

**HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT PETITION No.6059 OF 2019

ORDER: (ORAL) *(Per the Hon'ble Sri Justice A.Rajasheker Reddy)*

We have heard the learned counsel for the parties. Respondents 1 to 5 in the OA are the petitioners.

2. This writ petition is filed against the order dated 18.12.2018 in OA/020/910/2018 on the file of the learned Administrative Tribunal. The Tribunal allowed the OA by setting the impugned order wherein and whereby the 2nd respondent-applicant was sought to be retired from service from the year 2013 on the ground that his date of birth was wrongly entered in service register.

3. Learned counsel for the petitioners submits that the petitioners are not recovering the salary of the applicant for the period he worked i.e., till 31.08.2017, but are only reckoning the retirement of applicant as 2013 for the purpose of retirement benefits, by taking his date of birth as '28.04.1953'. He further submits that the applicant himself admitted about his age, but the Tribunal without considering the said fact found that the petitioners entered the date of birth of applicant as 05.08.1957 without any basis.

4. In this case, it is to be seen that the petitioners allowed the applicant to retire from service on 31.08.2017 and issued a corrigendum on 24.08.2018 stating that the date of birth of applicant

shall be read as '28.04.1953' in the place of '05.08.1957'. It is also found that the age of the applicant was entered in service register as 05.08.1957 and in all other subsequent proceedings and documents also, the same was recorded to the said effect. It is also to be seen that when once an employee has rendered service and retired and after retirement, the petitioners cannot take a stand that his date of superannuation can be changed retrospectively, more so when the applicant is not at fault. It is the writ petitioners who allowed the applicant to retire from service on 31.08.2017. The Tribunal also observed that the question of changing the date of birth of an employee in service record does not arise, particularly when it is going to advance the date of retirement, once the employee retires from service. As such, the action of petitioners is absolutely arbitrary and the Tribunal has also found the same and dismissed the OA.

5. We do not see any reason to entertain this writ petition by exercising power of judicial review under Article 226 of the Constitution of India, that too in certiorari jurisdiction, which is without any merit. The writ petition is, accordingly, dismissed. It is a fit case where exemplary costs can be imposed, but the learned counsel for the petitioners pleaded and persuaded this Court not to impose costs keeping in view the facts and circumstances of the case. As such, we refrain from imposing any costs. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any pending,
stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

25th March, 2019

Lrkm

