandigarh (hereinafter called as the Tribunal) in getting the order dated 12.04.2013 (Annexure A-2) along with orders dated 16.07.2013 (Annexure A-1) and 29.07.2013 (Annexure A-1/1) quashed, whereby Semi Conductor Laboratory, Mohali had enhanced the retiring age of its employees from 58 years to 60 years by taking into consideration the cut off date as month of July, 2013 as well as rejection of their representation, are before this Court by challenging the order dated 27.09.2016 (Annexure P-6) passed by the Tribunal.

Mr. Aman Chaudhary, learned counsel appearing on behalf of the petitioners submitted that the applicants-petitioners were employees of Semi Conductor Laboratory (hereinafter called as SCL), a company established under the Administrative Control of Department of Information Technology, which was converted into registered society under the Administrative Control of Department of Space, Government of India. The applicants-petitioners superannuated at the age of 58 years on

Space had taken a decision to enhance the age of superannuation vide order dated 16.07.2013 (Annexure A-1) and in this regard, the applicants challenged the cut off date being July, 2013 on the premise that it should be applied to them also i.e. with retrospective effect and the Tribunal also erred in not considering their cases in correct perspective. In fact, the Department of Space vide its Resolution dated 03.11.2012 had decided to extend the retiring age from 58 years to 60 years and therefore, the date of passing of aforementioned Resolution should be considered as cut off date. In other words, in case the date of Resolution is applied as cut off date, the petitioners would be entitled to benefit of enhancement of age of superannuation, thus, enabling them to all the admissible claims.

He drew attention of this Court to the letter dated 12.06.2013 at page 147 of the paper book issued from the Office of the Director stating that the Prime Minister had approved proposal of enhancement of the age of the employees of SCL from 58 years to 60 years.

It was next contended that the Tribunal erred in not appreciating the fact that Article of Association of the Management Council envisaged that date of Resolution passed by the Management Council should be the effective date, therefore, procedural part cannot change the substantive part of its decision. The SCL had become registered Society of the Department of Space of Government of India and in terms of the Memorandum of Understanding dated 16.06.2006 (Annexure A-9), terms and conditions of the employees were same as that of Central government and therefore, there was no reason to defer the clause with regard to age of retirement when all other conditions of service were made applicable to the Society and its employees, which were to take effect from 01.09.2006.

Thus, urged this Court for setting aside the orders under challenge.

We have heard learned counsel for the petitioners and are of the view that there is no merit in the submissions of Mr. Chaudhary. Admittedly the applicants-petitioners had retired on 30.04.2013 and 30.06.2013, respectively, whereas the Department of Space, Government of India on 16.07.2013 took a decision to enhance the retirement age of SCL employees from 58 years to 60 years by taking the cut off date from the month of July 2013 and onwards applying it prospectively. The plea that the effective reckoning/cut off date should have been taken as 03.11.2012 i.e. the date of passing of the Resolution cannot be accepted. The decision of the Department seeking approval was sent to the concerned Authorities, which was accorded later on i.e. vide letter dated 12.06.2013 by the office of the Prime Minister.

In our view the order of Tribunal rejecting the plea of the petitioners does not call for interference, as it is for the competent authority granting final approval, to make it applicable from a particular date which in the present case has been prospectively after date of approval. Even otherwise, no explanation has come forward for not approaching the Tribunal earlier as the OA was filed on 30.07.2014, almost close to a year after the passing of the orders under challenge. Thus, we do not find any illegality and perversity in the order passed by the Tribunal. The same is upheld and the writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

September 01, 2017

Pankaj*

Whether speaking/reasoned

Yes

Whether reportable

Yes