(2017) 05 MP CK 0050

MADHYA PRADESH HIGH COURT

Case No: 9844 of 2016

Ramsujan Kol, @ Munda S/o Banshroop Kol		APPELLANT
	Vs	
State of Madhya Pradesh		RESPONDENT

Date of Decision: May 11, 2017

Hon'ble Judges: Vandana Kasrekar

Bench: Division Bench

Advocate: Monesh Sahu, M.V. Jhon

Judgement

1. The petitioner has filed the present petition challenging the order dated 16.03.2016 thereby retiring the petitioner prematurely on attaining the age of 58 years.

2. The petitioner was working on the post of Assistant Grade-II in the respondent-organisation. After bifurcation of the MPEB into different companies, the State of M.P. through energy department had issued a letter dated 24.04.2012 whereby it was approved that the employees of the Class-I, II and III category working in the M.P. State Electricity Board absorbing the power generating company may continue till the age of 60 years on attaining the age of retirement from 58 to 60 years on submitting an option by them. It has further been clarified that the age of Class-IV employees were continued to be 60 years. In pursuance of the said circular of the State Government, the power generating company has also issued the order dated 24.04.2012 thereby asking the employees to submit their option for extending the age of retirement up to 60 years. The petitioner has filed this petition on the ground that although the age of superannuation in all companies except the Class-IV employees was fixed at 60 years. Respondent No. 2 has issued an order dated 16.02.2016 thereby retiring the petitioner at the age of 58 years. It has been informed to the petitioner vide letter dated 24.04.2012, the company

has directed to submit their option as they want to retire at the age of 58 years to 60 years and as the petitioner has not submitted any option, therefore, he is retired at the age of 58 years. The petitioner has further submitted that no such order was communicated to the petitioner, hence he was unable to submit his option. He was never made aware of the option form to be submitted by him. It has further been submitted that after knowing this fact about the submission of the option, the petitioner has submitted his option form through letter dated 15.10.2016, requesting the respondents to consider his option, but the respondents vide letter dated 18.10.2016 has rejected the request of the petitioner. Being aggrieved by that order, the petitioner has filed the present petition.

3. Learned counsel appearing on behalf of the petitioner submits that the entire action of the respondents in retiring the petitioner at the age of 58 years is illegal and arbitrary. He submitted that the respondents have never informed to the petitioner about submission of option form, therefore, he could not submit the option form for continuing in services up to the age of 60 years. He further relied on the judgement passed by this Court in W.P. No. 2844/2014, Rama Kant Dubey and others Vs. State of Madhya Pradesh and others and other connected writ petitions decided on 20.01.2015.

4. The respondents have filed their reply and in the reply, the respondents have stated that as per the circular issued by the respondent-company dated 24.04.2012, an employee who want to continue in services up to the age of 60 years has to submit their option. They have further submitted that wide publicity was given to the fact that the answering respondents decided to enhance the age of retirement for employees belonging to Class-I to Class-III category and option was called from all the employees who wish to get the benefit of enhanced age of retirement, therefore, he is correctly been retired on reaching the age of superannuation i.e. 58 years. It has further been submitted that more than 90% of the employees have submitted their option including the petitioner''s office colleagues.

5. The petitioner has filed rejoinder and in the rejoinder the petitioner has submitted that the circular on which the respondents are relying was never made available in the office where he was working and in absence of any knowledge, he could not submit the option.

6. The respondents have filed the additional return and in the additional return, the respondents have submitted that the petitioner was informed vide letter dated 07.05.2012 for submitting the option and also filed the copy of the dispatch register which shows that the said letter was issued to the petitioner. In such circumstances, the counsel for the respondents submits that as the petitioner has failed to submit the option as per the circular dated 24.04.2012, therefore, the petitioner has rightly been retired at the age of 58 years.

7. I have heard learned counsel for the parties and perused the record. From perusal of the record, it reveals that the petitioner is working on the post of Assistant Grade-II in the

respondent-company. In furtherance of the circular issued by the State Government dated 24.04.2012 thereby enhancing the age of retirement of the employees of power generating company. The respondent-company had issued an order dated 24.04.2012 thereby enhancing the age of retirement of Class-I, II and Class-III employees from 58 to 60 years and they have been directed to submit their option whether they want to continue in service up to the age of 60 years. From the record and the documents which is filed by the respondents along with the return, it reveals that the petitioner has not submitted any option in pursuance of the order dated 24.04.2012. The respondents have also filed the copy of the dispatch register showing that the said letter has been issued to the petitioner. Thus, as the petitioner has not submitted any option for enhancing the age, the respondents have rightly retired the petitioner at the age of 58 years. So far as, the judgement passed by this Court in the case of Rama Kant Dubey and others (supra) and other connected writ petitions are concerned, in those cases, the petitioners have submitted their option but as in the present case, the petitioner has not submitted any option, therefore, the judgement relied on by learned counsel for the petitioner would not be applicable in the present case.

8. Consequently, I do not find any reason to entertain into the said writ petition. The petition is, therefore, dismissed.