

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.26368 of 2011

ORDER:

This Writ Petition is filed seeking following reliefs :-

“..... to issue an order or direction more particularly one in the nature of Writ of Mandamus :-

(a) Declaring the action of the respondent in not permitting the Petitioner to continue in service upto 30.06.1997 i.e., till he attains 60 years, the age of superannuation as being arbitrary, illegal and contrary to the law declared by this Hon'ble Court ;

(b) Consequently declare that the Petitioner is entitled to count the period of 2 years i.e. till 30.06.1997 as service for all purposes and direct the Respondent-Devasthanam to pay the salary and allowances for the period from 3.2.1997 (the day on which the Petitioner has been retired before completion of 60 years) till 30.06.1997 (the actual date of superannuation on attaining the age of 60 years) ;

(c) Further declare that the Petitioner is entitled to count the entire period of service from 1.7.1995 to 30.06.1997 as service for the purposes of computation of terminal benefits and consequently direct the respondents to compute and release the terminal benefits duly taking into account the period of service from 1.7.1995 to 30.06.1997.....”.

Heard Mr.Siva learned counsel for petitioner and the learned Standing Counsel for respondent Devasthanam.

It has been contended by the petitioner that he was appointed as an apprentice on 23.12.1957 and after various promotions was finally promoted as Foreman. While he was discharging duties as Foreman in the Printing Press, the respondents have initially treated all the employees of Printing Press as workmen and they were allowed to continue upto the age of 60 years but subsequently they have been retiring employees of printing press at the age of 58 years.

The issue whether the employees of printing press are entitled to be continued upto the age of 60 years by treating them as workmen fell for consideration before this Court in W.P.No.722 of 1993, wherein this Court held that the employees of printing press are treated as workmen and they are entitled to be continued upto the age of 60 years vide judgment dated 30.01.2002. Thereafter, the respondent-Devasthanam preferred W.A.No.230 of 2003 and the same was dismissed by the Hon'ble Division Bench of this Court vide order dated 27.07.2010 making it clear that the employees of Printing press are to be treated as workmen and they are entitled to be continued upto the age of 60 years.

It is further contended by petitioner that as per the proceedings dated 02.09.1996, the petitioner was allowed to continue beyond the age of 58 years by treating him as workman and he was continued in service, but all of a sudden, the respondents have issued proceedings dated 01.03.1997, three months short of his attaining the age of 60 years and retiring him on the ground that he cannot be treated as workman and should retire at the age of 58 years and for all purposes, his terminal benefits will be settled by taking the age of retirement as 30.06.1995 and the service rendered beyond 30.06.1995 will be treated as just service and the same will not be counted for the purpose of terminal benefits and pensionary benefits.

The present writ petition is filed seeking a direction to continue the petitioner till he attains the age of 60 years on par with J.Ramdass Raju, who was also an employee, by treating him as a workman as it was done in the case of above said individual, who has succeeded in W.P.No.722 of 1993 dated 30.01.2002 and similar benefits should be extended to petitioner.

Learned Standing Counsel appearing for respondent has contended that the petitioner had retired way back in March, 1997 and he has approached this Court only in the year 2011 and there is a delay and laches on the part of petitioner and the writ petition is liable to be dismissed and no interference is called for and the respondent has paid all retirement benefits to the petitioner and the petitioner has accepted the same without any protest. At this stage, the writ petition cannot be entertained and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions, is of the view that the benefit of continuation upto the age of 60 years was issued by the respondent on its own, by proceedings dated 02.09.1996 and by the time the respondent had issued proceedings dated 02.09.1996, the issue whether the employee of printing press is entitled to be continued in service upto 60 years was already considered in favour of J.Ramadas Raju in W.P.No.722 of 1993, which was disposed of on 30.01.2002. By virtue of the orders in the said writ petition, the said Ramadas Raju was continued upto the age of 60 years and by which time, the respondent herein has also suffered such order and the same should be applied unilaterally to all the employees working in the printing press. The respondent cannot extend the benefit of age of superannuation upto 60 years only in respect of selective employees and deny the same to the other employees of the Printing press. Admittedly, the petitioner was allowed to continue beyond the age of 58 years vide orders dated 02.09.1996 issued by the respondent and without there being any reason, the respondent has issued impugned proceedings curtailing the continuing rights of the petitioner upto 60 years, which action is totally arbitrary and illegal. The question of delay and laches would not attract in the instant case as the issue whether the workman was entitled for the terminal

benefits by treating the service rendered by the said individual was subject matter of W.P.No.722 of 1993 and W.A.No.230 of 2003. Therafterwards only, the rights of all the employees of printing press have been crystallized and therefore, the petitioner has rightly approached this Court and there is no delay or laches on the part of the petitioner.

The writ petition is accordingly allowed. The respondents are directed to count the service of the petitioner upto 30.06.1997 for all purposes including retirement benefits and other benefits. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

10-09-2018
Prv



ABHINAND KUMAR SHAVILI, J