

(1994) 08 AHC CK 0030

Allahabad High Court

Case No: Spl. Appeal No. 644 of 1993

Mathura Prasad

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: Aug. 4, 1994

Acts Referred:

- Uttar Pradesh Industrial Disputes Act, 1947 - Section 4

Citation: (1994) AWC 1639 : (1995) 70 FLR 19 : (1995) 2 LLJ 297

Hon'ble Judges: R.A. Sharma, J; M. Katju, J

Bench: Division Bench

Advocate: T.P. Singh and B.N. Singh, for the Appellant;

Final Decision: Dismissed

Judgement

R.A. Sharma, J.

The appellant was appointed as a Presiding Officer, Labour Court in pursuance of his selection under Sections 4-D and 4-E of U.P. Industrial Disputes Act (hereinafter referred to as the Act). His first appointment was made vide order dated October 17, 1989 for a period of one year. This appointment was further extended for a period of one year by subsequent order, a copy of which has been filed as Annexure No. 7 to the writ petition. It has been stated by the learned counsel for the appellant that he has been granted another extension of six months. Therefore, he filed a writ petition before this Court claiming for appropriate direction to the respondents to permit him to work as Presiding Officer of the Labour Court upto the age of 65 years. This writ petition has been dismissed by the learned Single Judge. Hence this Special Appeal.

2. Learned Counsel for the appellant has raised two submissions in support of this Special Appeal, viz. (i) in view of the provisions of Section 4-C of the Act appellant is entitled to continue in service as Presiding Officer upto the age of 65 years; and (ii) State Government is bound to provide a permanent Presiding Officer to the Labour

Court in view of the Section 4-A of the Act. It is not possible to agree with the learned counsel.

3. Section 4-C of the Act on which reliance has been placed is re-produced below:

Section 4-

"No person shall be appointed to or continue in, the Office of the Presiding Officer of a Labour Court or Tribunal, if-

(i) he is not an independent person; or

(ii) he has attained the age of 65 years."

4. The above Section lays down the eligibility qualification of the Presiding Officers of the Labour Court. One such condition is that such persons should not have attained the age of 65 years. 65 is the outer limit beyond which a Presiding Officer cannot continue. This does not give any right to the Presiding Officers to continue upto the age of 65 years. Upto what age the Presiding Officer is to continue depends on the order of appointment which may be passed by the Government. It is for the Government to lay down service conditions of the Presiding Officers of the Labour Court and the Industrial Tribunal. Although Government cannot, while laying down conditions of service, act arbitrarily but Section 4-C of the Act does not give a right to the Presiding Officers to continue upto the age of 65 years. The first contention is devoid of merit and as such has to be rejected.

5. Second submission also deserves the same fate. Section 4-A of the Act enables the Government to constitute one or more Labour Courts for adjudication of the Industrial Disputes, This Section also does not lay down that a person who is appointed as a Presiding Officer has to continue upto the age of 65 years. No such inference can be drawn from Sub-section (2) also. The fact that the said sub-section lays down that a Labour Court shall consist of one person only to be nominated by the State Government cannot lead to the conclusion that the Presiding Officer of the Labour Court must be a permanent appointee, who is to continue upto the age of 65 years.

6. The appeal lacks merits and is accordingly dismissed.