

Supreme Court of India

Registrar, High Court Of M.P., ... vs Kumari Rajabai Gorkar And Anr. on 7 December, 1993

Equivalent citations: (1996) III LLJ 331 SC, 1995 Supp (3) SCC 202

Bench: A Ahmadi, K Ramaswamy, S Agrawal

ORDER

1. The respondent, Kumari Rajabai Gorkar, a ministerial officer in the High Court was compulsorily retired in exercise of power conferred by Rule 42(1) of the M.P Civil Services (Pension) Rules. 1976. That sub-rule entitles the appointing authority to compulsorily retire a government servant in public interest, if he or she has completed 25 years of qualifying service. The order by which she was compulsorily retired did not on the face of it say that the action was taken in public interest. However, in the suit instituted by the respondent-employee, a written statement was entered wherein it was pleaded that the action was taken in public interest. No details or particulars in regard to the nature of public interest were mentioned in the written statement in support of the plea that the action was taken in public interest, nor did the appellant or the respondent-state adduce evidence in that behalf. The learned trial judge as well as the first appellate judge dismissed the suit. Against the dismissal a second appeal was preferred in the High Court. The learned Single Judge of the High Court who heard the second appeal, came to the conclusion that the defence of the action being in public interest was not established by evidence as was required to support the action. The High Court, therefore, allowed the second appeal and passed certain consequential orders. It is against that order that the present appeal by special leave has been preferred

2. We have heard learned Counsel for the appellant. The learned Counsel very fairly stated that the order of compulsory retirement on the face of it did not mention that the action was taken in public interest. He, however, pointed out that in paragraph 8 of the written statement it was pleaded that the action was taken in public interest in pursuance of Rule 42(1) of the rules. However, in the written statement the particulars in support of public interest were not pleaded. Evidence was also not tendered at the trial in that connection. Therefore the high court came to the conclusion that no material was adduced in the course of the trial to support its action on public interest. It is for that reason that the High Court allowed the second appeal.

3. We are of the opinion that even though on the face of the order it was not stated that the action was initiated in public interest and even though the particulars in that behalf were not pleaded in the written statement, it was open to the State as well as the High Court to place material before the Court at the trial in support of its contention that the action was taken in public interest. Of course, that is not to say that care need not be taken while drafting the order of compulsory retirement or drawing up the defence if the action is challenged. But on that account alone the order will not be quashed if it can otherwise be shown that the action was taken in public interest. An attempt was made to point out certain material in support of the contention that the action was in public interest for the first time before this Court, but we have not permitted it. Therefore, we do not see any reason to interfere with the order passed by the High Court. Hence, the appeal is dismissed with no order as to costs.