

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 605 OF 2013
(@ SPECIAL LEAVE PETITION (C.) NO.24200 OF 2012)

RAJIV KAPOOR & ANR.

APPELLANTS

VERSUS

KARAN PAL SINGH

RESPONDENT

O R D E R

1. Leave granted.
2. This appeal is directed against the judgment and order passed by the High Court of Allahabad, Lucknow Bench in Contempt Petition No. 1239 of 2012 dated 10.07.2012.
3. The order passed by the High Court reads as under:

"After hearing both the parties, I agree with the submissions made by Sri J.N. Mathur, learned Senior Advocate that the said order is prospective in nature. But fact remains that the judicial order is in favour of the petitioner i.e. the retirement will be subject to outcome of the pending proposal before the State Government. When, it is so, then the petitioner is entitled to get the benefit of the Government Order dated 03.07.2012 by virtue of the order dated 30.01.2012, passed by this Court, in Writ Petition No.50(S/B) of 2012. Now the opposite parties have no option except to implement the order dated 30.01.2012, passed by the writ court. In view of above, the petitioner is directed to join his duties within a period of one week and the opposite party no.2, i.e. Director, U.P. Rajya Beej Pramanikaran Sanstha,

Rajkiya Udyan Parisar, Kariyappa Marg, Alambagh, Lucknow shall allow him to resume his duties and the services of the petitioner will be counted for all purposes. The period of absence of the petitioner shall be treated as per Leave Rules of the Government applicable in the Organization. With the above observations, the contempt petition is disposed of. Notice for personal appearance is discharged."

4. Aggrieved by the direction so issued by the High Court, as we have already noticed, the appellants are before us.

5. This Court, while entertaining this appeal, had issued notice to the respondent and further had stayed the order passed by the High Court in the Contempt Petition. That is how the appellants have not yet implemented the orders passed by the High Court.

6. We have heard Shri P.S. Patwalia, learned senior counsel appearing for the appellants and Shri Dinesh Dwivedi, learned senior counsel appearing for the respondent.

7. The appellant had filed the aforesaid writ petition, *inter alia* questioning the intimation issued by the respondent about his date of retirement. Since the appellant was to retire on 31.01.2012, the Court, after hearing the parties, had passed the order dated 30.01.2012. The operative portion of

the order reads as under:

"In view of the aforesaid statement of learned State Counsel, learned counsel for petitioner has no objection to this writ petition being disposed of with direction to decide the matter within two months after Assembly Elections. We, thus, dispose of the writ petition with directions in terms of consensus with further direction that the retirement of petitioner shall be subject to the outcome of the pending proposal before the State Government."

8. A reading of the order would indicate that the retirement of the appellant shall be subject to the outcome of the pending proposal before the State Government.

9. At this stage, it is relevant to refer to the proposed amendment to the bye-laws of the Board/Corporation. The Board in its Resolution dated 30.03.2010, has proposed an amendment for increase of the age of the retirement of its employees from 58 to 60 years. The Resolution of the Board requires to be approved by the State Government. Therefore, the said Resolution was forwarded to the State Government by the Board on 07.04.2010.

10. The State Government, by its order dated 03.07.2012, has approved the Resolution of the Board for increase of the age of superannuation of its employees from 58 years to 60

years with immediate effect and to amend the Rule 28 of the bye-laws of Appellant - U.P. Rajya Beej Pramanikaran Sansthan. The 'immediate effect' would only mean from the date of the order so passed by the State Government i.e. 03.07.2012.

11. Since the appellant had retired on 31.01.2012, in our view, the order passed by the State Government approving the Resolution of the Board for increasing the age of superannuation from 58 years to 60 year could not be given to the respondent.

12. However, the High Court has directed the appellants to permit the respondent to rejoin his duty and to continue till he attains the age of 60 years. In our view, this direction given by the High Court is inappropriate in view of what has been observed by us earlier. Accordingly, we allow this appeal and set aside the direction issued by the High Court. However, we permit the respondent, if he so desires, to question the correctness or otherwise of the orders passed by the State Government in S.No.2069/12-2-2012-80, dated 03.07.2012 within 15 days' time from today. If such a petition is filed by the respondent within the time granted before the High Court, we request the High Court to dispose of the petition on merits without reference to the period of limitation.

13. All the other contentions raised by both the parties are left open.

Ordered accordingly.

NEW DELHI;
JANUARY 21, 2013.



.....J.
(H.L. DATTU)

.....J.
(RANJAN GOGOI)

JUDGMENT

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 606 OF 2013
(@ SPECIAL LEAVE PETITION(C.) NO.24459 OF 2012)

MANOJ KUMAR SINGH & ANR.

APPELLANTS

VERSUS

RAJENDRA SINGH

RESPONDENT

WITH

C.A. NO. 607/2013 @ S.L.P.(C) NO.24461/2012

AND

C.A. NO. 608/2013 @ S.L.P.(C) NO.25292/2012

O R D E R

1. Leave granted.
2. These appeals are directed against the judgment and order passed by the High Court of Allahabad, Lucknow Bench in Contempt Nos. 1778/2012, 1779/2012 and 1785/2012 of 2012 dated 24.07.2012.
3. The first appellant is the Managing Director, U.P. State Industrial Development Corporation ('Corporation' for short) and the second appellant is In-Charge (Personnel) of the Corporation. They are aggrieved by certain directions issued by the High Court in the aforesaid Contempt Petition Nos.1778 of

2012, 1779 of 2012 and 1785 of 2012 dated 24.07.2012. The operative portion of the order passed by the High Court in the aforesaid Contempt Petition reads as under :

"In view of the above, I direct the opposite party no.1 i.e. Managing Director, U.P. State Industrial Development Corporation Limited, Kanpur to allow the petitioner to work as per the direction given in the contempt petition No.1239 of 2012 on 10.07.2012 within a period of ten days, failing which, he will have to appear in person to show cause as to why the contempt proceedings be not initiated against him."

4. This Court, while entertaining these appeals, had issued notice to the respondents and further had stayed the order passed by the High Court in the Contempt Petitions.

5. We have heard Shri Rakesh Uttamchandra Upadhyay, learned counsel appearing for the appellants and Shri Yatish Mohan, learned counsel appearing for the respondent(s).

6. Shri Rakesh Uttamchandra Upadhyay appearing for the appellants would inform us that the Board had passed a resolution for increasing the age of its employees from 58 years to 60 years. The said resolution requires to be approved by the State Government; therefore, they had sent the resolution to the State Government for its approval. The State Government had

passed an order approving the resolution of the Board only on 22.05.2012. In the said order it was made clear that it will become operative from the prospective date. In terms of the orders passed by the State Government, the Managing Director of the Corporation has also issued an Office Order dated 25.5.2012. The Office Order reads as under :

"Office Order

As per Govt. Order No.736/77-4-12-SIDC-33/12 dated 22.05.2012 issued under the signature of the Special Secretary, Industrial Development Department-4 and as per the arrangement given under Govt. order dated 20.09.2011 of Public Industry Department-1, the retirement age of Regular and Full Time employees working in UP State Industrial Development Corporation Ltd. is enhanced from 58 years to 60 years with immediate effect (from 22.05.2012 I.e. the date of issuance of Govt. order) and the sanction in regard to the same is given.

Kindly take necessary urgent action as per above.

Sd/-

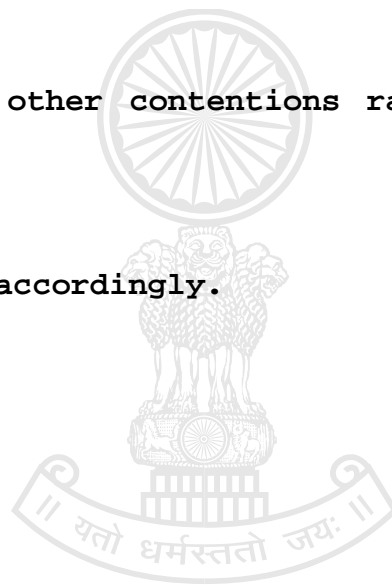
(Mohd.Ifekaruddin)
Managing Director"

7. Since the respondents have retired from service before the approval of the Resolution by the State Government, in our view, the High Court ought not to have passed the impugned order(s) and direction(s). In that view of the matter, we allow these appeals and set aside the directions issued by the High Court.

8. However, we permit the respondents-herein to question the correctness or otherwise of the orders passed by the State Government, if they so desire, within 15 days' time from today. If such petitions are filed by the respondents before the High Court within the time granted, we request the High Court to dispose of the petitions on merits without reference to the period of limitation.

9. All the other contentions raised by both the parties is left open.

Ordered accordingly.



.....J.
(H.L. DATTU)

JUDGMENTJ.
(RANJAN GOGOI)

NEW DELHI;
JANUARY 21, 2013.

ITEM NO.67

COURT NO.7

SECTION XI

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

Petition(s) for Special Leave to Appeal (Civil) No(s).24200/2012
(From the judgment and order dated 10.07.2012 OF THE HIGH COURT
OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH IN CONTEMPT
PETN.NO.1239 OF 2012)

RAJIV KAPOOR & ANR.

Petitioner(s)

VERSUS

KARAN PAL SINGH

Respondent(s)

(With prayer for interim relief and office report)

WITH SLP(C) NO. 24459 of 2012

SLP(C) NO. 24461 of 2012

(With appln.(s) for permission to place addl.documents on record
and with prayer for interim relief and office report)

SLP(C) NO. 25292 of 2012

(With appln.(s) for permission to place addl.documents on record
and office report)

Date: 21/01/2013 These Petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU

HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s)

Mr.P.S.Patwalia, Sr.Adv.

Mr. M.R. Shamshad,Adv.

Mr.Shashank, Adv.

Mr.Ajay Singh, Adv.

Mr. Rakesh Uttamchandra Upadhyay

For Respondent(s)

Mr.Dinesh Dwivedi, Sr.Adv.

Ms.Preetika Dwivedi, Adv.

For Mr. Garvesh Kabra,Adv.

Mr.Yatish Mohan, Adv.
For Mr. E.C. Vidya Sagar

UPON hearing counsel the Court made the following
O R D E R

SLP(C)No.24459/2012, SLP(C)No.24461/2012 & SLP(C)No.25292/2012:

Leave granted.

Appeals are allowed, in terms of the signed order.

SLP(C)No.24200/2012:

Leave granted.

Appeal allowed, in terms of the signed order.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Court Master

(Two separate signed orders are placed on the file)

JUDGMENT