IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8712 OF 2011

STATE OF PUNJAB & ORS. … APPELLANT(S)

VERSUS

AJIT SINGH (DEAD) THR. LRs. … RESPONDENT(S)

O R D E R

1. Delay in filing the application of setting aside abatement is condoned. Applications for setting aside abatement and substitution are allowed.

2. Heard the learned counsel for the parties.

3. The respondent was appointed as a constable in the police force of the State of Pepsu on 29.6.1954. The age of superannuation as per the relevant Rules, was 60 years.

4. In the year 1956 the State of Pepsu stood merged with State of Punjab, whereafter the respondent's job was governed by Punjab Civil Service Rules in vogue at that time. The retirement age stipulated therein was 58 years. Consequent thereto, the respondent retired

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Jayant Kumar Arora
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Reason:

from service on 30.6.1989. On 23.6.1995, the Department of Personnel, Govt. of Punjab issued instructions to all departments in accordance with a judgment of the High Court in C.W.P.No.8186 of 1994 whereby it was observed that a person who had joined Class IV service in the erstwhile State of Pepsu but was in Class III service in the State of Punjab, he could not continue in service till the age of 60 years.

5. The respondent filed a Suit stating that his retirement at the age of 58 was illegal, ultra vires, unconstitutional, mala fide, null and void against the principles of natural justice and against service rules and regulations governing service of the plaintiff.

6. The learned Trial Court decreed the suit in favour of the respondent (now represented through LRs.) on the basis of Clause 7 of Section 115 of the States Reorganization Act, 1956 ('1956 Act' for brevity). The same reads as under :-

> "**115. Provisions relating to other services.-**
>
> … … …
>
> (7) Nothing in this section shall be deemed to affect after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the Union or any State: Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the

Central Government."

7. It was observed that at the time of retirement it was not the respondent's duty to inform the authorities to retain him in service and opposite thereto it was incumbent upon the State to bear the protection of Section 115 Clause 7 of the 1956 Act.

8. The primary argument raised before the learned District Judge, as it appears from a perusal of the decision was that of limitation. The State had argued a Suit to declare retirement from service as null and void ought to have been filed within 3 years after retirement, but this Suit was filed on 25.9.2000, the same was barred by law. On the other hand, it was argued that denial of rightful pension was a recurring cause of action and therefore, not barred by law. Having taken note of various decisions it was held that the question of limitation does not arise in the matters concerned pensionary benefits due to its recurring nature.

9. The High Court, in view of a judgment of this Court in Paira Lal v. State of Punjab reported in (1997) 6 SCC 771 found no reason to interfere with the judgments and orders of the Courts below granting

the present respondent the benefit of enhanced service of two years. In other words, he was deemed to have retired at the age of 60.

10. In the aforesaid circumstances, no infirmity could be pointed out with the High Court order, and we do not find any ground to entertain this appeal. Hence, this appeal is dismissed. Pending application(s), if any, shall stand disposed of.

..... J.
[J.K. MAHESHWARI]

..... J.
[SANJAY KAROL]

New Delhi;
February 08, 2024.

ITEM NO.114 COURT NO.9 SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 8712/2011

STATE OF PUNJAB & ORS. Appellant(s)

VERSUS

AJIT SINGH (DEAD) Respondent(s)

IA No. 224613/2023 - APPLICATION FOR CONDONATION OF DELAY IN FILING THE APPLICATION FOR SETTING ASIDE THE ABATEMENT
IA No. 224611/2023 - APPLICATION FOR SUBSTITUTION
IA No. 224612/2023 - SETTING ASIDE AN ABATEMENT

WITH

SLP(C) No. 13192/2010 (IV-B)

Date : 08-02-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE SANJAY KAROL

For Appellant(s) Ms. Ranjeeta Rohatgi, AOR

Mr. Prateek Chadha, Adv.
Ms. Nupur Kumar, AOR

For Respondent(s) Mr. P. N. Puri, AOR
Mrs. Reeta Dewan Puri, Adv.
Mr. Ravinder Pratap Singh, Adv.
Mr. Manish Dhingra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

C.A.No. 8712/2011

The appeal is dismissed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

SLP(C) No. 13192/2010

In terms of the order passed in Civil Appeal No. 8712/2011, this Special Leave Petition is dismissed.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER

(Signed order is placed on the file)