

## **Employer can choose whom to retire: SC**

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NEW DELHI: Conferring unbridled power on governments to prune employee strength in overstuffed loss-making concerns, the Supreme Court has ruled that an employer has the absolute discretion in compulsorily retiring its staff.

The courts had no role to play in deciding which among the employees were to be compulsorily retired and those who should be allowed to continue in service, a bench comprising Justices Tarun Chatterjee and H S Bedi said in an important judgment on Thursday.

"We are equally of the opinion that it is not for the SC to opine as to who should be retained in service and who should be retired and at what stage and situation as this is a matter to be left to the exclusive discretion of the employer," said Justice Bedi, writing the judgment for the bench.

The verdict came in a case where a large number of class IV employees, who were recruited as peons in the Bihar Rajya Shakari Bhumi Vikas Bank in 1971, had challenged the bank's decision to terminate their service through compulsory retirement.

The bank argued that it was grossly overstuffed as a result of which it was suffering huge losses. It said as against a requirement of 166 peons, 507 had been recruited.

It argued that in the restructuring plan, it was decided to retire the excessive class IV employees. Appearing for the employees, counsel Priya Hingorani said the compulsorily retired peons had put in 30 years of service with the bank. She suggested that if any re-structuring was to be undertaken to make the bank more efficient, it would have been appropriate to retire highly-paid executives rather than the lowly-paid peons.

The bank defended its decision to retire the class IV employees and its counsel Shraavan Kumar argued that the decision was taken after a lot of deliberation at the level of the board of directors and that the court should not interfere with the internal decisions of the bank management.

Accepting the argument, the bench said it was for the employer to decide which employee should be retained and who should be retired.

"The facts of the case show that the bank was not only heavily overstuffed but was also running into huge losses and substantial pruning," the bench said.