M.L. Binjolkar vs State Of Madhya Pradesh on 21 July, 2005

Equivalent citations: AIRONLINE 2005 SC 50, 2005 SCC (L&S) 827, (2005) 3 LAB LJ 524, (2005) 5 SCJ 630, 2005 (6) SCC 224, (2005) 3 LAB LN 1035, (2005) 5 SCALE 657, (2005) 106 FAC LR 924, (2005) 3 SCT 755, (2005) 5 SERV LR 379, (2005) 6 ALL WC 5510, (2005) 3 SERV LJ 117, (2006) 1 SERV LJ 117, (2005) 6 JT 461, (2005) 5 SUPREME 290, (2005) 6 JT 461 (SC), (2005) 34 ALL IND CAS 368 (SC), (2005) 4 JCR 110 (SC), (1998) 2 RENCJ 481, (1998) 2 RENTLR 471, (1998) 5 SCALE 485, (1998) 7 JT 110 (SC), 1998 (8) SCC 275, (1998) 8 SUPREME 5, 1998 ADSC 7 421, (1999) 1 MAD LW 753, (1999) 1 RENCR 257, (1999) 2 SCJ 135, (1999) 6 KANT LJ 145, 1999 HRR 149, 1999 UJ(SC) 1 27, (2005) 34 ALLINDCAS 368

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Bench: Arijit Pasayat, H.K. Sema

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           CASE NO.:
Appeal (civil)  8662 of 2002

PETITIONER:
M.L. Binjolkar

RESPONDENT:
State of Madhya Pradesh

DATE OF JUDGMENT: 21/07/2005

BENCH:
Arijit Pasayat & H.K. Sema

JUDGMENT:
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JUDGMENT ARIJIT PASAYAT, J.

These eight appeals, four by employee, who were compulsorily retired and four by the the State of Madhya Pradesh have that matrix in a judgment of Madhya Pradesh High Court at Jabalpur disposing of several writ petitions filed by the State of Madhya Pradesh. Challenge in all these writ petitions was to the order passed by the Madhya Pradesh State Administrative Tribunal, Jabalpur (in short `the Tribunal').

A brief reference to the factual background is necessary.

559 employees were given compulsory retirement by orders dated 01.10.1997. Some of the employees who were given compulsory retirement questioned correctness of the orders in their respective cases by filing petitions before the Tribunal. By order dated 29th March, 1988, the Tribunal set aside the compulsory retirement orders, inter-alia holding that the constitution of the Screening Committee was not proper and there appear to be an apparent non-application of mind because more than 550 cases were taken up for consideration and disposed of on a single day. The concerned employees were directed to be re-instated with full back wages. State's writ petitions questioning correctness of the orders passed by the Tribunal were dismissed. However, fresh action was permitted. According to the State, in terms of the High Court's order, fresh screening was done on 03.01.2000 and orders were passed directing compulsory retirement from an earlier date i.e. 01.10.1997 i.e. the date when the earlier orders for compulsory retirement were passed. Again petitions were filed before the Tribunal. By order dated 25.08.2000, the Tribunal inter-alia held that the order of compulsory retirement could not have been given retrospective operation. While directing re-instatement, the Tribunal held that the concerned employees were entitled to the consequential benefits. Again, the orders of the Tribunal were questioned before the High Court which took up several matters for consideration. In four cases, the High Court found that the orders passed were not supportable. However, in certain cases, the High Court found that there was no infirmity in the orders passed directing compulsory retirement. The High Court examined individual cases at the request of the parties as it was conceded that the High Court could direct fresh consideration. In the four cases where the High Court found that the orders directing compulsory retirement were not supportable, the concerned employees were permitted to join back pursuant to the orders of re- instatement. All the four employees who were so re-instated have, in the meantime, retired on reaching the age of superannuation. The High Court had also directed that in each of these cases, the concerned employee was to be granted 50% of the amount payable as salary, allowance etc. The State has questioned the view expressed by the High Court that the orders passed in respect of four of the employees were not supportable in law. The said employees also questioned correctness of the High Court's orders submitting that' the direction for payment of 50% of the entitlement was not justifiable as no reasons were indicated for directing cut.

We have heard learned counsel for the parties.

In view of the undisputed position that the four employees who were directed to be re-instated had, infact, joined back service and have retired on reaching the age of superannuation. Therefore, examination in their cases as to the correctness of the view expressed by the High Court would be an exercise in futility. Though, implementation of the Court's order does not render challenge to an order infructous, yet the fact situation of the present case makes the issue academic. This Court did not grant stay on the High Court's order. The concerned employees, as noted above after reinstatement have retired. In these peculiar circumstances, we do not think it necessary to examine correctness of the High Court's order an merits. Therefore, the appeals filed by the State-Civil Appeal Nos. 8695/2002, 8696/2002, 8697/2002 and 8663/2002 are dismissed. We make it clear that we have not expressed any opinion on the correctness of the High Court's judgment as we have dismissed the appeals only on the ground that the concerned employees have already retired and it would not be in the interest of anybody to go into the merits.

Learned counsel for the State submitted that the High Court's view about the scope of examination of cases involving compulsory retirement is not in line with various judgments of this Court. The scope for judicial review in matters involving orders of compulsory retirement has been explained in several cases. It is a tried law that an order of compulsory retirement is not a punishment. The employer takes into account various factors emanating from the employees' past records and takes a view whether it would be in the interest of the employer to continue services of the employee concerned. It can certainly pass an order of compulsory retirement when the employee is considered to be a dead-wood and practically of no utility to the employer. The purpose and object of premature retirement of a Government employee is to weed out the inefficient, the corrupt, the dishonest or the dead-wood from Government service. As noted above, in the background facts of these cases, we do not consider it necessary to go into the merits.

We find that so far as the back wages issue is concerned, there are two periods involved. The first was from 01.10.1997 up to the High Court's order dismissing the writ petitions filed by the State while permitting fresh action. As noted above, the Tribunal had directed that the concerned employees were to be paid full back wages. The High Court had not interfered with that part of the order. Therefore, so far as this period is concerned, the High Court's direction in the impugned judgment for payment of 50% of the back wages does not appear to be correct. So far as the rest of the period is concerned, obviously that relates to the period upto the High Court's order i.e. 01.03.2002. Though the High Court has not specifically dealt with the question as to what would be the appropriate quantum, keeping in view the law laid down by this Court in various cases e.g. Hindustan Motors Ltd. v. Tapan Kumar Bhattacharya and Anr., [2002] 6 SCC 41, Rajendra Prasad Arya v. State of Bihar, [2000] 9 SCC 514, Sonepat Cooperative Sugar Mills Ltd. v. Ajit Singh, [2005] 3 SCC 232, Haryana State Cooperative Land Development Bank v. Neelam, [2005] 5 SCC 91, Manager, Reserve Bank of India, Bangalore v. S. Mani and Ors., [2005] 5 SCC 100 and Allahabad Jal Sansthan v. Daya Shankar Rai and Anr., [2005] 5 SCC 124, we do not find any scope for interference. The earlier view was that whenever there is interference with the order of termination or retirement, full back wages were the natural corollary. It has been laid down in the cases noted above that it would depend upon several factors and the court has to weigh the pros and cons of each case and to take a pragmatic view. That being so, we do not think it appropriate to interfere with the quantum of 50% fixed by the High Court.

The appeals are, accordingly, disposed of with no order as to costs.