

SUPREME COURT OF INDIA

Suhas Sandilya

Vs.

Central Industrial Security Force

C.A.No.4448 of 2004

(Y. K. Sabharwal and D. M. Dharmadhikari JJ.)

26.07.2004

JUDGMENT

D.M.Dharmadhikari, J.

1. Leave granted.
2. The appellant has been granted pro-rata pension under *Central Civil Services (Pension) Rules, 1972* (for short 'Pension Rules') with effect 24.4.1996 for the services rendered by him in the Army and Central Industrial Security Force (for short the 'CISF').
3. The appellant approached by a Writ Petition the High Court of Delhi claiming pro-rata pension from 9.2.1984 under the provisions of Rule 37 of the Pension Rules. The High Court by the impugned order dated 22.10.2002 negated his claim relying on the terms of his permanent absorption contained in letter dated 21.2.1990 conveying sanction of the President to the permanent absorption of the appellant in the services of the CISF.
4. The dates concerning the services of the appellant relevant for the purpose of claim of pension are the following:

The appellant was commissioned in Indian Army on 24.4.1996. On 31.11.1975, he joined CISF as Inspector (Executive). The appellant applied for the post of Security Officer in the Punjab National Bank in July 1981. On being selected, he joined the Bank services in the year 1982. On completion of his probationary period in Bank services and confirmation, his lien was terminated. The Presidential sanction to his permanent absorption with effect from 9.2.1984 in the services of Punjab National Bank was conveyed to him by letter dated 21.2.1990. With regard to the date of payment of pro-rata retirement benefits, the relevant condition of sanctioning his absorption in Bank services reads:-

"(iv) Date of payment of pro-rata retirement benefits - The amounts of pro-rata pension and death-cum-retirement gratuity which will be worked out and intimated to

Shri Subhas Sandilya as well as to Punjab National Bank would be disburseable to the officer from the earliest date from which he could have become eligible for voluntary retirement had he continued under Government of India or from the date of his permanent absorption in the Punjab National Bank whichever is later."

(Emphasis supplied)

5. The claim for pro-rata pension from the date of his permanent absorption in Bank services that is 9.2.1984, is based on Rule 37, as it existed prior to the amendment introduced to the same, which reads thus:--

"37. Pension on absorption in or under a Corporation, Company or body: A Government servant who has been permitted to be absorbed in the service or post in or under a Corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government shall, if such absorption is declared by the Government to be in the public interest, be deemed to have retired from service from the date of such absorption and shall be eligible to receive retirement benefits which he may have elected or deemed to have elected, and from such date as may be determined, in accordance with the order of the government applicable to him:

Provided....."

[Emphasis added]

6. Learned counsel appearing for the appellant contended before the High Court and has reiterated his contention before us in this appeal that in terms of Rule 37, the appellant's pro-rata pension should have been fixed from the date of his absorption in the services of the Bank i.e. 9.2.1984. It is also submitted that the subject of fixation of pension of an employee, absorbed in services, owned and controlled by the Government, is regulated by Rule 37 and Rule 48 requiring completion of thirty years of services for voluntary retirement for pension was not application in his case.

7. Learned counsel appearing for the respondent representing Union of India and the CISF has supported the reasoning and conclusion of the High Court based on the terms of his absorption contained in the letter dated 21.2.1990 read with Rules 37 and 48 of the Rules.

8. After hearing the learned counsel appearing for the parties and on going through the relevant Rules and the conditions of his absorption, we have not been able to find any fault with the order of the High Court. It is to be seen from the provisions contained in Rule 37 that a Government servant absorbed in other services under the government is "eligible to receive retirement benefits which he may have elected or deemed to have elected, and from such date as may be determined in accordance with the orders of the Government" passed in his case. This part of Rule 37 necessarily attracts application of Rule 48 which prescribes 30 years as qualifying service for pension. Rule 37 also requires fixation or determination of a

date by the Government for giving retirement benefits to a government servant absorbed in other services under the Government of India. For the same reason as stipulated in the last part of Rule 37 (quoted above), the terms of absorption contained in the letter dated 21.2.1990 conveying sanction of the President become relevant. In terms of clause (iv) of the order of absorption as conveyed by letter dated 21.2.1990, the date for pro-rata retirement benefits is stated to be the earliest date from which he would have become eligible for voluntary retirement had he continued under Government of India or from the date of his permanent absorption in the Punjab National Bank whichever is later. #

9. In terms of the above order of absorption, the appellant completed thirty years of qualifying service on 24.4.1996 treating him to have notionally continued in the services of CISF. His permanent absorption of Bank services is from 9.2.1984 but the date of his completion of qualifying service is 24.4.1996 and it being later, he was entitled to pro-rata retirement benefits only from 24.4.1996 in accordance with Rule 48. Rule 48 allows a government servant voluntary retirement on completion of thirty years of qualifying service. That is how on the question of fixation of date for grant of retirement benefits to the appellant, Rules 37 & 48 read with clause (iv) of the terms of his absorption in the services of the Bank become relevant and were rightly relied by the High Court to uphold the action of the Government and its authorities. #

10. For the aforesaid reason, we find no merit in this appeal, which is, accordingly, dismissed but in the circumstances, without any order as to costs.