

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.
Present:
Mr. Justice Ahmed Ali M. Shaikh,
Mr. Justice Farooq Ali Channa.

C.P No.D-485 of 2012

Date of hearing: 13.11.2013.
Date of Decision: 13.11.2013.
Petitioner: M/s Crescent Steel and Allied Products Limited through Mr. Abdul Ghani Khan, Advocate.
Respondents: Mr. Mukhtiar Ahmed Khanzada, State Counsel.

JUDGMENT

AHMED ALI M. SHAIKH, J: - Through this petition, petitioner has impugned the order dated 04-02-2002, passed by Labour Court No.VI, Hyderabad in application under section 25-A of Industrial Relations Ordinance, 1969 whereby the grievance petition filed by respondent No.1 was allowed and the decision dated 23-02-2012 made by Sindh Labour Appellate Tribunal at Karachi, whereby petitioner's appeal preferred against the order passed by Labour Court, was dismissed.

2. From the pleadings, it appears that vide appointment letter dated 19-08-1993, respondent No.1 was appointed as "Shaper Machine Operator" in petitioner's company and according to appointment order, his age of retirement was provided as 60 years. However, later on through letter dated 19-01-1995, the respondent No.1 was informed that as per Company Service Manual his retirement age is 58 years. On 06-04-1998, the respondent No.1 served grievance notice on the petitioner and later on he filed a grievance petition under section 25-A of IRO 1969 in the Sindh Labour Court

No.6, Hyderabad whereby he called into question his premature retirement besides reinstatement in service with full back benefits.

3. The petitioner contested the said grievance petition by filing written statement. The parties led their evidence and vide order dated 04-02-2002 grievance petition of respondent No.1 was allowed and petitioner was directed to treat the respondent No.1 on duty till he attained the age of 60 years besides all back benefits were also allowed. Since the above order was impugned through appeal No.HYD-85/2010 (L.A. No.28/2004) but same was turned down through decision dated 23-02-2012, hence, petitioner approached this Court against the concurrent findings of two forums below.

4. Mr. Abdul Ghani Khan, learned counsel for the petitioner contended that impugned order and decision passed by two forums below are contrary to the law and evidence. Per learned counsel, the both Courts below did not take into consideration section 7 of the Personnel and Pay Roll Systems Manual of the petitioner's company. Learned counsel further contended that both Courts below have based their order/decision on the basis of appointment letter dated 19-08-1993 issued to the petitioner but failed to appreciate that the said document was not produced in evidence by the respondent No.1.

5. Conversely, Mr. Mukhtiar Ahmed Khanzada, State Counsel supported the order/decision passed by two Courts below and stated that both Courts below have passed proper orders keeping in view all aspects of the case including the appointment letter which is the basic document and its genuineness is not disputed by either party.

6. We have heard learned counsel and carefully scanned the available record and found that the appellate Tribunal had considered the case in its proper perspective and the impugned order

and decision are based on the proper appreciation of relevant material. The paramount consideration for the retirement age of the respondent No.1 is his appointment letter, which has been kept in view by the two forums below while deciding the matter. For the sake of convenience, the para No.13 of appointment letter is reproduced as under: -

"You will be due for retirement on attaining the age of sixty years. The retirement age will be calculated on the basis of your Matriculation Certificate or as per your National Identity Card or as mentioned in your Application for Employment Form. The Management may, at its discretion, extend the age of retirement if you are found medically fit."

7. The conclusion drawn by the appellate Court, in our humble view is entirely based on law and consonance with the appointment letter. It is repeatedly held by our Superior Courts that the jurisdiction of High Court under Article 199 of the Constitution of Pakistan is extraordinary in nature, which is aimed at proper dispensation of justice and to avoid abuse of process of law. Such jurisdiction not to be exercised with directory orders of subordinate Courts.

8. For the foregoing reasons, instant petition was dismissed by us vide short order dated 13-11-2013.


JUDGE


JUDGE

Dated: 20-11-2013.