

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT APPEAL No.135 of 2018

JUDGMENT:(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, appellants assail the order of the learned Single Judge of this Court in W.P.No.31286 of 2017 dated 05.12.2017.

The learned Judge, in W.P.No.31286 of 2017 dated 05.12.2017, observed as under:

“In the circumstances, this Court cannot continue the interim order, but however, directs respondent Nos.1 and 2 to consider the communication of the 4th respondent dated 03.07.2017 and pass appropriate orders thereon, within a period of four weeks from the date of receipt of a copy of the order. In view of the same, as and when respondent Nos.1 and 2 issue appropriate orders, considering enhancing the age of superannuation of the employees working in the 4th respondent - Cooperative Society to 60 years, it is open to the 4th respondent to take back the petitioners into service”.

Admittedly, the appellants were discontinued from service with effect from the order of this Court dated 05.12.2017. By the impugned order, the learned Single Judge directed respondent Nos.1 and 2 to consider the communication of respondent No.4 dated 03.07.2017 and pass appropriate orders thereon, within a period of four weeks from the date of receipt of a copy of the order. However, till date, decision has not yet been taken by respondent Nos.1 and 2.

Learned counsel appearing on behalf of appellants submits that appellants were to retire on attaining the age of

superannuation on 30.09.2017. However, they continued till 05.12.2017 pursuant to impugned order. If respondent Nos.1 and 2 consider the communication of respondent No.4 dated 03.07.2017 regarding enhancement of age of superannuation in favour of the appellants, then they would be prejudiced of the benefits accrued therefrom because they have been discontinued pursuant to order dated 05.12.2017.

After hearing the learned Counsel for the parties, we are of the considered opinion that, if respondent Nos.1 and 2 consider the communication of respondent No.4 and come to the conclusion that the superannuation age of the appellants would be 60 years instead of 58 years, then they would be entitled for all consequential benefits.

With the above direction, the Writ Petition stands disposed of.

Miscellaneous Petition pending, if any, shall also stand disposed of. However, in the circumstances, without costs.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

Dt:30.01.2018
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