

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9144 OF 2011

DR. JOE D SOUZA

Appellant(s)

VERSUS

STATE OF GOA & ANR.

Respondent(s)

WITH

CIVIL APPEAL NO. 9145 OF 2011

WITH

CIVIL APPEAL NO. 9034 OF 2011

O R D E R

The challenge in the present appeals is to an order passed by the Division Bench of the High Court of Bombay at Goa, wherein the claim of the appellant(s) that they should be made to retire at the age of 60 years in terms of the Agreement dated 09.06.1987 executed between University of Bombay and the Goa University was dismissed. It is contended that insertion of Section 15A in the Goa University Act, 1984, contemplating the age of retirement as 58 years would not be applicable in the case of the appellants herein.

The appellants had joined in the Department of Microbiology in Centre for Postgraduate Instruction and Research (CPIR) under the University of Bombay in the years 1972-1974. The appellants attained the age of superannuation i.e. 58 years in the year 2003-

2005. The High Court has held that since the age of superannuation was fixed as 58 years by the Union Territory of Goa, therefore, superannuation of the appellants at such age is valid. The subsequent amendment in 2006 in the statute increasing the age of superannuation to 60 years will not benefit the appellants as they have attained the age of 58 years prior to the said amendment. It is to be noted that the Amendment Act of 2006 is not a retrospective amendment.

The learned counsel for the appellants contend that in terms of Goa, Daman and Diu Reorganisation Act, 1987 [in short, "the Reorganisation Act"], the service conditions of the employees cannot be changed to their disadvantage. Therefore, since the appointment of the appellants was prior to the appointment date, they could be retired only on attaining the age of 60 years.

However, we do not find any merit in the said argument. The appellants were appointed in different departments in the CPIR at Panaji under the University of Bombay. It was a separate agreement which led to transfer of the services of the appellants in the CPIR under the Goa University. The appellants were not employees of the Bombay or the Maharashtra State but of University of Bombay. They were not governed by the Reorganisation Act, but by

the Agreement executed between the University of Bombay and Goa University. The status of the employees transferred to Union Territory of Goa in terms of the Reorganisation Act stand on a different footing than the appellants who were appointed at Panaji under the University of Bombay and thus the Reorganisation Act will not be applicable to them.

Once the age of superannuation was reduced to 58 years by an Act of the Union Territory of Goa, any agreement would have to give way to the statutory provisions as there cannot be any agreement contrary to the Statute.

In view of the said findings, retirement of the appellants on attaining the age of 58 years under the Goa University Act, 1984 cannot be said to be illegal.

Consequently, we do not find any merit in the present appeals. The same are, accordingly, dismissed.

Pending interlocutory application(s), if any, is/are disposed of.

.....J.
[HEMANT GUPTA]

.....J.
[VIKRAM NATH]

ITEM NO.104

COURT NO.9

SECTION IX

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

Civil Appeal No(s). 9144/2011

DR. JOE D SOUZA

Appellant(s)

VERSUS

STATE OF GOA & ANR.

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WITH

C.A. No. 9145/2011 (IX)

C.A. No. 9034/2011 (IX)

Date : 19-07-2022 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE VIKRAM NATH

For Appellant(s) Mr. Rajesh Imandar, Adv.
Mr. Harsh Pandey, Adv.
Mr. Revant Solanki, Adv.
Mr. Javedur Rehaman, Adv.
Mr. Rauf Rahim, AOR

For Respondent(s) Mr. Merusagar Samantaray, AOR

Mr. Jayant Mohan, AOR

Mr. Rajat Joseph, AOR

Ms. Nancy Shah, Adv.
Mr. Shishir Deshpande, AOR
Ms. Ruchira Gupta, Adv.

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

The appeals are dismissed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed
of.

(JAYANT KUMAR ARORA)
ASST. REGISTRAR-CUM-PS

(RENU BALA GAMBHIR)
COURT MASTER

(Signed order is placed on the file)