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HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5007 of 2012**

Dr. Amrit Chopda, S/o. Late Vijay Lal Chopda, Aged about 61 years, Occupation Service, Presently posted as Health Officer, Municipal Corporation, Raipur, R/o. D1/201, Part Residency, Telibandha Road, Raipur, Post Office and Police Station Telibandha, 492001.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Department of Urban Administration, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh.
2. Collector, Police Station Gole Bazar, Post Office Head Post Office, District Raipur Chhattisgarh
3. Municipal Corporation, Raipur, through: its Commissioner, Municipal Corporation, Gandhi Maidaan Police Station Kotwali, Head Post Office, Raipur Chhattisgarh

----Respondents**AND****WPS No. 877 of 2014**

Dr. Amrit Chopda, S/o. Late Vijay Lal Chopda, Aged about 62 years, R/o. D1/201, Part Residency, Telibandha Road, Raipur, Post Office and Police Station Telibandha, District Raipur, Civil and Revenue District Raipur Chhattisgarh.

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1. State Of Chhattisgarh, Through The Secretary, Department of Urban Administration, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh.
2. Municipal Corporation, Raipur, through: its Commissioner, Municipal Corporation, Gandhi Maidaan Police Station Kotwali, Head Post Office, Raipur Chhattisgarh
3. Commissioner, Municipal Corporation, Raipur Chhattisgarh

----Respondents

For Petitioners	:	Mr. Rajeev Shrivastava, Advocate
For State	:	Mr. Arvind Dubey, Panel Lawyer
For respective Respondents	:	Mr. H.B. Agrawal, Sr. Advocate along with Ms. Iturani Mukharjee, Advocate
		Mr. Sachhidanand Yadav, Advocate on behalf of Mr. Kashif Shakeel, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

20/09/2018

1. These are two writ petitions of the same petitioner. Since nature of dispute is similar and identical, this Court proceeds to decide both the writ petitions by this common judgment.
2. The claim of the petitioner in WPS No. 5007/2012 was for quashment of the rejection of the claim of the petitioner for enhancing the age of superannuation from 60 to 62 years, as the Government itself had under F.R. 56 enhanced the age of retirement from 60 to 62 years for the government employees.
3. Pending the petition, the respondents-Municipal Corporation have vide their order dated 22.02.2012 exceeded to the request of the petitioner and have issued an order declaring the age of superannuation of the petitioner at 62.
4. In the light of the subsequent decisions, the substantive grievance of the petitioner stands redressed as he has been permitted to work up till the age of 62. On the said facts, the first writ petition filed by the petitioner i.e. WPS No. 5007/2012 has literally rendered infructuous and the same accordingly stands disposed off.
5. So far as the second writ petition i.e. WPS No. 877 of 2014 is concerned, the claim of the petitioner in the present writ petition was that later on the State Government had enhanced the age of superannuation for the medical officers in the State of Chhattisgarh from 62 to 65 and the petitioner was as such in employment when the said decision had taken by the State Government, therefore the

petitioner's age of superannuation also ought to had been enhanced from 62 to 65.

6. The petitioner had moved an appropriate representation in this regard to the respondents and the State Government vide Annexure P/1 dated 17.01.2014 had rejected the said claim of the petitioner leading to the filing of the present writ petition i.e. WPS No. 877/2014.
7. It has been informed by the petitioner that even after crossing the age of 62 in November, 2013, the respondents have retained the services of the petitioner on contractual basis with a contract being renewed every year and that he has discharged his duties till the age he has crossed 65 years that was in November, 2016. He further submits that as per his instructions, the petitioner is still in contractual employment with the respondents. The only dispute left is whether the age of superannuation of the petitioner has to be treated as 62 or whether it has to be treated as 65.
8. The petitioner undisputedly has worked with the respondents till the age of 65 and he has got certain remunerations from the respondents and as such it would only be the difference of the arrears of pay as well as the calculation of the retiral dues, which the petitioner would be getting in case if the claim of the petitioner is allowed.
9. The contention of the counsel for the petitioner is that it was the same prevailing circumstances and the same circular, which the State Government had considered while rejecting his claim at the first instance vide order dated 18.10.2012, while rejecting the claim

of the petitioner for enhancing the age of retirement from 60 to 62 which has been taken into consideration by the respondents for rejecting the claim of the petitioner for accepting his age of retirement to 65 instead of 62.

10. According to the counsel for the petitioner, the respondents/State had already taken a policy decision in this regard, wherein it has categorically decided by the State Government that for the medical officers working in the State of Chhattisgarh the age of retirement would be 65 instead of 62 and if that be so if on an earlier occasion, the respondents have taken a policy decision for extending the age of retirement from 60 to 62 applying the same analogy, they should have been extended the same benefit by enhancing his age of retirement from 62 to 65 so far as the petitioner is concerned.
11. The counsel appearing for the Municipal Council submits that, but for the order of the State Government rejecting the representation of the petitioner Annexure P/1, the corporation as such does not have any objection in granting the relief to the petitioner for the reason that they have in the past enhanced the age of the superannuation of the petitioner under similar circumstances from 60 to 62. Now the only dispute left is whether the decision of the State Government in rejecting his claim was proper, legal and just or not.
12. If we see the rejection of the representation of the petitioner Annexure P/1, it would reveal that it is only a one line order passed by the respondents, whereby it is only mentioned that the claim of the petitioner stands rejected. No reason whatsoever has been

assigned, neither is there any discussion held, nor is there any rule provision provided or quoted by the respondents while rejecting the representation of the petitioner.

13. At this juncture, it would be relevant to consider the document exhibit P/15 dated 08.08.2013, which is an order by the State Government enhancing the age of superannuation for the officers working on the medical post under the State Government from 60/62 to 65 and the said enhanced age of superannuation has been brought into effect from 01.04.2013.
14. The petitioner originally was to retire from the service on attaining the age of 60 years w.e.f. 30.11.2011. The petitioner by virtue of the order dated 22.02.2012 got an enhancement of service period by two years i.e. till 30.11.2013 i.e. the date when he would have attained the age of 62. If the order of the State Government dated 08.08.2013 is taken into consideration, the age of retirement for the officers working in the medical field under the State Government has been enhanced from 60/62 to 65 w.e.f. 01.04.2013 onwards. The petitioner was to retire on attaining the age of 62 only w.e.f. 30.11.2013, that means by that time, the said order of the State Government dated 08.08.2013 enhancing the age of retirement had already been issued and the order was also made applicable from a back date. On both these dates, i.e. the date on which the order was published and on the date from which the order has been made effective, the petitioner was substantially working as a Health officer under the respondent No.2.

15. Given the said facts, this Court does not find any strong reasons made out by the State Government in refusing the benefits of enhanced age of retirement to the petitioner, who also was an officer in the medical field working with the respondent No.2. The reasons, under which the age of retirement of the petitioner was enhanced at the first instance from 60 to 62 would again be squarely applicable when the age has subsequently been enhanced from 62 to 65 for the officers working on medical post.
16. For the aforesaid reasons, the writ petition deserves to be and is accordingly allowed. It is ordered that the petitioner shall be deemed to have continued in service till 30.11.2016 i.e. the month in which he would have attained the age of 65. As referred in preceding paragraphs, the petitioner during the relevant period had worked with the respondents on contractual basis and he has earned certain remunerations. The petitioner would be entitled for all the consequential benefits for the intervening period after adjusting of the monetary benefits that the petitioner has derived during the said period. The intervening period would for all practical purposes also shall be treated as period spent on duty for the purpose of calculating the retiral benefits as also the pensionary benefits, if any.
17. As a consequence, the writ petition stands allowed and the impugned order Annexure P/1 stands set-aside/quashed.

Sd/-
(P. Sam Koshy)
Judge