

(2013) 10 DEL CK 0052

Delhi High Court

Case No: Writ Petition (C) No. 6729 of 2013

Smt. Krishna Devi

APPELLANT

Vs

Airport Authority of India and
Another

RESPONDENT

Date of Decision: Oct. 25, 2013

Citation: (2014) 1 LLJ 9

Hon'ble Judges: Valmiki J Mehta, J

Bench: Single Bench

Advocate: Syed Qamruzzaman and Mr. Mohsin Israili, for the Appellant;

Final Decision: Dismissed

Judgement

Valmiki J Mehta, J.

C.M. No. 14596/2013 (exemption)

Exemption allowed subject to just exceptions.

C.M. stands disposed of.

W.P. (C) No. 6729/2013 and C.M. Nos. 14594/2013 (stay) and 14595/2013 (interim directions)

1. The issue raised in the present petition is with respect to date of birth of the petitioner. Petitioner states that her date of birth should be taken as 10.2.1962 whereas respondents taken the same as 1.7.1945. On account of the later date of birth claimed by the petitioner, the retirement age also therefore be subsequent and not in the year 2005 as has been determined by the respondent/employer. The fact of the matter is that the respondent no. 1/employer/Airport Authority of India passed an order of superannuation of the petitioner way back on 9.5.2005. This information sent to the petitioner reads as under:-

INSTRUCTIONS

You are hereby advised to apply in writing for the leave preparatory to retirement and/or for leave encashment, if you so desired, and if you have not already applied for the same.

You will be entitled to transfer TA (including the transfer grant and incidental) from the station of posting to your declared hometown or to the selected place of residence. In the later case, travelling allowance shall be admissible to you accordingly subject to the above being limited to what would have been admissible to you, had you proceeded to your declared home town.

You will be paid your dues as admissible and due to you upon your retirement. You are required to complete the following forms for getting your dues. However, this is subject to your producing "NO DEMAND CERTIFICATE" from the authorities concerned, to the Department of Finance and Accounts, and surrendering your Identity Card, as per proforma enclosed.

You will have option to retain your C.P.F. balance in CPF account upto six months. In case, you do not withdraw the amount standing at your credit in CPF account upto six month from the date of your retirement on superannuation, no interest will be credited to your account after the expiry of six months. You are also requested to settle all the outstanding dues, if any, at the earliest.

In case of those who are in occupation of AAI (IAD) quarters can retain the quarter only for a period of TWO months after retirement and the quarter should be vacated thereafter.

We wish you a very happy and peaceful life.

(A.B. SAXENA)

PERSONNEL MANAGER

Encl: As above

SMT. KRISHNA DEVI

SR. ATTENDANT (SAFAIWALA) - Through MHK-II

2. Petitioner challenged this action of the respondents by filing writ petition in this Court being W.P. (C) No. 6032/2005. This writ petition was dismissed by a learned Single Judge of this Court. The LPA filed against the judgment of the learned Single Judge was also dismissed by a Division Bench of this Court on 5.7.2005. Petitioner preferred an SLP in which the Hon"ble Supreme Court vide order dated 7.4.2008 directed conduct of medical examination of the petitioner and as per that medical examination conducted by a board from AIIMS, New Delhi, the age of the petitioner was reported to be more than 55 years as on 12.11.2008. This therefore belied the claim of the petitioner that she was only in fact born on 10.2.1962 inasmuch as if the petitioner was found to be more than 55 years of age as on 12.11.2008, she could

not be said to have been born on 10.2.1962 as was contended by her. A supplementary affidavit was accordingly filed by the respondents before the Supreme Court on 11.12.2008 disputing the claim of the petitioner. Supreme Court ultimately dismissed the SLP on 24.1.2011.

3. Therefore, the issue of challenge by the petitioner to her age received quietus right till the Supreme Court. Once the issue has been decided right till the Supreme Court, a fresh petition in the opinion of this Court is a clear abuse of process of law.

4. Counsel for the petitioner concedes that he was the counsel in entire earlier litigation. In my opinion, merely because the Supreme Court dismissed the SLP without giving any reasons cannot mean that petitioner can again re-agitate the matter because actually dismissal of the SLP will have the effect of confirming the orders which were passed by the learned Single Judge and the Division Bench of this Court. Also, I do not agree that the medical board gave the report of the petitioner as being 55 years only because the report dated 12.11.2008 filed as Annexure P-4 to the petition states that in fact the age of the petitioner is "more than 55 years". In view of the above, this petition is ex facie barred by principle barring filing of repeated litigations on the same issue. The general principles of res judicata will also bar the petitioner from filing this case. This writ petition is therefore dismissed with costs of Rs. 20,000/- to be deposited with the Delhi High Court Legal Services Committee. Costs be deposited within four weeks from today.