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PANAJI: The high court of Bombay at Goa has held that reduction in the retirement age from 60 to 58 years by the state government without the prior approval of the central government is invalid.

The judgment was passed in a petition filed by five retired workmen of the public works department. Zilo Zo and four others, who were retired at the age of 58 in 2006, had approached the high court in September 2008.

According to the petitioners they were employed when Goa was a union territory. Section 60 (6) of the Goa State, Daman and Diu Reorganization Act, 1987, puts an embargo on altering the service conditions of the petitioners to their disadvantage except with previous approval of the Centre.

The petitioners argued that they were entitled to retire from service at the age of 60 under Rule 56 (b) of the Fundamental Rules.

During the hearing of the case, the government lawyer said that no relief could be granted to the petitioners as they had approached the court in 2008 while they had retired in 2006.

The government affidavit further stated that the rules for reducing the retirement age to 58 years were published in an official gazette in August 2000 and subsequently, on July 30, 2001 the central government had given ex-post facto approval for altering the retirement age. The petitioners' lawyer, S M Walwaikar, argued that the state government had not taken prior approval from the central government for altering the terms and conditions of service.

Stating that the ex-post facto approval is not an approval in the eyes of law, Walwaikar added that Section 60 (6) of the Act of 1987 contemplates prior approval and that this is a mandatory requirement.

He contended that the retirement of the petitioners at the age of 58 violates Articles 14, 16 and 21 of the Constitution of India.

A division bench of Justices S C Dharmadhikari and Justice F M Reis observed: "Once the law laid down is that approval must be prior then there is no question of the age of retirement being altered to the disadvantage of petitioners by respondents."

The court opined that the action of the state government in retiring the petitioners at the age of 58 cannot be sustained as it is contrary to Section 60 (6) of the Act of 1987 and violates the mandate of Articles 14 and 16 (1) of the Constitution of India.

The court further noted that the petitioners shall be held as retired from service from the date on which they attained 60 years.

"Although we find that they could have been continued in service till the year 2008, they having taken no steps from 2006 to 2008 except relying on the representations and assurances given to them and awaiting fate of their written complaints, interest of justice would be served by directing that each of the petitioners would be entitled to retirement benefits from the date of filing of the petition (September 30, 2008)," the court said.

It also directed authorities to compute and calculate the retirement benefits by fixing the petitioners' salaries as if they had continued in service till the date of attaining 60 years. But the retirement benefits shall be released only from the date of filing of the writ petition, the court held.

The court ordered that the benefits, including the arrears, be released within a period of three months.

Source: [Economic Times](#)