

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 596 of 2022 (D.B.)

Rajendra Hariram Sarda,
Aged about 60 years, Occ. Asst. Professor
R/o Jijau Nagar, University Road, Camp Amravati,
Tq. & Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Higher and Technical Education Department (M.S.),
Mantralaya, Mumbai.
- 2) Director,
Technical Education, Maharashtra State,
Mumbai Office at Directorate of Technical Education,
3, Mahapalika Marg, Opp. Metro Cinema, Dhobi Talav,
Chhatrapati Shivaji Terminus Area, Fort , Mumai-400 001.
- 3) Joint Director, Technical Education,
Regional Office, Govt. Polytechnic College Campus,
New Cotton Market Road, Sahakar Nagar, Amravati.
- 4) All India Council for Technical Education,
Western Regional Office through its Regional Officer &
Assistant Director office at 2nd floor, Industrial Research Building,
National Institute of Industrial Engineering Campus, Vihar Lake,
Mumbai-400 0087.
- 5) Govt. Engineering College, Amravati
through its Incharge Principal, V.M.V. Road,
Amravati, Tq. & Dist. Amravati.

Respondents.

Shri P.S. Patil, Advocate for the applicant.

Shri S.A. Deo, learned C. P.O. for respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Vice-Chairman.**

Dated :- 27/06/2022.

JUDGMENT

Per : Shri Justice M.G. Giratkar, Vice-Chairman.

Heard Shri P.S. Patil, learned counsel for the applicant and Shri S.A. Deo, learned CPO for the respondents.

2. The learned CPO filed affidavit-in-reply on behalf of respondent nos.1 to 3 and 5. It is taken on record and copy is given to the learned counsel for the applicant.

3. The matter is admitted and heard finally. The learned P.O. waives notice for the respondents.

4. The applicant who is working as a Lecturer in Engineering faculty came to be nominated by the MPSC as a Lecturer, Mechanical Engineering at Government Engineering College, Karad since 30/10/2003. He was transferred from time to time and lastly in the year, 2018 to the College of respondent no.5. On 1/3/2019, All India Council for Technical Education (AICTE) issued Regulation of 2019 and thereby made clear that the age of superannuation of Teachers shall be 65 years. The date of birth of applicant is 25/06/1962. The

respondent no.5 College by treating the age of superannuation as 60 years and not 65 years, issued communication to the applicant on 22/4/2022 informing the applicant that he is going to retire on 30/6/2022 on superannuation.

5. After the receipt of the communication dated 22/4/2022, the applicant has gone through the Judgment of Hon'ble Madras High Court and came to know that the age of retirement is 65 years and not 60 years and therefore he approached to this Tribunal for direction to the respondents and for declaration that age of superannuation is 65 years and not 60 years.

6. The O.A. is strongly opposed by the respondents. It is submitted that other similarly situated employees were retired on superannuation at the age of 60 years. It is submitted that the Government of Maharashtra has issued Notification dated 12/7/2016. The Central Government informed to the States that as per the decision of Hon'ble Supreme Court in Civil Appeal Nos. 5527-5543 of 2013, it is for the State to decide the age of superannuation. The State of Maharashtra has decided the age of superannuation of the applicant and other similarly situated employees at the age of 60 years. At last, it is submitted that the O.A. is without any merit and liable to be dismissed.

7. Heard Shri P.S. Patil, learned counsel for the applicant. He has pointed out the Judgment of Madras High Court in Writ Petition Nos.17918 and 17929 of 2021, decided on 12/4/2022. As per this Judgment, the guidelines of AICTE are reproduced and relying on the guidelines of AICTE it is held that “ the age of superannuation as per clause 2.12 is binding on third respondent University and any other prescription of age of superannuation repugnant to the AICTE regulation is to be held void and inoperative and it cannot be enforced in law”.

8. The learned counsel for the applicant has pointed out material portion of the Judgment of Hon’ble Madras High Court. He has also pointed out the rules of AICTE / Notification of Government of Maharashtra dated 11/9/2019. The learned counsel has submitted that the State Government is bound to follow the regulation of AICTE in view of the Judgment of Hon’ble Madras High Court.

9. Heard learned CPO Shri S.A. Deo. He has pointed out the Judgment of Hon’ble Supreme Court in Civil Appeal Nos. 5527-5543 of 2013. He has submitted that the Hon’ble Supreme Court has held that “the age of superannuation is to be decided by the State Government and not by the Central Government.” On the basis of the Judgment of Hon’ble Supreme Court, the Central Government had informed to all the States to decide the age of superannuation.

Accordingly, the State Government has issued Notification dated 12/7/2016. As per the Notification, the age of superannuation is 60 years.

10. The learned CPO has also filed letter dated 23/6/2022 issued by the Principal, Government Polytechnic College, Yavatmal addressed to the Joint Director of Technical Education Department, Amravati. It is taken on record and marked Exh-X for identification. By this letter, it was informed to the Joint Director, Technical Education Department, Amravati about the retirement of some of the Lecturers at the age of 60 years.

11. The applicant has approached to this Tribunal at the fag end of service. He was well aware that he is completing the age of 60 years at the end of June, 2022. He is well aware about retirement of other similarly situated employees at the age of 60 years. The Notification of State of Maharashtra was issued in the year 2016. The said Notification was issued on the basis of the Judgment of Hon'ble Supreme Court. The said Notification is not challenged by the applicant in this petition also.

12. The applicant is only taking the benefit of decision of Hon'ble Madras High Court which was delivered on 12/4/2022. It is pertinent to note that other similarly situated many other employees are already retired after completion of 60 years. The applicant has not

challenged the Notification dated 12/7/2016. Without challenging the Notification dated 12/7/2016 the O.A. itself is not maintainable, because, the applicant is going to retire on 30/6/2022 as per the Notification dated 12/7/2016. The applicant is only seeking declaration on the basis of the Judgment of the Hon'ble Madras High Court. The Notification which was issued on 12/7/2016 was passed as per the Judgment of Hon'ble Supreme Court. In view of the Judgment of Hon'ble Supreme court in Civil Appeal Nos. 5527-5543 of 2013 and in view of the Notification of Government of Maharashtra dated 12/7/2016, the applicant is not entitled for any relief. Hence, the following order –

ORDER

The O.A. is dismissed. No order as to costs.

(Justice M.G. Giratkar)
Vice-Chairman

(Shree Bhagwan)
Vice- Chairman

Dated :- 27/06/2022.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 27/06/2022.

Uploaded on : 28/06/2022.

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