

Ami Chand Vs. State and ors

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Court : Rajasthan Jodhpur

Decided On : Jul-18-2014

Appellant : Ami Chand

Respondent : State and ors

Judgement :

S.B. Civil Writ Petition No.11128/2009 Smt. Vijya Shrimali Vs. State of Rajasthan & Ors. Along-with connected writ petitions Order dt:

18. 07/2014 1/4 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

(1) S.B. Civil Writ Petition No.11128/2009 Smt. Vijya Shrimali Vs. State of Rajasthan & Ors. & (2) S.B. Civil Writ Petition No.8037/2012 Dr. Vinod Sharma Vs. State of Rajasthan & Ors. & (3) S.B. Civil Writ Petition No.1235/2011 Ami Chand Vs. State of Rajasthan & Ors. & (4) S.B. Civil Writ Petition No.8554/2010 Sarup Tankha Vs. State of Rajasthan & Ors. Date of Order :::

18. h July, 2014 PRESENT HON'BLE Dr. JUSTICE VINEET KOTHARI
Appearance: Mr. M.S. Purohit, for the petitioner(s). Ms. Kusum Rao, Addl. Govt. Counsel. Mr. Rajesh Joshi, for the respondents. BY THE COURT:

1. Learned counsel for the respondent No.3- Uttari Rajasthan Sahkari Dugdh Utpadan Sangh Ltd. submits that the controversy involved in the present writ

petition regarding superannuation age of the employees of the respondent Dairy is now covered by a recent judgment of this Court in the case of Shanker Lal & Ors. Vs. State of Rajasthan & Ors. (SBCWP No.7407/2013 decided on 20th February, 2014) and the present writ petition is also liable to be dismissed in the same terms. S.B. Civil Writ Petition No.11128/2009 Smt. Vijya Shrimali Vs. State of Rajasthan & Ors. Along-with connected writ petitions Order dt:

18. 07/2014 2/4 2. Counsel for the petitioner is unable to controvert the submissions made by the learned counsel for the respondents.

3. In the case of Shanker Lal (supra), this Court held as under: -

13. I have heard the learned counsels and perused the record including the judgments cited at the bar. This Court is of the considered opinion that this Court cannot issue any mandate to the respondent Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Limited, Bikaner to enhance the retirement age of its employees to 60 years as against the decision of Board of Directors to keep the said retirement age at 58 years. It is a policy matter undoubtedly, which has to be taken by the highest body of the concerned employer - Society itself. The position of accumulated losses of the District Sangh has not been rebutted by the petitioners in any manner. The accumulated losses, which were to the extent of Rs.18 crores as on 31/3/2007 compelled the respondent District Sangh to keep the retirement age at 58 years so as to avoid further increase of such losses by way of additional payment to the employees if their services were to be extended upto 60 years.

14. This Court finds little force in the submission of learned counsel for the petitioners that since RCDF took a different decision to enhance the retirement age from 58 to 60 years, the respondent Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Limited, Bikaner was also bound to enhance the retirement age to 60 years inasmuch as these are two are independently S.B. Civil Writ Petition No.11128/2009 Smt. Vijya Shrimali Vs. State of Rajasthan & Ors. Along-with connected writ petitions Order dt:

18. 07/2014 3/4 incorporated bodies and their power to take separate policy decisions cannot be questioned. The RCDF in a federal structure of the Dairies in

the State of Rajasthan cannot curtail the powers of independent District Sanghs to take their own policy decision depending upon their profit and loss position, as the case may be. The RCDF itself had gone on record to say vide communication Annex.R-3/3 dated 2/7/2013, as quoted above, that respondent Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Limited, Bikaner is free to take its own decision in this regard. The decision of RCDF does not bind them in any manner. Even Hon'ble the Apex Court watering down the effect of order passed by the Division Bench of this Court left RCDF & independent Societies free to take their own respective decisions in this regard in view of the guidelines of Registrar vide letter dated 17/9/2008 & subsequent clarifications vide Hon'ble Supreme Court order quoted above. Therefore, the said contention of learned counsel for the petitioner is liable to be rejected and same is accordingly rejected.

15. The other contention of learned counsel for the petitioners that Establishment Committee only could take decision in this regard and not the Board of Directors of the said Sangh is also without any substance. The Board of Directors, admittedly, is the highest management body in the said Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Limited, Bikaner governed by the provisions of the Rajasthan Cooperative Societies Act, 2001 and, therefore, even if S.B. Civil Writ Petition No.11128/2009 Smt. Vijya Shrimali Vs. State of Rajasthan & Ors. Along-with connected writ petitions Order dt:

18. 07/2014 4/4 the bye laws delineating the power of Establishment Committee including its jurisdiction on the issues relating to appointment, posting, retirement and other service conditions of its employees, the same does not lay down a water tight and straightjacket jurisdiction for the Establishment Committee so as to exclude the jurisdiction of Board of Directors of the said respondent Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Limited, Bikaner to take such decision. The said contention is also liable to fail & is accordingly hereby rejected.

16. Thus, on the both counts, this Court is satisfied that the decision taken by the respondent Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Limited, Bikaner to keep the retirement age at 58 years is reasonable and justified and does not call for any interference by this Court, much less calling for any mandamus direction to

the contrary.

17. The writ petitions are, thus, found to be devoid of merit and same are accordingly dismissed. No costs.. 3. Accordingly, the present writ petitions are dismissed in the same terms. No costs. A copy of this order be sent to the concerned parties forthwith. (Dr. VINEET KOTHARI), J.

DJ/- 7 C-1, 2 C-1

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