

Retirement age fixation is Govt's sole discretion: SC

Age of superannuation can be reduced or increased unilaterally at the discretion of the Government and courts cannot interfere with such decisions, the Supreme Court has ruled.

A three judge bench of Justices – J M Panchal, Deepak Verma and B Chauhan in a judgement quashed the interim orders of the Allahabad High Court which had directed the Mayawati Government to restore 62 years as the age of superannuation for Government pleaders (advocates).

The apex court agreed with the Government's view that fixing the age falls within the exclusive competence of the State authorities, and thus, the court should not interfere in such policy decisions, unless it was patently unconstitutional.

Citing the Constitutional Bench judgements in the Bishun Narain Misra vs the State of Uttar Pradesh (1965) case, the apex court said reducing the age of retirement could neither be invalid nor could be held to be retrospective as the said rule was a method adopted to tide over the difficult situation which could arise in public services.

"It is evident that even in government services where the terms and conditions of service are governed by the statutory provisions, the Legislature is competent to enhance or reduce the age of superannuation".

"In view of the above, it is beyond our imaginations as why such a course is not permissible for the appellant – State while fixing the age of working of the District Government Advocates," the bench observed.

In the instant case the High Court had stayed the operation of amended provisions of the U.P. Legal Remembrancer Manual (L R Manual) which sought to reduce the retirement age from 62 to 60 years.

It had further directed the State Government to consider the applications for renewal of the all District Government Counsel whose term had already expired, resorting to the un-amended provisions of the L.R. Manual and they be allowed to serve till they attain the age upto 62 years.

The High Court under no circumstance could direct the State authorities to consider the cases for renewal/extension under the provisions of the un-amended L.R. i.e. non-existing provisions.

Such interim order tantamounts to legislation by judicial orders," Justice Chauhan writing the judgement observed. The apex court also recalled its earlier ruling in the Roshan Lal Tandon v. Union of India & Ors(1967)that emoluments of Government servants and terms of service".

"could be altered by the employer unilaterally for the reason that conditions of service are governed by statutory rules which can be unilaterally altered by the Government without the consent of the employee."

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