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C.A.No. 6491 OF 2000  
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6491 OF 2000@@  
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Nitya Ranjan Guha .. Appellant

Vs.

State of West Bengal & Anr. .. Respondents

WITH

CIVIL APPEAL NO. 6543 OF 2000@@  
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The appellant before us filed a writ petition in the High Court questioning the validity of the Rules framed under the Special Marriage Act in so far as they related to retirement of Non-Official Marriage Officers. There was another writ petition filed by the West Bengal Non-Official Marriage Officers Association. The contention put forth before the Court is that whether prescribing two different ages of retirement - one set of officers at the age of 60 and another set of officers at the age of 65, is discriminatory and thus there would be violation of Article 14 of the Constitution. Under the Rules, by an amendment made, it was provided that those who had crossed the age of 60 years may retire at the age of 65 years while all others will have to retire at the age of 60 years.

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While the learned Single Judge upheld the contention raised on behalf of the appellants, on an appeal, the Division Bench of the High Court set aside that order and dismissed the writ petitions. Hence, these appeals by special leave.

Shri Ranjit Kumar, learned senior advocate appearing for the appellants submitted that the appellants before us are not public servants or Government servants and they get a small remuneration out of the fee collected by them for the services rendered and in fact they had been recruited at the age of 40 years and it was only a small number of such officers who would be affected by this amendment and what purpose really would be served as a result of this amendment is not clear and in such circumstances the Division Bench of the High Court ought to have upheld the view taken by the learned Single Judge. He further submitted that on the same date different amendments were made to the Rules made under the Hindu Marriage Act and under those Rules no

such discrimination was made. Therefore, he submitted that the action of the Government is plainly arbitrary and violative of Article 14 of the Constitution.

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Mr. Ranjan Mukherjee, learned counsel appearing for the West Bengal Non-Official Marriage Officers Association duly adopted the arguments advanced by Mr. Ranjit Kumar, learned senior advocate.

In countering the submissions made on behalf of the appellants, learned Additional Solicitor General submitted that the matter is squarely covered by a decision of this Court in Bishnu Narain Mishra Vs. State of Uttar Pradesh and Ors. - 1965 (1) SCR 693 and contended that the same principles should be applied in the present case.

So far as the classification into two categories of officers is concerned, those who had crossed the age of 60 years and those who had not crossed the age of 60 years clearly fell into two classes. The circumstances in which the Government is giving effect to the Rules under Hindu Marriage Act depends upon the exigencies such as the number of officers available and the number of likely applicants. When specific facts had not been asserted in relation to the Rules framed under the Hindu Marriage Act, nor it was urged before the Division Bench of the High Court, we do not think we can enter into investigation of the facts arising in relation to that. Therefore, we did not permit the learned counsel to

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advance contentions on this point. So far as the present Rules are concerned, as stated earlier, the classification made is clear and if certain exigencies are kept in mind in framing of the Rules, the same should not be taken exception of. Indeed in the identical circumstances in Bishnu Narain Mishra Vs. State of Uttar Pradesh and Ors., adverted to earlier, this is what this Court has stated:-

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" There was no force in the contention that the new rule was discriminatory inasmuch as different Government servants were retired on December 31, 1961 at different ages. The rule treated alike all those who were between the age of 55 and 58 years. Those who were retired on December 31, 1961 certainly retired at different ages but that was so because their services were retained for different periods beyond the age of 55. Government was not obliged to retain the services of every public servant for the same length of time. The retention of public servants after the period of retirement depended upon their efficiency and the exigencies of public service and in the present case the difference in the period of retention had arisen on account of the exigencies of public service.

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However, Mr. Ranjit Kumar submitted that Non-Official Marriage Officers are not in Government or in public service and this position is made clear under the Rules inasmuch as they are not in Government service at all, even though they have rendered public service, as such the principle to be applied in the matter of

retirement is different.

When a particular age has been prescribed under the Rules, any reduction or increase in the age of retirement, would lead to transitional adjustments and in this case that is what has been done. We do not find any force in the contentions raised on behalf of the appellant. In the result, we decline to interfere with the order made by the High Court. The appeals stand dismissed accordingly.

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[ S.RAJENDRA BABU]@@  
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[ P.VENKATARAMA REDDI]@@  
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New Delhi,@@  
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February 12, 2002.

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ITEM NO. 103 COURT NO. 5 SECTION XVI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 6491/2000

Nitya Ranjan Guha .. Appellant (s)

Vs.

State of West Bengal & Anr. .. Respondent(s)  
With C.A. No. 6543/2000 ( With Office Report )

DATE : 12.2.2002 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Appellant (s) : Mr. Ranjit Kumar, Sr. Adv.  
Mr. Piyush K. Roy, Adv.  
Mr. B.S. Rajesh Roshan, Adv.  
Mr. Himanshu Munshi, Adv.  
  
Mr. Ranjan Mukherjee, Adv.  
  
Mr. Pranab Kumar Mullick, Adv.

For Respondent (s) : Mr. Mukul Rohtagi, ASG  
Mr. Tara Chandra Shamra, Adv.  
Mr. Ajay Sharma, Adv.

Ms. Neelam Sharma, Adv.

UPON being mentioned the Court made the following

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Mr. Ranjit Kumar, learned senior advocate started his arguments at 10.45 a.m. and concluded at 11.00 a.m. Then Mr. Mukul Rohtagi, learned Addl. Solicitor General made submissions till 11.05 a.m. Then Mr. Ranjan Mukherjee, learned counsel made his submissions till 11.15 a.m.

The appeals are dismissed in terms of the signed order.

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(Meenu Sethi)  
Court Master

(Om Prakash )  
Court Master

Signed order is placed on the file