

SUPREME COURT OF INDIA

Dr. R.N. Rajanna

Vs.

State of Karnataka

(D.Raju and A. Pasayat JJ.)

07.11.2003

JUDGMENT

D. Raju, J.

1. Leave granted.

2. The above appeal has been filed challenging the order of a Division Bench of the Karnataka High Court dated 17.6.2002 in Writ Petition No. 26400 of 1998 (S-KAT), rejecting the grievance sought to be made against the orders of the Karnataka Administrative Tribunal at Bangalore dated 19.12.1997 and 27.3.1998 in the matter of re-fixation of the appellants' pension, which the appellant unsuccessfully attempted to have before the Departmental Authorities and the Tribunal below.

3. The appellant claims to have joined services of the State Government on 17.12.1953 in the Animal Husbandry Department and his services were said to have been lent to Agricultural Dairy Finance Corporation during 1971-1977 and thereafter during 3.8.1978 to 8.4.1981 to the Karnataka Dairy Development Corporation (a Public Sector Undertaking of the Karnataka State in the field of Dairy industry) for being appointed as Officer on special duty on foreign service basis. Even while on such deputation the appellant took voluntary retirement on 8.4.1981 at the age of 54 years, 10 months and 21 days after rendering a qualifying service of 27 years, 3 months and 21 days, when he was holding the post of Deputy Director, Animal Husbandry on deputation, with his basic pay at Rs. 1600/- per month, which subsequently came to be revised as Rs. 1825/- per month. Thereupon the pension of the appellant was said to have been fixed initially at Rs. 670/- per month and subsequently by order dated 20.11.91 at Rs.755/- per month.

4. While matters stood thus, the appellant sought to take coverage under the orders of the State Government dated 14.12.1983, 20.3.1986 and 19.1.1994 to assert a claim for pension at the rate of 50% of the emoluments drawn at the time of retirement on the basis that having been retired prior to 1.12.1985 was entitled to have his pension re-fixed with particular reference to 60 completed six monthly periods in terms of the last of the three government orders made on 19.1.1994. The representations made therefore on 15.6.94 to the 2nd respondent as well as on 18.3.1996 to the first respondent did not meet with success and

came to be rejected in March 1998 and 5.9.1996, respectively. Not satisfied, the appellant went before the Tribunal and his Application No. 4628/97 33 well as the subsequent Review Application No. 53 of 1998 came to be also rejected on 19.12.1997 and 27.3.1998 respectively. The High Court also replied the challenge made in Writ Petition No. 28400 of 1993 and hence, the present appeal.

5. On behalf of the appellant, while reiterating the grievance espoused before the authorities and the High Court it was contended that the appellant was entitled to the benefit of the Government order dated 19.1.1994 under which he claims to be eligible for availing of the benefits of the earlier government orders dated 14.12.1983 and 20.3.1986. It was also contended that the benefit of liberalised pension formula in respect of government servants who retired voluntarily prior to 1.12.1985 before attaining the age of 55 years, if denied to persons like appellant it would amount to transgression of the law declared by this Court in the decision reported in D.S. Nakara and Ors. v. Union of India . The further contention urged was that for purposes of fixation of the quantum of pension, the pay drawn by the appellant at the time of his retirement, inclusive of foreign service allowance as well and not merely his basic pay. Per contra, on behalf of the respondents, drawing inspiration from the orders of the authorities, the Tribunal and the High Court, it was urged that the reasons assigned for rejecting the claim of the appellant are well merited and do not suffer from any infirmity whatsoever to call for interference in this appeal.

6. The submissions on either side have been carefully considered in the light of the relevant government orders, rules and decisions of Court, but they do not deserve countenance in this appeal for according any relief In favour of the appellant, as prayed for. A careful perusal of the three Government orders would belie the claim of the appellant and the view taken by the authorities below and the High Court that the appellant cannot take umbrage under those orders and that the orders dated 19.1.1994 was not made to govern the claims of all pensioners as a policy decision but those who were concerned in the case filed before the Tribunal who were granted relief by the Tribunal in Application No. 509 of 1987 and Application No. 1803 of 1990, only and that too subject to the orders that may be ultimately passed by this Court on the appeal said to have been filed against those orders, seem to be quite in accordance with law and does not call for interference. Though, the word 'retirement' may take within its fold all or any kinds of retirement when the same is used in the context of 'superannuation' or retirement by way of superannuation, in service parlance the well settled meaning it already acquired and even in the normal course to be assigned is that it has relevance and relates to discharge from a post on account of the age fixed for such retirement, uniformly for all or particular class or category of service holders. The plea to the contrary cannot be justified and all the more so in this case, in the context of the specific language as well as the purpose of the orders made by the government on 19.1.1994.

7. Equally bereft of merit is the claim for taking into account, the deputation allowance also in computing the quantum of pension of the appellant. As rightly hold by the High Court, Rule 285 read with Rule 296 of the Karnataka Civil Services Rules does not lend support to such a claim. As pointed out by the High Court Rule 296, while enumerating the items of payments which could normally be taken to constitute the 'emoluments' for determining the

quantum of pension the rule specifically mandates - "includes the following, but does not include Pay and Allowances drawn from a source other than the Consolidated Fund of the State" - and consequently, no exception could be taken to this view taken by the High Court as wed.

8. Consequently, the appeal fails and shall stand dismissed, but with no order as to costs.