

HON'BLE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT APPEAL No.1747 of 2018

JUDGMENT: (Per Hon'ble Sri Justice A. Rajasheker Reddy)

This writ appeal is filed against the order of the learned single Judge dated 23.11.2018 in WP.No.23431 of 2007 wherein the learned single Judge dismissed the writ petition challenging the proceedings dated 10.01.2007 issued to the petitioner on attaining the age of superannuation of 60 years.

2. Learned counsel for the appellant submits that without any notice, the respondents themselves retired the appellant on 31.01.2007, though the appellant produced transfer certificate and other documents showing his age as 06.07.1951. Learned counsel for the appellant has also referred to page No.39 of the material papers showing the date of birth of the appellant recorded as 06.07.1951 whereas without any notice, the same was altered as 09.01.1947, as such, the learned single Judge has not considered the issue in proper perspective and dismissed the writ petition. He also submits that the entire records are with the respondent corporation and the appellant has no notice of the alteration of the date of birth in the service record and in such circumstances, the appellant cannot be expected to raise an issue till he was notified for retirement.

3. On the other hand, the learned standing counsel for the respondent corporation submits that the appellant appeared before the Age Determination Committee on 03.01.2002 and the committee has determined his age as 25 years as on 09.01.1972. He further submits that having appeared before the age determination committee, the appellant cannot have any grievance and file the writ petition after

receiving the entire retirement benefits that too in the month of October 2007, though he retired on 31.01.2007. He also submits that one year advance notice was issued on 01.01.2006 stating that the petitioner has to retire on 31.01.2007 but the same has not been challenged.

4. In this case, it has to be noted that, admittedly, the appellant was issued notice on 01.01.2006 stating that he has to retire on 31.01.2007 and the same is not challenged. Admittedly, the appellant received the retirement benefits after retiring from service and the writ petition was filed only in the month of October 2007, which goes to show that the writ petition was filed as an after thought and the appellant is not serious in disputing his age of superannuation. It is also a fact that the appellant appeared before the age determination committee, which determined his age as 25 years as on 09.01.1972 and the said proceeding is also not challenged by the appellant. In view of the same, we do not see any merit in the appeal to interfere with the order of the learned single Judge dismissing the writ petition in this intra-Court appeal.

Accordingly, the writ appeal is dismissed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

March 22, 2019
DSK