SUPREME COURT OF INDIA

Gottumukkala Venkata Krishamraju

Vs.

Union of India

WP(Civil)No.732 of 2018

(A.K.Sikri and Ashok Bhushan,JJ.,)

07.09.2018

JUDGMENT

A.K.Sikri,J.,

1. Petitioners in these petitions were appointed as Presiding Officers of Debt Recovery Tribunal created under the Recovery of Debts due to Banks and Financial Institutions Act, 1993 which is rechristened as Recovery of Debts and Bankruptcy Act, 1993 (hereinafter referred to as the 'Act'). The appointment was made under the provisions of the said Act. Chapter II of the Act deals with the establishment of Tribunal and Appellate Tribunal. The provisions relevant for our purposes are Sections 3 to 6. Section 3 deals with establishment of the Tribunal by the Central Government to be known as the Debts Recovery Tribunal. Section 4 talks of composition of the Tribunal. Section 5 deals with the qualifications for appointment as Presiding Officers. Once appointed, the term of office of a Presiding Officer is stipulated in Section 6. There have been amendments to the various provisions of this Act in the year 2016. Also, the Act which was earlier known as the Recovery of Debts due to Banks and Financial Institutions Act, 1993 is given a new nomenclature and is now known as the Recovery of Debts and Bankruptcy Act, 1993 by the Finance Act, 2017. Unamended Sections 3 to 6 were as under:

> "3. Establishment of Tribunal.—(1) The Central Government shall, by notification, establish one or more Tribunals, to be known as the Debts Recovery Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.
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> (2) The Central Government shall also specify, in the notification referred to in sub-section (1), the areas within which the Tribunal may exercise jurisdiction for entertaining and deciding the applications filed before it.
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> 4. Composition of Tribunal.—(1) A Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed by notification, by the Central Government.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may authorize the Presiding Officer of one Tribunal to discharge also the functions of the Presiding Officer of another Tribunal.

. Qualifications for appointment as Presiding Officer.

—A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he is, or has been, or is qualified to be, a District Judge.

6. Term of Office. - The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier."

2. As is clear from Section 6, after the appointment of a person as Presiding Officer to a Tribunal, he could hold office for a term of five years from the date on which he enters upon his office or until the attainment of 62 years of age, whichever is earlier. This Section is substituted by Act 44 of 2016 w.e.f. September 1, 2016 and the amended provision read as under:

"6. Term of office of Presiding Officer - The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment.

Provided that no person shall hold office as the Presiding Officer of a Tribunal after he has attained the age of sixty-five years."

3. Along with that, another provision in the form of Section 6A is also inserted which is to the following effect:

"6A. Qualifications, terms and conditions of service of Presiding Officer - Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

Some other provisions are also amended, but those are not relevant for the purposes of these cases.

4. All the petitioners were appointed before the amendment to Section 6. Thus, at the time of their appointment, the term of their office was "five years or till attaining the age of 62 years, whichever is earlier". These officers have not completed five years of service. However, they are completing/or have attained 62 years of age after coming into force amended Section 6. In the aforesaid backdrop, the question that arises for consideration in these petitions is as to whether the petitioners are entitled to complete the term of five years taking advantage of the amended provision which gives such Presiding Officers to continue until attaining the age of 65 years or to continue till they reach the age of 65 years, whichever is earlier.

5. For the sake of convenience, we may give particulars in respect of Transfer Case (Civil) No. 301 of 2017 and, at the same time, take note of the progress in other cases as well.

Date	Event
27.12.1954	Date of birth of the petitioner. The petitioner turned 62 years on 26.12.2016 and will turn 65 years, on 26.12.2019.
27.08.1993	Enactment of the Recovery of Debts due to Banks and Financial Institutions Act, 1993. Section 6 of the Act prescribed that a Presiding Officer of the Debt Recovery Tribunal shall hold office for five years form the date he enters office or 62 years, whichever is earlier.
15.12.2014	Appointment notification of petitioner as Presiding Officer, Debt Recovery Tribunal, Lucknow.
06.01.2015	Petitioner took office as the Presiding Officer, Debt Recovery Tribunal, Lucknow.
12.08.2016	Amendment to the Recovery of Debts due to Banks and Financial Institutions Act, 1993. Section 6 of the 1993 Act was substituted. The amended Section 6 contemplates that the Presiding Officer shall hold office for five years from the date he enters office. The proviso clarifies that the Presiding Officer shall not continue beyond the age of 65 years.
01.09.2016	The 2016 amendment takes effect upon being so notified, by the Central Government.
29.09.2016	The Union of India advertises anticipated vacancies for Presiding Officer for Debt Recovery Tribunal, Lucknow and other Debt Recovery Tribunals.
06.10.2016	By way of an interim order, the Central Administrative Tribunal, New Delhi, stays the release of Presiding Officer, Debt Recovery Tribunal, Guwahati (V.K. Garg), having regard to the enhanced age of retirement, in the O.A. filed by him.
07.12.2016	By way of an interim order, the Allahabad High Court, Lucknow Bench stays the release of petitioner, having regard to the enhanced age of retirement in the writ

	petition filed by him.
09.12.2016	The Bombay High Court dismissed WP(L) No. 3299/2016 filed by Vasant Narayan Lothey Patel, Presiding Officer, DRT III, Mumbai, whereby the said officer sought application of the amended Section 6, to extend his tenure to 65 years or completion of five years.
26.12.2016	The petitioner attained the age of 62 years.
02.02.2017	By way of an interim order, the Madras High Court stays the release of J.V. Raj, Debt Recovery Tribunal, Coimbatore having regard to the enhanced age of retirement in the writ petition filed by him.
09.02.2017	By way of an interim order, the Jharkhand High Court says the release of B.N. Dash, Debt Recovery Tribunal having regrd to the enhanced age of retirement, in his writ petition.
28.02.2017	By way of an interim order, the Madras High Court stays the release of R. Ravindra Bose, Presiding Officer, Debt Recovery Tribunal-II, Chennai having regrd to the enhanced age of retirement.
04.10.2017	The Union of India filed five transfer petitions *qua* the aforementioned petitions pending before the Central Administrative Tribunal, Delhi and High Courts of Allahabad, Madras, Jharkhand. A sixth transfer petition was filed in respect of WP(L) No. 2358/2016 filed by Mohd. Zafar Imam before the Bombay High Court. This officer had already demitted office on 17.09.2016. On 04.10.2017, this Court issued notice in the aforementioned transfer petitions being TP(C) Nos. 1315-1320/2017 and stayed further proceedings before the courts concerned.
14.11.2017	This Court allowed all six transfer petitions (TP(C) Nos. 1315-1320/2017) and also passed an interim order reinstating Mohd. Zafar Imam as Presiding Officer, DRT II, Mumbai.
26.12.2019	The petitioner will be completing the age of 65 years.
06.01.2020	The petitioner will be completing the term of five years on this date.

6. As per the provisions of unamended Section 6, the petitioner could continue only upto December 26, 2016 as he had completed 62 years of age on that date though he had not completed five years of term as the Presiding Officer. If amended Section 6 is applicable, then he would be entitled to continue upto December 26, 2019 on which date he shall attain the age of 65 years. Same is the fact situation in all these cases, though the dates on which they would be completing five years term or attaining 65 years of age, are different.

7. In this backdrop, the issue that has arisen in these petitions is as to whether the petitioners would be governed by Section 6 as amended or this provision is to be applied prospectively i.e., w.e.f. September 1, 2016 i.e. in respect of appointments which are made on or after September 1, 2016.

8. The endeavour of the petitioners is to demonstrate that they would be governed by Section 6 as amended and, therefore, they have right to continue upto the age of 65 years or till the time they complete five years tenure before they have attained the age of 65 years. The submission which are paraphrased by the petitioners in support of their aforesaid plea are the following:

> (a) By the Amendment Act, new Section 6 stands 'substituted' with the old Section 6. The legislature has used the expression 'substituted' with a definite purpose, namely, making this provision applicable also to those Presiding Officers who were holding the post as on September 1, 2016 when the amendment was brought into force. It was argued that the very expression 'substituted' would mean that the old Section 6 stands obliterated.
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> (b) Purpose behind the amendment was to reduce the burden of pendency by enhancing the age of the Presiding Officers. This is categorically mentioned in the report of the Lok Sabha, Joint Committee and also in the Statement of Objects and Reasons to the amendment.
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> (c) The provision needs to be given purposive interpretation and keeping in view the purpose and object behind the amendment, the said purpose would be sub-served only if it is applied to the incumbents in the service as well as on the date of the application. Reference is made to the judgment of this Court in *Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd. & Ors*[1].

9. In that very hue, it is argued that to interpret the provision as inapplicable to the incumbent would lead to assigning a perverse object to the amendment which would be totally illogical. For this proposition, judgment in *State of Madhya Pradesh v. Narmada Bachao Andolan & Anr*[2]. is relied upon. Reliance is also placed on *Boucher Pierre Andre v. Superintendent, Central Jail, Tihar, New Delhi & Anr.*[3]

10. Contrasting the provisions of Section 6 with Section 6A of the Act, it is argued that proviso to Section 6A categorically makes a provision to the effect that the Presiding Officer

appointed before the commencement of Finance Act, 2017 shall continue to be governed by the provisions of Section 184 of the Finance Act, 2017 as if the said provisions had not coming to force. It was submitted that there is no such proviso added to Section 6 which makes the intention of the legislature very clear, namely, the Presiding Officers who were in office as on the date of amendment would be governed by the newly inserted Section 6.

11. Mr. Banerjee, learned ASG appearing for the respondent Union of India contradicted the aforesaid arguments raised by the petitioners with the following submissions:

> No right has accrued by virtue of amendment in Section 6 to hold the office upto the age of 65 years. It was argued that unamended Section 6 provided that the Presiding Officer shall hold office for a term of five years or 'until he attains the age of 62 years, whichever is earlier'. Amended provision, on the other hand, does not state that the term of office would be five years or until the Presiding Officer attains the age of 65 years. On the other hand, this provision of 65 years was made in the proviso to Section 6 which was couched in negative terms as it is stipulated that no person shall hold the office after he has attained the age of 65 years. Thus, no right accrues in favour of any person with such a proviso. It was also submitted that unless a provision is specifically given retrospective effect by the legislature, it only has prospective operation. Therefore, intentment behind Section 6 was to make it applicable in respect of appointments which would be made on or after September 1, 2016 when this provision was inserted and the date from which it was specifically made effective. It was also argued that the purpose was to infuse young blood by deputing fresh Presiding Officers and not to give benefit to the existing Presiding Officers. The learned ASG relied upon judgment of this Court in *C. Gupta v. Glaxo-Smithkline Pharmaceuticals Ltd*[4]. and, in particular, following portion in that judgment:
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> "21. In the present case, we find that for determining the nature of amendment, the question is whether it affects the legal rights of individual workers in the context that if they fall within the definition then they would be entitled to claim several benefits conferred by the Act. The amendment should be also one which would touch upon their substantive rights. Unless there is a clear provision to the effect that it is retrospective or such retrospectivity can be implied by necessary implication or intendment, it must be held to be prospective. We find no such clear provision or anything to suggest by necessary implication or intendment either in the amending Act or in the amendment itself. The amendment cannot be said to be one which affects procedure. Insofar as the amendment substantially changes the scope of the definition of the term "workman" it cannot be said to be merely declaratory or clarificatory. In this regard we find that entirely new category of persons who are doing "operational" work was introduced first time in the definition and the words "skilled" and "unskilled" were made independent categories unlinked to the word "manual". It can be seen that the Industrial Disputes (Amendment) Act, 1984 was enacted by Parliament on 31¬8-1982. However, the amendment itself was not brought into force immediately and in sub-section (1) of Section 1 of the amending Act, it was provided that it would come into force on such day as the Central Government may

by notification in the Official Gazette, appoint. Ultimately, by a notification the said amendment was brought into force on 21-8-1984. Although this Court has held that the amendment would be prospective if it is deemed to have come with effect on a particular day, a provision in the Amendment Act to the effect that amendment would become operative in the future, would have similar effect.

22. Therefore, by the application of the tests mentioned above, it is clear that the definition of workman as amended must, therefore, be presumed to be prospective.

12. We have given our due consideration to the arguments advanced by the counsel for the parties on both sides and have also perused the relevant material. We find force in the arguments of the petitioners that the amended provisions of Section 6 shall apply in their cases as well and, therefore, if they have not completed five years of tenure as Presiding Officers of the Debt Recovery Tribunal they are entitled to continue to work as Presiding Officers till they attain the age of 65 years or complete five years' term before attaining the age of 65 years. In the first instance, we have to bear in mind the language/terminology which the Legislature used while inserting new Section 6 with effect from September 01, 2016. This section stands 'substituted' with the old section. The word 'substituted' has its own significance. In *Government of India & Ors. v. Indian Tobacco Association*[5], this Court noted dictionary meaning of the word 'substitute' as can be seen from para 15 of the said judgment:

"15. The word "substitute" ordinarily would mean "to put (one) in place of another"; or "to replace". In Black's Law Dictionary, 5th Edn., at p. 1281, the word "substitute" has been defined to mean "to put in the place of another person or thing", or "to exchange". In Collins English Dictionary, the word "substitute" has been defined to mean "to serve or cause to serve in place of another person or thing"; "to replace (an atom or group in a molecule) with (another atom or group)"; or "a person or thing that serves in place of another, such as a player in a game who takes the place of an injured colleague".

13. This expression has also come up for interpretation by the Courts in *Zile Singh v. State of Haryana and Others*[6] , the import and impact of substituted provision were discussed in the following manner:

"23. The text of Section 2 of the Second Amendment Act provides for the word "upto" being substituted for the word "after". What is the meaning and effect of the expression employed therein — "shall be substituted"?

24. The substitution of one text for the other pre-existing text is one of the known and well-recognised practices employed in legislative drafting. "Substitution" has to be distinguished from "supersession" or a mere repeal of an existing provision."

14. Ordinarily wherever the word 'substitute' or 'substitution' is used by the legislature, it has the effect of deleting the old provision and make the new provision operative. The

process of substitution consists of two steps: first, the old rule is made to cease to exist and, next, the new rule is brought into existence in its place. The rule is that when a subsequent Act amends an earlier one in such a way as to incorporate itself, or a part of itself, into the earlier, then the earlier Act must thereafter be read and construed as if the altered words had been written into the earlier Act with pen and ink and the old words scored out so that thereafter there is no need to refer to the amending Act at all. No doubt, in certain situations, the Court having regard to the purport and object sought to be achieved by the Legislature may construe the word "substitution" as an "amendment" having a prospective effect. Therefore, we do not think that it is a universal rule that the word 'substitution' necessarily or always connotes two severable steps, that is to say, one of repeal and another of a fresh enactment even if it implies two steps. However, the aforesaid general meaning is to be given effect to, unless it is found that legislature intended otherwise. Insofar as present case is concerned, as discussed hereinafter, the legislative intent was also to give effect to the amended provision even in respect of those incumbents who were in service as on September 01, 2016.

15. The effect, thus, would be to replace Section 6 as amended with the intention as if this is the only provision which exist from the date of introduction and the earlier provision was not there at all. The effect of this would be that all those incumbents who are holding the post of Presiding Officer on September 01, 2016 would be governed by this provision.

16. When we examine the matter in the aforesaid perspective, the question as to whether Section 6, as amended, is to be given retrospective effect or not, does not arise for consideration. The petitioners are right in submitting that persons who demitted the office prior to the amendment are not sought to be covered by the amendment. Had the provision been retrospective then it would have benefited those persons as well. No such case is set up by any of the petitioners or any other person, it is only the incumbents who are serving as on the date of the amendment are sought to be covered.

17. Though in a different context, the judgment in Boucher Pierre Andre throws some light on the issue at hand, as can be discerned from the following discussion in that case:

> 1. The petitioner was arrested on November 10, 1971 in connection with an offence of theft which took place in the night between October 31, 1971 and November 1, 1971 in Rajasthan Emporium at Ashoka Hotel, New Delhi. He was tried by the Additional Sessions Judge, Delhi and by an order dated July 16, 1973 he was convicted of the offence under Section 380 of the Indian Penal Code and sentenced to rigorous imprisonment for four years and a fine of Rs 10,000 and in default of payment of fine, further rigorous imprisonment of one year. An appeal preferred by him to the High Court of Delhi failed and his conviction was confirmed but the substantive sentence of imprisonment was reduced to two years though the fine was enhanced to Rs 15,000 with one year's rigorous imprisonment in default. The order of the High Court in appeal was passed on April 4, 1974. The petitioner did not pay the amount of fine and he was, therefore, liable under the order of the High Court to serve a maximum sentence of imprisonment for three years. Since the petitioner was continuing under

detention from November 10, 1971 during the investigation, enquiry and trial of the case against him, the petitioner contended that by reason of Section 428 of the new Code of Criminal Procedure, which came into force from April 1, 1974, the period of detention from November 10, 1971 upto July 16,1973 was liable to be set off against the term of imprisonment imposed upon him and he could be required to undergo imprisonment only for the remainder of the term which, after taking into account the remission granted on account of good behaviour, expired on August 12, 1974. The petitioner claimed that he was, therefore, entitled to be freed on August 12, 1974 and his detention in jail since that date was illegal. The petitioner filed an application for a writ of habeas corpus in the High Court of Delhi challenging the validity of his detention since August 12, 1974 but the High Court took the view that since the conviction of the petitioner by the Sessions Court had taken place prior to the coming into force of the new Code of Criminal Procedure, Section 428 had no application and the petitioner was bound to suffer imprisonment for the full term of three years calculated from the date of conviction, namely, July 16, 1973. The habeas corpus application in the High Court having failed, the petitioner preferred the present writ petition directly in this Court under Article 32 of the Constitution. This writ petition also claimed the same relief and the ground was also the same, namely, that by reason of Section 428, the term of imprisonment imposed on the petitioner came to an end on August 12, 1974 and his detention since that date was contrary to law.

2. The question which arises for determination in this petition is a narrow one and it rests on the true interpretation of Section 428. Is this section confined in its application only to cases where a person is convicted after the coming into force of the new Code of Criminal Procedure, or does it also embrace cases where a person has been convicted before but his sentence is still running at the date when the new Code of Criminal Procedure came into force? It is only if the latter interpretation is accepted that the petitioner would be entitled to claim the benefit of the section and hence it becomes necessary to arrive at its proper construction. Section 428 reads as follows:

"Where an accused person has, on conviction, been sentenced to imprisonment for a term, the period of detention, if any, undergone by him during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him."

This section, on a plain natural construction of its language, posits for its applicability a fact situation which is described by the clause "where an accused person has, on conviction, been sentenced to imprisonment for a term". There is nothing in this clause which suggests, either expressly or by necessary implication, that the conviction and sentence must be after the coming into force of the new Code of Criminal Procedure. The language of the

clause is neutral. It does not refer to any particular point of time when the accused person should have been convicted and sentenced. It merely indicates a fact situation which must exist in order to attract the applicability of the section and this fact situation would be satisfied equally whether an accused person has been convicted and sentenced before or after the coming into force of the new Code of Criminal Procedure. Even where an accused person has been convicted prior to the coming into force of the new Code of Criminal Procedure but his sentence is still running, it would not be inappropriate to say that the "accused person has, on conviction, been sentenced to imprisonment for a term". Therefore, where an accused person has been convicted and he is still serving his sentence at the date when the new Code of Criminal Procedure came into force. Section 428 would apply and he would be entitled to claim that the period of detention undergone by him during the investigation, inquiry or trial of the case should be set off against the term of imprisonment imposed on him and he should be required to undergo only the remainder of the term. Of course, if the term of the sentence has already run out, no question of set off can arise. It is only where the sentence is still running that the section can operate to restrict the term. This construction of the section does not offend against the principle which requires that unless the legislative intent is clear and compulsive, no retrospective operation should be given to a statute. On this interpretation, the section is not given any retrospective effect. It does not seek to set at naught the conviction already recorded against the accused person. The conviction remains intact and unaffected and so does the sentence already undergone. It is only the sentence, insofar as it yet remains to be undergone, that is, reduced. The section operates prospectively on the sentence which yet remains to be served and curtails it be setting off the period of detention undergone by the accused person during the investigation, inquiry or trial of the case. Any argument based on the objection against giving retrospective operation is, therefore, irrelevant."

(emphasis supplied)

18. Our view is also in accord with the purport and objective behind the amendment which were reflected while carrying out the amendment itself. The purpose of amending Section 6 was to reduce the burden of pendency by enhancement of age of the Judges concerned. The Report of the Lok Sabha Joint Committee qua the Amendment sets out the background to the amendment as follows:

> "On the issue of pendency of cases in various DRTs, the Committee has been apprised by the Department of Financial Services that approximately 70,000 court cases pending in DRTs involving more than Rs. 5 Lakh Crore. One of the reasons mentioned in the memoranda submitted by various stakeholders for the pendency of cases is vacancies in various stakeholders for the pendency of cases is vacancies in various DRTs/DRATs. A number of suggestions in this regard have been made by the stakeholders. After detailed deliberations on the issue, the Committee decide(d) to insert the following new provision/substitute some of the provisions under the RDDB & FI Act...."

(emphasis supplied)

19. Similarly, the Statement of Objects and Reasons to the amendment inter alia notes:

> "The Recovery of Debts due to Banks and Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, were enacted for expeditious recovery of loans of banks and financial institutions. Presently, there are approximately seventy thousand cases pending in Debts Recovery Tribunals. Though the Recovery of Debts due to Banks and Financial Institutions Act provides for a period of 180 days for disposal of recovery applications. the cases are pending for many years due to various adjournments and prolonged hearings. In order to facilitate expeditious disposal of recovery applications. it has been decided to amend the said Acts and also to make consequential amendments in the Indian Stamp Act, 1899 and the Depositories Act, 1996."
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> (emphasis supplied)

20. In order to fulfill the aforesaid objective of reducing the arrears and tackle the issue of pendency of cases in various Debt Recovery Tribunals, 'purposive interpretation' is to be given. In Reserve Bank of India, the Court explained this principle in the following manner:

> "33. Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place "
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> (emphasis supplied)

21. We are, thus, of the opinion that while carrying out the aforesaid amendment with the intention to substitute the amended provision with that of unamended, the Parliament desired that the benefit of this provision extended even to those who are serving as Presiding Officers on the date when the amendment became enforceable. This seems to be just, reasonable and sensible outcome.

22. This interpretation is contextual as well which can be discerned by contrasting amended Section 6 with newly inserted Section 6A of the Act.

> " There is a clear distinction between incumbent officers and the officers appointed in future. In contrast, there is no distinction, legislatively drawn, between incumbent or officers appointed in future for application of amended Section 6."

23. This view of ours would negate the contention of the learned ASG that Section 6 as amended does not create any right. If such an interpretation is accepted, then even those persons appointed as Presiding Officers after September 01, 2016, can be denied the right to continue in service till 65 years. Judgment in Glaxo¬Smithkline Pharmaceuticals Ltd., which was relied upon by the learned ASG would have no application. That was a case where there was an amendment to Section 2(s) of the Industrial Disputes Act, 1947 which was brought into force on August 21, 1994 and the Court held the same to be prospective in nature. It was further held that the provision which was applicable as on the date of termination of the appellant in that case would apply. Obviously, such a case has no application to the instant case.

24. The writ petition and the transferred cases filed by these petitioners, accordingly, stand allowed with no order as to costs. As a result, those petitioners in whose favour there is an interim stay would be allowed to continue. The petitioner in Writ Petition (Civil) No. 732 of 2018 shall be taken back in service forthwith, with continuity of service and salary of intervening period.

Judgment Referred.

[1]*(1987) 1 SCC 0424*
[2]*(2011) 7 SCC 0639*
[3]*(1975) 1 SCC 0192*
[4]*(2007) 7 SCC 0171*
[5]*(2005) 7 SCC 0396*
[6]*(2004) 8 SCC 0001*