

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 4506 OF 2000@@  
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PRESIDENT, INDIAN COUNCIL OF AGR.RES.&ORS. ...APPELLANTS

VERSUS

V.J. ANTONY ...RESPONDENT

Date : 05/03/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. Balbir Singh Gupta, Adv.

For Respondent (s) Mr. T.G.N. Nair, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

Heard learned counsel for the parties for 10 minutes.  
The appeal is disposed of in terms of the signed order.

.SP1  
Sarita (Shelly Sengupta)  
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4506 OF 2000@@  
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PRESIDENT, INDIAN COUNCIL OF AGR.RES. & ORS. ...APPELLANTS

VERSUS

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

The respondent was kept under suspension pending enquiry on account of certain charges of misconduct. He questioned the validity of the very charges framed against him before the Central Administrative Tribunal. The Tribunal, accepting the contentions of the respondent, quashed the charges. The present appellants came up before this Court in SLP(C)No.11282/96 questioning the validity and correctness of the order of the Tribunal. This Court disposed of the said Special Leave Petition by passing the following Order :

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.SP1

"In view of the fact that the respondent would have and did superannuated in the normal course on 30.6.1994, we are not inclined to interfere in the matter. It is however directed that the period between 25.9.90 and 30.6.94 shall be treated as if the respondent was under suspension. But, this would not affect his right to pension, which benefit shall be calculated on the above basis. The S.L.P. stands disposed of with the above observation."

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This Court in the order extracted above took note of the fact that the respondent had retired from service and as such there was no need to interfere with the order passed by the Tribunal. However, a direction was given to treat the period between 25.9.90 to 30.6.94 as if the respondent was under suspension, making it clear that this would not affect his right to pension, which benefit shall be calculated on the above basis.

Thereafter, the respondent was only paid subsistence allowance and not full salary. Aggrieved by the same, he approached the Tribunal again. The Tribunal passed an order that the respondent was entitled to full salary and the period of suspension was to be treated as on duty, which order was also affirmed by the High Court. Hence this appeal assailing the said order of the High Court.

Mr. Balbir Singh Gupta, learned counsel for the appellants contended that in terms of the order of this Court extracted above, the period between 25.9.90 and 30.6.94 should have been treated as the period of suspension and not as on duty. According to him, the Tribunal and the High Court both committed an error in this regard. We are not in a position to accept this submission looking to the Order passed by this Court on earlier occasion in which it

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.3.

is clearly stated that the period between 25.9.90 to 30.6.94 shall be treated as period under suspension but that would not affect the right to pension.

Under the circumstances, we make it clear that the period between 25.9.90 to 30.6.94 shall be treated as period on duty for the purpose of calculating pensionary benefits of the respondent. The respondent, in our view, shall not be entitled to full salary between 25.9.90 to 30.6.94. But shall be entitled for subsistence allowance as per rules. With this clarification the appeal is disposed of.

.SP1

.....J.  
(Shivaraj V. Patil)

New Delhi,  
March 5, 2003.

.....J.  
(Arijit Pasayat)

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