

**Rabindranath Bhuyan Vs. State and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/531517](http://sooperkanoon.com/531517)

**Court :** Orissa

**Decided On :** Jan-13-2000

**Reported in :** 2000(I)OLR368

**Judge :** R.K. Patra and ;P.K. Patra, JJ.

**Acts :** [Constitution of India](#) - Articles 226 and 227

**Appeal No. :** O.J.C. No. 12554 of 1999

**Appellant :** Rabindranath Bhuyan

**Respondent :** State and ors.

**Advocate for Def. :** Additional Government Adv.

**Advocate for Pet/Ap. :** Suwendu Kumar Ray, D.R. Mohapatra, K.K. Jena and S.P. Swain

**Disposition :** Petition dismissed

**Judgement :**

ORDER

1. We have heard Shri S. K. Ray for the petitioner and learned Addl. Government Advocate for opposite parties.

2. The petitioner retired from Government service as Addl. District and Sessions Judge, Sambalpur on 31.10.1998 on superannuation after completing age of 58 years as per the Home Department's Notification No. 65056 dated 26.10.1998. In this writ petition, he seeks quashing of the aforesaid Government notification and claims that he shall be deemed to be continuing in service till he attains the age of 60 years.

3. Learned counsel for the petitioner contended that there was no adverse entry in his C.C.R. nor was it communicated at any point of time, and as such, he should be given the benefit of the increase of the retirement age upto 60 years.

4. We have duly considered the aforesaid contention, but we do not find any merit in it. It may be noted that mere absence of adverse remark against a judicial officer does not automatically entitle him to get the benefit of the enhancement of the superannuation age to 60 years. Absence of adverse report is no criterion of the quality of an officer. It has been laid down by their Lordships of the Supreme Court in *All India Judges' Association v. Union of India*, AIR 1993 SC 2493 that the benefit of the increase of the retirement age upto 60 years shall not be available automatically to all Judicial Officers irrespective of their past record of service and evidence of their continued utility to the judicial system. Such benefit will be available to those, who, in the opinion of the High Court have a potential for continued useful service. It is not intended as a windfall for all. The potential for continued utility is to be assessed and evaluated on the basis of the concerned Officer's past record of service, character rolls, quality of judgments and other relevant matters.

The case of the petitioner was duly considered by the Full Court keeping in view the criteria indicated by their Lordships. Accordingly, the Court was of the opinion that the benefit of enhancement of the retirement age to 60 years should not be made available to the petitioner. On the basis of such recommendation, the Government has passed the impugned order.

There is no merit in this writ petition which is accordingly dismissed.

