

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.509 of 2001

Jabalpur, this the 17th day of November, 2003

Hon'ble Shri M.P.Singh - Vice Chairman

Shri Bhagwati Prasad Tiwari, S/o Shri G.P.Tiwari,
aged about 62 years, Retired Manager, ESI,
Local Office, Jabalpur, Resident of 457, Garha Road,
Jabalpur. P.S.Lordganj, Jabalpur (M.P.) - APPLICANT

(By Advocate - Smt.S.Menon)

Versus

1. Union of India, through the Financial Commissioner
(Accounts-IV), ESI Corporation, New Delhi.
2. The Director General, Employees State Insurance
Corporation, Panchdeep Bhawan, Kotla Road,
New Delhi.
3. Employees State Insurance Corporation,
Regional Office, Nanda Nagar, Indore, through
the Regional Director - RESPONDENTS

(By Advocate - Shri Bhagwan Singh on behalf of
Shri Rohit Arya)

ORDER

By this Original Application the applicant has sought for a direction to quash the orders dated 15.3.2001 (Annexure-A-10) and 29.6.2001 (Annexure-A-15) passed by respondent no.2, and has sought a further direction to grant him all the benefits thereof along with interest at the rate of 21% per annum.

2. The brief facts of the case are that while the applicant was working as Manager, Employees State Insurance Corporation, M.P.Region has committed various offences for which a CBI case was registered against him as Special Case No.28 of 1993 for mis-appropriation of money of the ESI Corporation in the local office at Jabalpur, on the basis of bogus maternity benefit payments. During the pendency of the said case the applicant attained the age of 55 years. He was,

Contd.....2/-

prematurely retired from service vide order dated 17.3.1994 on expiry of three months' notice period under Rule 48 of the Central Civil Services (Pension) Rules, 1972 and FR 56(j). The applicant was paid provisional pension. Subsequently, he was convicted under Section 420 read with Section 120-B of the IPC and sentenced to rigorous imprisonment for 3 years and fine of Rs.3000/- in default further R.I. for six months; under Section 468 read with Section 471 and Section 120-B of the IPC and sentenced to R.I. for 2 years and fine of Rs.3000/- in default, further R.I. for six months; under Section 420 read with section 120-B of IPC and sentenced to R.I. for 2 years and fine of Rs.2000, in default, further R.I. for six months; under section 468 read with section 471 read with section 120-B of IPC and sentenced to R.I. for 2 years and fine of Rs.2000, in default further R.I. for six months; and under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and sentenced to R.I. for 3 years and fine of Rs.5000/-, in default, further R.I. for nine months. All the sentences were directed to run concurrently. In the light of the afore-mentioned convictions of the applicant for various offences and sentences passed by the Special Court, C.B.I. Jabalpur, the Regional Director, respondent no.3 had issued a show cause notice on 9.1.2001 (Annexure-A-6) upon the applicant. The applicant submitted his representation on 27.2.2001. The respondent no.2 after having considered the applicant's representation forfeited his entire pension vide order dated 15.3.2001. Hence the applicant had earlier approached this Tribunal in OA No.274/2001. The Tribunal vide its order dated 17.4.2001 disposed of the said OA with a direction to the applicant to file an appeal before the appropriate appellate authority. Pursuant to that, the appeal filed by the applicant has been decided vide order dated 29.6.01 (Annexure-A-15). The appellate authority has upheld the order passed on 15.3.2001 by the Regional Director. Hence, the applicant has filed this OA challenging the orders dated 15.3.2001 and 29.6.2001.

3. Heard both the learned counsel for the parties and perused the records carefully.

4. During the course of arguments, the learned counsel for the applicant has submitted that the applicant has been retired under FR 56(j) and under Rule 48 of the CCS(Pension) Rules, 1972 and thereafter his pension has been stopped under Rule 8(1)(b) ^{read with Rule 8(2)} of the CCS(Pension) Rules, 1972 and, therefore, it is a case of double jeopardy. She has also submitted that the action against the retired Government servants under Rule 8(1)(b) of the CCS(Pension) Rules could only be taken if the act committed by him is after his retirement. She further submits that the order dated 15.3.2001 has not been passed by the competent authority.

5. On the other hand the learned counsel for the respondents has submitted that the applicant was retired under FR 56(j) and Rule 48 of the Pension Rules. As the applicant had attained the age of 55 years, he was retired by giving him three months' notice. Thereafter, he has been convicted by the Special Court and, therefore, the pension was stopped under Rule 8(1)(b) of the Pension Rules on account of his future misconduct. The learned counsel for the respondents has also submitted that the order of forfeiture of 100% pension was passed by the Regional Director, who was the appointing authority of the applicant and, therefore, the contention of the applicant that the order has not been passed by the competent authority is not tenable.

6. After careful consideration of the pleadings, ² we find that the applicant was retired under FR 56(j) under which the Government has the absolute right to retire a Government servant by giving him a notice of not less than three months. In this case, the applicant has been given a notice of three months before he was retired ^{by the appointing authority.} Therefore, the objection of the applicant regarding competence of the authority ^{to pass the order} is not tenable in view of the specific wording of Rule 8(1)(b) *ibid*. The pension has been forfeited as a result of his conviction in the

criminal case. Rule 8(1)(b) specifically provides that pension can be withheld or withdrawn permanently or for a specific period if the pensioner is convicted of a serious crime or is found guilty of grave misconduct. In this case I find that the applicant had committed various serious offences, already mentioned in para 2 above. Therefore, the action taken by the respondents is in accordance with the rules and procedure. We do not find any infirmity in the aforesaid orders passed by the respondents.

7. In the result, the Original Application is dismissed, however, without any order as to costs.

(M.P. Singh)
Vice Chairman

पूठांकन सं. ०१/२००३ जयलपुर, दि.

पुनर्विचार आयोग, जयलपुर

(1) श्री. ... जयलपुर, जयलपुर

(2) श्री. ... के काउंसल Smt. S. Meen, Adv.

(3) श्री. ... के काउंसल Rohit Anja, Adv.

(4) श्री. ... जयलपुर जयलपुर

सूचना एवं जांचकर्ता कार्यालयी हेतु

[Signature]
19.11.03

rkv.

Received
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