

**(2008) 03 BOM CK 0131**

**Bombay High Court (Goa Bench)**

**Case No:** Writ Petition No. 468 of 2007

Shri Sadanand M. Gurav

APPELLANT

Vs

State of Goa, Industrial Training  
Institute, Government of Goa  
and Directorate of Craftsmen  
Training Government of Goa

RESPONDENT

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**Date of Decision:** March 25, 2008

**Acts Referred:**

- Goa Civil Services (Retirement) Rules, 2000 - Rule 3

**Citation:** (2008) 110 BOMLR 921

**Hon'ble Judges:** R.M.S. Khandeparkar, J; N.A. Britto, J

**Bench:** Division Bench

**Advocate:** M.S. Sonak, for the Appellant; S.R. Rivonkar, Government Advocate, for the Respondent

**Final Decision:** Allowed

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### **Judgement**

1. Heard. The petitioner by the present petition challenges the order passed by the respondents declaring him to have attained the age of superannuation on completion of age of 58 years when in terms of provisions of law applicable to the petitioner, he would attain the age of superannuation on completion of 60 year's of age.

2. Undisputed facts on record are that, the petitioner has completed 58 years of age on 11.2.2007. In terms of notification dated 11th October, 2000 published in official gazette Series I 29 dated 19th October, 2000, the Government had declared that all the instructors in the Government Colleges and institutions in the State of Goa shall attain the age of superannuation on completion of 60 years, instead of 58 years as was the practice earlier. Further there was amendment made to Rule 3 of the Goa State Civil Services Retirement Rules, 2000 and the notification in that regard was

published in the official gazette Series I No. 8 dated 30th May, 2006 whereby proviso to Rule 3 which earlier prescribed that the Government servants whose date of birth was the first of a month would retire from the service on the afternoon of the last day of the preceding month on attaining the age of 58 years, was amended to the effect that Provided that a Government servant in group "D" Service or the post or who is a teacher and all other teaching staff shall retire from the service on the afternoon of the last day of the month in which he attains the age of 60 years. Provided further that a teacher or other teaching staff who has completed the age of 58 years on or after 18th day of April, 2006 but before the commencement of Goa State Civil Services (Retirement) (Third Amendment) Rules, 2006 shall also retire from the service on the afternoon of the last day of the month in which he attains the age of 60 years.

By notification dated 11th October, 2000 published in the official gazette Series I No. 29 dated 19th October, 2000 the Government had clarified that the post of instructor was the teaching post and consequently the superannuation age for the instructor would be 60 years.

3. Considering the provisions of law as stated above, the learned Advocate for the petitioner submitted that since the rules clearly provided that the instructor's posts are to be considered as the teaching posts, the persons occupying those posts would retire on completion of 60 years of age. Applying the same principle to the petitioner's case who is undisputedly the instructor and, therefore, is occupying a teaching post, could not have been retired before the completion of 60 years of age. However, the respondents have sought to declare the petitioner having been attained the age of superannuation merely on completion of age of 58 years i.e. on 11.02.2007.

4. Perusal of Goa State Civil Services Retirement Rules, 2000 along with Goa State Civil Services (Retirement) (Third Amendment) Rules, 2006, notification dated 11th October, 2000 and considering the fact that the petitioner would undisputedly complete the age of 60 years on 11.02.2009, the petitioner is justified in contending that he could not have been made to retire in the month of February, 2007. The proviso to Rule 3 of the said Rules clearly provides that in case of a teacher and all other teaching staff they would retire from the service on the last day of the month in which they attain the age of 60 years. The notification dated 11th October, 2000 clearly classifies the post of instructor as the teaching post. Undisputedly, the petitioner is an instructor in Industrial Training Institute, Farmagudi, Ponda. Obviously, therefore, the petitioner is entitled to be in active service till he completes the age of 60 years as he would complete the same on 11.2.2009. Being so, there was no justification for the respondents to declare the petitioner to have retired in February, 2007. On this count, itself, without addressing to other issues which are sought to be raised in the matter, the petition succeeds.

5. The petition is, therefore, allowed. Rule is made absolute in terms of the prayer Clause (a) & (d). The respondents are required to give effect to these directions within 4 weeks. No order as to costs.