THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO.33830 OF 2022
AND
WRIT PETITION NO.26116 OF 2023

COMMON ORDER:

1. These writ petitions are filed challenging the action of the respondents in not extending the benefit of enhancement of the age of superannuation from 60 years to 62 years, in not forwarding proposals to the higher authorities for amendment of the service regulations, and in not reinstating the petitioners into service till they attain the age of 62 years.

2. Since both these writ petitions are filed by the same petitioners and seek identical reliefs involving a common issue, they are being disposed of by this common order.

3. The petitioners submit that the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) (Amendment) Ordinance, 2022, published in the Andhra Pradesh Gazette on 31.01.2022 through Ordinance No.1 of 2022, enhanced the age of superannuation from 60 years to 62 years by virtue of

G.O.Ms.No.15, Finance (HR.IV-FR&LR) Department, dated 31.01.2022.

4. The petitioners, who were working in different capacities in APIIC, expected to continue in service till attaining the age of 62 years. However, the respondents issued proceedings dated 29.09.2023, retiring and relieving the petitioners from service with immediate effect.

5. The petitioners further submit that, pursuant to the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2014, the Government issued G.O.Ms.No.147 dated 30.06.2014 enhancing the age of superannuation of State Government employees from 58 years to 60 years. Thereafter, by G.O.Ms.No.102 dated 27.06.2017, permission was granted for enhancement of the retirement age from 58 years to 60 years for employees working in institutions listed under Schedules IX and X of the A.P. Reorganisation Act, 2014, subject to approval by the respective Boards of Directors/Management Committees after considering their financial position and necessity.

6. According to the petitioners, various Government policies relating to allowances and pensionary benefits applicable to Government employees were also adopted by the respondent institutions. Consequently, employees of the respondent organization were continued in service till attaining the age of 60 years.

7. The petitioners contend that, though the State Government subsequently enhanced the age of superannuation from 60 years to 62 years with effect from 01.01.2022, the same benefit was not extended to employees of Public Sector Undertakings, State Corporations and other State institutions covered under Schedules IX and X of the A.P. Reorganisation Act, 2014. It is alleged that APIIC failed to take steps to pass any resolution by the Board and did not forward proposals to the Government seeking enhancement of the retirement age from 60 to 62 years. As a result, several employees, including the petitioners, were compelled to retire on attaining the age of 60 years. The petitioners therefore contend that the action of APIIC is arbitrary, discriminatory, and violative of Articles 14, 16, and 21 of the Constitution of India.

8. During the hearing, learned counsel for the petitioners argued that, as employees of the State Corporation, the petitioners are also entitled to the benefit of enhanced superannuation age on par with Government employees under the A.P. Public Employment (Regulation of Age of Superannuation) Act, 1984, as amended by Ordinance No.1 of 2022 and later Act No.4 of 2022, whereby the retirement age was increased to 62 years. He further contended that, in view of the interim directions of this Court, the services of the petitioners are continued upto the age of 61 years, as such, they are entitled to all service benefits upto 61 years and cannot be restricted to 60 years, for which he also relied upon the judgments of the Hon'ble Supreme Court in **Chairman, Railway Board vs. C.R. Rangadhamaiah**[1] and **The Commissioner, Karnataka Housing Board vs. C. Muddaiah**[2]**.** On that basis, the petitioners sought the reliefs prayed for in the writ petitions.

9. A detailed counter affidavit was filed on behalf of the State contending that the Ordinance applies only to State Government employees and employees covered under Act No.23 of 1984, and

[1] AIR 1997 SCC 3828
[2] AIR 2007 SCC 3100

not to employees of APIIC or similar organizations. The learned Government Pleader submitted that enhancement of the retirement age from 60 to 62 years in Corporations requires necessary approvals, permissions, and amendments to the service regulations by the respective Boards or Managing Committees. Until such approvals and amendments are made, employees cannot claim the enhanced retirement age as a matter of right.

10. The learned Standing Counsel for APIIC further submitted that the question of enhancement of the age of superannuation is a policy matter to be considered by the respective Boards of Directors or Management Committees of such institutions. While taking such a decision, the financial condition, administrative necessity, and performance requirements of the institution must also be considered. It was therefore argued that this Court cannot issue a a writ of mandamus for enhancement of the petitioners' retirement age from 60 to 62 years without such consideration, and sought for dismissal of the writ petitions.

11. Heard the learned counsel for the petitioners, the learned Government Pleader for Services-I, and the learned Standing Counsel for APIIC, and perused the material available on record.

12. It is an undisputed fact that the petitioners were employees of APIIC and retired on attaining the age of 60 years. By virtue of interim orders passed by this Court, the petitioners had continued in service for nearly one year upto 61 years, after which they were relieved from service through relieving orders issued by the respondent Corporation.

13. In the counter affidavit, the respondents stated that Memo dated 23.09.2022 was issued clarifying that enhancement of the age of superannuation from 60 to 62 years applies only to employees governed by the A.P. Public Employment (Regulation of Age of Superannuation) Act, 1984, and not to employees of State Corporations, undertakings and institutions. Based on the said clarification, the respondent Corporation relieved employees who had attained the age of 60 years.

14. Employees of Public Sector Undertakings or Corporations are neither holders of posts connected with the affairs of the State nor

members of the State civil service. Since they are not governed by rules framed under the proviso to Article 309 of the Constitution of India, they cannot be treated as persons appointed to public services in connection with the affairs of the State, nor can they claim the benefit of the provisions of the Act of 1984. Accordingly, employees of Public Sector Undertakings and Corporations cannot claim parity with Government servants as a matter of right, and their service conditions, including retirement age and salary, are governed independently by the respective organizations.

15. It is well settled that employees of Government Corporations and Public Sector Undertakings constitute a separate class from Government servants. Merely because certain benefits extended to Government employees were adopted by the respondent Corporation, the petitioners cannot claim automatic extension of every Government policy, including enhancement of the age of superannuation, unless the same is specifically adopted by the competent authority of the Corporation. Whereas, the similar issue fell for consideration in W.P.Nos.8225 of 2022 & batch of cases, wherein an interim order was passed. The interim order passed in

the batch of writ petitions was assailed in W.A.Nos.1033 of 2022 & batch, wherein the Division Bench of this Court held as follows:

> “40. This Court also finds that in the counter affidavit filed the respondent No.1 had clearly specified that they had sought a clarification from the Government of Andhra Pradesh, whether the enhancement of age from 60 to 62 would apply to corporations, associations, societies etc., on 14.02.2022. In the counter, it is clearly mentioned that the writ petition is also premature till the Government takes a decision on the matter. Even in the past it is stated that the Government issued separate orders for corporations and the societies for enhancement of age. Therefore, it is stated that the petitioner’s case will be considered on similar lines once the decision of the Government was obtained. The learned Advocate General submitted that this decision is spelt out by the memo, dated 23.09.2022, which clearly states G.O.Ms.No.15 is applicable to the employees, who are described in Section 1(2) of the Act only. It is also clarified by the Government that certain PSUs, Corporations etc., have enhanced the age to 62 without necessary approval and sanction and therefore, remedial action is to be taken by the very disciplinary action against this respondent.”

16. Similarly, an interim order was passed by this Court in the present writ petition. Assailing the interim order passed by this

Court, W.A.No.602 of 2023 was preferred, wherein the Division Bench of this Court in W.A.No.602 of 2023, while allowing the writ appeal on 05.05.2023, set-aside the interim order and remanded the matter back with a request to consider the issue threadbare and thereafter decide the matter on its own merits in accordance with law.

17. The enhancement of the age of superannuation in respect of employees of Public Sector Undertakings depends upon the decision of the respective Board of Directors/Management Committee, having regard to the financial viability, administrative requirements, and service regulations of the institution concerned. In the absence of any such decision by the competent authority, the petitioners cannot seek a writ of mandamus as a matter of right.

18. Accordingly, the relief sought by the petitioners is rejected. However, the respondent Corporation is directed to settle and pay all consequential service benefits and admissible dues to the petitioners for the period during which they actually worked pursuant to the interim orders passed by this Court, in accordance with law, within a reasonable time.

19. With the above directions, writ petitions are disposed of. No costs.

20. Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date: 28.04.2026

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THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO.33830 OF 2022
AND
WRIT PETITION NO.26116 OF 2023

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