

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17169/2004

(From the judgement and order dated 14/11/2003 in WP No. 1761/2002 of The HIGH COURT OF BOMBAY AT NAGPUR)

DY. DIRECTOR OF EDUCATION, NAGPUR & ANR.

Petitioner(s)

VERSUS

MANGAL & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T., and prayer for interim relief and office report)
(FOR FINAL DISPOSAL)

Date: 07/02/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Ms. Asha Gopalan Nair, Adv.
Mr. V.N. Raghupathy, Adv.

For Respondent(s) Mr. Satyajit A. Desai, Adv.
Mrs. Anagha S. Desai, Adv.
Mr. Amol N. Suryawanshi, Adv.
Mr. Venkateswara Rao Anumolu, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is allowed in terms of the signed order.

No costs.

(Ravi P. Verma)
Court Master

(Anand Singh)
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1086 OF 2008
[Arising out of SLP(C) No.17169/2004]

DY. DIRECTOR
NAGPUR & ANR.

OF EDUCATION,

.....APPELLANT(S)

Versus

MANGAL & ORS.

.....RESPONDENT(S)

ORDER

Leave granted.

Heard the parties.

This appeal is filed by the State impugning the judgment and order dated 14/11/2003 passed in Writ Petition No.1761/2002. By the impugned order, the High Court directed the appellant to grant pension and pensionary benefits to the respondent within a period of three months from the date of order failing which the arrears of pension shall carry interest @ 18% per annum from the date of judgment till repayment of arrears and thereafter payment of regular monthly pension.

The respondent is stated to be working as an Assistant Teacher in Shivaji Mahavidyalaya, Lakhandur. He obtained voluntary retirement on 30/04/1973. He filed a Writ Petition No.1761/2002 under Article 226 of the Constitution after
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almost 30 years of his retirement seeking a mandamus for a direction for payment of pension and pensionary benefits. It is now a well-settled principle of law that delay defeats equity. The discretionary relief that is granted by the High Court under Article 226 of the Constitution is an equitable relief. The fact of having approached the High Court after almost 30 years of retirement itself deserves dismissal on the ground of laches and negligence without going into the merit.

For the reasons afore-stated, the High Court fell into error by entertaining the writ petition after enormous delay of almost 30 years. On this sole ground, the writ petition was liable to be dismissed without going into the merits. Consequently, the impugned order passed by the High Court is not tenable in law. It is, accordingly, set aside. The appeal is allowed. No costs.

.....J.
(H.K. SEMA)

New Delhi;
February 07, 2008.

.....J.
(MARKANDEY KATJU)