

# SUPREME COURT OF INDIA

State of W. B.

Vs.

Haresh C. Banerjee

C.A.No.2579 of 1998

(P. Venkatarama Reddi and S.R.Babu JJ.)

26.05.2004

## JUDGMENT

### **S. Rajendra Babu, J.**

1. In this matter, the constitutional validity of Rule 10(1) of the West Bengal Services (Death-cum-Retirement Benefit) Rules (for short "the Rules") is involved and the High Court has held that the same is ultra vires the Constitution and that conducting the departmental enquiry against the respondent after his retirement was also held to be ultra vires the Constitution, This Court, by an order made on 1-5-1998, while granting leave on the question of vires of Rule 10 of the Rules, directed that even if this appeal succeeds the benefit available to Respondent 1 in accordance with the judgment of the High Court will not be recalled and the appellant shall make available to Respondent 1 all the arrears, if any, payable as per the impugned order of the High Court within the stipulated time. Now the sole question for consideration is the validity of Rule 10(1) of the Rules. The same involves larger question arising as to the operation of the West Bengal (Classification, Control and Operation) Rules, 1971 and sub-rule (1) of Rule 10 of the said Rules. As such questions may often arise affecting a large number of employees; we think it appropriate to refer this matter to a larger Bench.