

22-12-2023

ct no. 13

sl. 9

pk

WPA 20387 of 2023

Samir Kumar Baruri

-Versus-

Union of India and others

Mr. Manabendra Bandyopadhyay,
Mr. Mukesh Kumar Saha,
Mr. Krishnendu Ghosh

... for the petitioner

Mr. Dhiraj Kumar Trivedi, D.S.G.I.
Mr. Sushil Kumar Mishra

... for the Union of India.

1. Supplementary affidavit filed in Court is taken on record.
2. The writ petitioner claims that he is being forcefully superannuated on 31.12.2023 at the age of 58 years. He relies upon an identity card issued by the employer of the Tribal Cooperative Marketing Development Federation of India Limited (TRIFED) which indicates that it is valid upto 31.12.2025.
3. The said TRIFED is autonomous body, albeit, a government company under the Ministry of Tribal Affairs of the Central Government.
4. The petitioner relies upon a Office Memorandum dated 30th May, 1998 issued by the Ministry of Public Grievance and Pension which increased the retirement age of the Central Government employees from 58 to 60 years.

5. Per contra, Mr. Dhiraj Kumar Trivedi, learned D.S.G.I. has placed the facts of the case both from the writ petition and a report on affidavit filed in Court.

6. The writ petitioner was engaged by the TRIFED on temporary basis on 21.01.1998 as a Group 'C' employee. He was categorised as Junior Commercial Assistant (JCA). The petitioner's service was regularised by the employer on 15.11.2012.

7. It further appears that in the minutes of the 43rd meeting of the Board of Directors of TRIFED held on 10.02.1998, it was decided the retirement age of all existing employees would be 60 years and all those employer, engaged after 01.01.1998 would be 58 years.

8. Therefore, the petitioner, who was actually confirmed with effect from 05.11.2012 and originally engaged on 20.01.1998 would be in the category of future employee as conceived of under the 43rd Board Meeting referred to herein above whose retirement age would have to be 58 years.

9. Insofar as the Office Memorandum dated 30th May, 1998, it is clearly indicated that the same applies to employees of the Central Government directly i.e. those holding "civil posts". An exception has been carved out in the same memorandum in respect of all employees of autonomous bodies and

organisations. It was left to the discretion of such autonomous bodies to adopt a retirement age as per their own rules or adopt the retirement age of Central Government employees at the age of 60 years.

10. In the instant case, it is seen that the petitioner is clearly bound by the decision of the Board of Directors of TRIFED held in its 43rd Meeting (supra) which stipulated that all employees engaged after 01.01.1998 would retire in the age of 58 years. Any discrepancy or different date indicated in any identity card, cannot over ride or negate a decision of the Board of Directors of TRIFED.

11. The petitioner relies upon a decision of a Single Bench of the Gauhati High Court dated 29.04.2022 passed in WP(C) 2866 of 2022, at an interim stage where the High Court had questioned the basis of a differential retirement age for one side of employees, recruited before 01.01.1998 and after 01.01.1998. The issue is yet to be decided by the Gauhati High Court. No case of discrimination has not been made out by the petitioner in the instant case. The resolution of the 43rd Board Meeting of the TRIFED held on 10.02.1998 has not been challenged by the petitioner in the writ petition. It is another thing completely as to whether a challenge of that nature would be permitted after the petitioner

accepted and acted upon the resolution from more than 25 years.

12. For the reasons stated herein above, no relief can be granted to the petitioner. He would retire at the age of 58 years.

13. The writ petition fails and is hereby dismissed.

14. There will be no order as to costs.

15. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)