

7

Date of Decision: 6.9.1989

... Applicant

... Respondents

Hon'ble Mr. Justice Amitav Banerji, Chairman  
Hon'ble Mr. B.C. Mathur, Vice Chairman

... None

... Shri P.H. Ramchandani,  
Sr. Standing Counsel.

(Judgement of the Bench delivered by  
Hon'ble Mr. Justice Amitav Banerji, Chairman)

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w.e.f. 31.3.1989. A copy of the Memorandum as well as of Petition for withdrawal<sup>a</sup> of Application and the Appendices were served on Shri Punj at his address 185, Gautam Nagar, New Delhi-49 on 5.9.1989. The Memorandum clearly informs the Applicant that the enclosed Miscellaneous Petition was further filed by the Government and it would be taken up by the Court on 6.9.1989. There is an endorsement showing that the paper was served on the Applicant on 5.9.1989.

The Petition for withdrawal mentions that the Applicant had given a notice on 30th March, 1988 seeking voluntary retirement from service under Rule 48 of the CCS(Pension) Rules, 1972. The notice was accepted by the competent authority and orders were issued indicating that the Applicant would retire from government service on 30th June, 1988. The petitioner further states that while the papers were being processed, a communication from the C.B.I. was received stating that they were conducting investigation and the Applicant would be required for interrogation/examination. In pursuance of the request of the CBI that his request for resignation be kept in abeyance till finalisation of the case, the competent authority cancelled the earlier orders regarding his voluntary retirement from 30.6.1988. The Applicant

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appeared for investigation in the C.B.I's office on 1.7.88 and 4.7.1988. The acceptance of the notice of voluntary retirement was cancelled on 22.6.1988 under intimation to the Applicant. The Applicant made representation praying that he may be given pension and other retirement benefits reckoning his retirement w.e.f. 30.6.1988. The competent authority asked the Applicant to report for duty which he did not. Thereafter, the Applicant had filed the present O.A. on 1.11.1988 before the Principal Bench of the Tribunal. His prayer for interim relief for provisional pension till the case is finally decided was rejected by the Tribunal. In the meantime, the competent authority was informed by the C.B.I. that the investigations in the case was almost over and they clearly indicated that the Applicant's case for voluntary retirement may be dealt with in accordance with the rules by the competent authority. However, no action could be taken as the matter was sub-judice. Ultimately, on 9th March, 1989, the Miscellaneous Petition for interim relief was heard in the court of the Hon'ble Chairman. During the course of hearing, the Government counsel indicated that the Applicant may make another Application for voluntary retirement and it would <sup>be</sup> considered. The Applicant made an Application to the competent authority on 9.3.1989 stating that he may be allowed to retire voluntarily under Rule 48 of the CCS(Pension) Rules, 1972. He also gave an undertaking



in his Application dated 9.3.88 to the effect that after his request for voluntarily retirement is agreed, he will withdraw his Application pending before the Tribunal. However, the Applicant did not bother to withdraw his O.A. in spite of the undertaking given by him in the Application.

The Miscellaneous Petition came up again for hearing on 26.5.1989 but the Applicant was not present. The matter has again come up today for hearing. We enquired from Shri Ramchandani, representing the respondents about the payments. He has filed a paper showing that DCRG for an amount of Rs. 51,800/- has been paid to him by a cheque dated 26.5.89. A further sum of Rs. 1,000/-, withheld amount of DCRG, has also been paid. He has also been paid GPF amount of Rs. 1,78,309/- vide cheque dated 6.7.89. Two more payments of pay from 1.7.88 to 31.3.89 viz. Rs. 598/- and Rs. 15,648/- have also been paid. No leave encashment was paid as he did not have any leave at his credit at the time of his retirement. Commuted value of pension issued on 26.5.89 was made through Bank of India, Houz Khas, New Delhi. Authority for payment of pension was issued on 26.5.89 and release of savings under CGIES 80 made vide office order dated 10.5.89. This statement appears to be signed by Shri M.K. Kulkarni, Deputy Secretary, Ministry of Labour, New Delhi.

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A look at the prayer made in the O.A. would be necessary. There are five reliefs sought:

- (i) Implementation of Office Order dated 4th May, 1988 thereby retiring the Applicant voluntarily w.e.f. 30th June, 1988;
- (ii) Issue of Pension Payment Order and release of all retirement benefits as from 30.6.88;
- (iii) Payment of interest @ 18% per annum on the outstanding dues including pension from the date these became due till the payment is made;
- (iv) Damages suffered by the Applicant by humiliation faced by him in not getting timely retirement under Rule 48 of CCS(Pension) Rules and mental torture suffered by him which was assessed at rupees five lakhs; and
- (v) Any other relief which may be deemed fit and proper.

As far as the first relief is concerned, there has been a change of position. Originally, voluntary retirement to was take effect from 30.6.88. It has now been altered to be effective from 31.3.89 and this has been agreed upon by the Applicant. Consequently, this relief has become infructuous. In regard to the second relief, since the Applicant's date of retirement is 31.3.89, granting him retirement benefits w.e.f. 30.6.89 has also become infructuous. The third relief of payment of interest at 18% per annum on the outstanding dues from the date it became due has been claimed. In the present case, the Applicant's retirement



12

has been accepted from 31st March, 1989 and normally the respondents should have three months' time to make the payment. Most of the amounts have been released to the Applicant within two months as seen above and if any amount has been paid beyond the period of three months, that may call for some compensation by way of interest. In the present case, we find that only one amount of GPF was paid on 4.7.89 and the withheld amount of DCRG on 3.7.89. There is no communication in the note signed by Shri Kulkarni as to when the pay amounts of Rs. 598/- and Rs. 15,648/- were paid. It will thus be seen that the two items mentioned above were paid after 30th June, 1989 but in the first week of July. These are not such delays which call for award of interest. In regard to the two payments of pay, if these amounts have been paid in the first half of July, even this does not call for award of interest. In regard to items 7, 8 and 9, the authority for commuted value of pension, authority for payment of pension and release of savings, all these orders were passed in the month of May, 1989 which was well within three months. Therefore, these also do not call for any award of interest.

We, therefore, see no good ground for award of interest in this case.

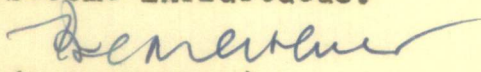
In regard to the fourth relief, viz. damages suffered by the Applicant by humiliation faced in not getting timely

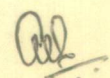
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retirement and monetary torture, we are not entertaining this plea at all. The Applicant having accepted the position that he may be retired ~~xx~~ from 31st March, 1989 and that he would withdraw his present O.A., he is no longer entitled to press the claim for payment of damages. We, therefore, see no reason to allow any of the reliefs prayed for by the Applicant as the O.A. has become infructuous. Further more, since orders have been passed and cheques for payment given to the Applicant, we do not see any reason to issue any direction in the case.

It is rather unfortunate that the Applicant is not present today. But in view of the facts and circumstances mentioned above, we assume that the Applicant has not appeared before us today or on the earlier date because he has been paid or received all his dues. In the circumstances, this OA is dismissed as having become infructuous.

  
(B.C. Mathur)  
Vice Chairman(A)

  
(Amitav Banerji)  
Chairman