

S.Jameer Ahmed vs The State Of A.P. Minorities Welfare ... on 8 January, 2020

Bench: R. Banumathi, A.S. Bopanna

1

ITEM NO.26

COURT NO.5

SECTI

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)

No(s).

(Arising out of impugned final judgment and order dated 21-03-2017 in WP No. 8425/2017 passed by the High Court Of Judicature At Hyderabad For The State Of Telangana And The State Of Andhra Pradesh)

S.JAMEER AHMED

Peti

VERSUS

THE STATE OF A.P. MINORITIES
WELFARE DEPARTMENT & ANR.

Resp

Date : 08-01-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s)

Mr. Ram Lal Roy, Adv.
Mr. K. Ram Kumar, AOR

For Respondent(s)

Mr. G. N. Reddy, AOR
Mr. T. Vijaya Bhaskar Reddy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard Mr. Ram Lal Roy, learned counsel appearing for the petitioner and Mr. G.N. Reddy, learned counsel appearing for the respondent-State of Andhra Pradesh.

2. Vide amendment of Andhra Pradesh Public Employment (Regulation of age of Superannuation) Act, 1984 amended by Act No.4 of 2014, the State Government has extended the age of superannuation from 58 years to 60 years. The issue relates to the enhancement of age of superannuation from 58 years to 60 years and the applicability of the said amendment to the

various Corporations including Andhra Pradesh State Minorities Finance Commission.

3. G.O.Ms. No.102 dated 27.06.2007 was issued giving State Government's approval in principle and conditional consent for extension of superannuation of 60 years to employees of institutions listed in the 9th and 10th Schedules of Andhra Pradesh Reorganisation Act, 2014. In the said G.O., it was stated that the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984 as amended by Act 4 of 2014 would not automatically apply to the institutions listed in the IXth and Xth Schedules as they are separate legal entities that their own Acts and Rules and any decision on the enhancement of superannuation of age of employees would have to be taken by the Board of Directors/Managing Committees and the approval will have to be obtained from the State Government.

4. However, considering that the different parties have approached the Supreme Court on the issue, the Government of Andhra Pradesh issued G.O.Ms. No.138/Finance (HR.IV-FR) dated 08.08.2017 bringing in amendment to G.O.Ms. No.102 dated 27.06.2017. G.O.Ms.No.138/Finance (HR-IV) Department dated 08.08.2017 reads as under:

“The G. O. Ms. No.102 dated 27.06.2017 was issued giving State Government's approval in-principal and conditional consent for extension of superannuation of 60 years to employees of institutions listed in the IX and X schedules of AP Reorganization Act of 2014. The conditions were laid down for the detailed examination of the working of the various Companies/Corporations/ Societies and their financial capabilities so as to decide whether they are financially viable or not. The orders were to come into force prospectively after such examination. Also the Andhra Pradesh Public Employment (Regulation of age of Superannuation) Act, 1984 amended by Act No.4 of 2014 of the State Government would not automatically apply to the schedule IX and schedule X institutions as they are separate legal entities with their own Acts and Rules. Any decision on enhancement of superannuation age of employees would have to be taken by the board of directors/ managing committees. As the State Government is the majority stakeholder, its approval of the decision of the governing body becomes necessary. After this, the rules / bye-laws of these institutions need to be amended to give effect to the decision. Any extension of retirement age would come into effect only from the date of issue of orders by the competent authorities. It follows therefore that the orders would be prospective.

Another reason for state government taking time on the issue was the fact that the matter of division of assets and liabilities of these institutions is still pending and the employees also have not been allocated between the states of Telangana and Andhra Pradesh. At this juncture enhancing the superannuation age for the employees would have complicated matters, because of which, more employees would opt for Institutions in Andhra Pradesh which would effect their viability.

Further some of these positions would have been filled by promotions in place of superannuated employees.

In the meantime different parties have approached the Hon'ble Supreme Court on the issue. Government after reconsideration issue the following amendment to the orders issued at para 5 of the G.O.Ms.No.102, Finance (HR.IV-FR) Department, dated 27.06.2017:

For	Read
These orders shall come into force prospectively from the date of issue of the orders by competent authorities after amending the relevant regulations/ bye-laws.	These orders shall come into force with effect from 02.06.2014. The companies/ Corporations/ Societies shall amend their relevant regulations / bye-laws accordingly.

In furtherance of this amended clause Government hereby order that the employees working in Companies/ Corporations/ Societies included in the Schedules IX and X of the Andhra Pradesh State Reorganisation Act, 2014, shall not be superannuated only on the ground of attainment of 58 years of age. In case such an employee is superannuated on that ground he / she shall be reinstated and continued up to 60 years.”

5. Mr. G.N. Reddy, learned counsel appearing for the State of Andhra Pradesh, has submitted that after considering the above G.O.Ms.No.138/Finance (HR-IV) Department dated 08.08.2017, the Andhra Pradesh State Minorities Finance Corporation has taken a decision to extend the age of superannuation of the petitioner-S. Jameer Ahmed from 58 years to 60 years.

6. Recording the above submissions of learned counsel for the respondent-State, the special leave petition is disposed of.

7. Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)
COURT MASTER

(BEENA JOLLY)
BRANCH OFFICER