

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

Petition(s) for Special Leave to Appeal (Civil) No(s).2841/2009

(From the judgement and order dated 18/07/2007 in RSA No. 2710/2006 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF PUNJAB & ANR. Petitioner(s)

VERSUS

SAT PAL & ORS. Respondent(s)

(With prayer for interim relief and office report) (FOR FINAL DISPOSAL)

Date: 01/02/2010 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Mr. Vivek K. Goyal, Addl.AG Ms. Aneeta Goyal, Adv. Mr. Manindra Dubey, Adv. Mr. Narender, Adv. Mr. Ajay Pal,Adv.

For Respondent(s)

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

Leave granted.

Appeal is allowed in part in terms of the signed order.

(Ravi P. Verma) (M.S. Negi) Court Master Court Master [Signed order is placed on the file] IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1313 OF 2010 [Arising out of SLP(C) No.2841 of 2009]

STATE OF PUNJAB & ANR.APPELLANT(S)

Versus

SAT PAL & ORSRESPONDENT(S)

O R D E R

Leave granted.

2. The respondent joined the service of the Education Department on 1.4.1930 and after partition, he was posted

at D.V. Lower Middle School, Badhani, Tehsil Pathankot in the year 1949. In the year 1953, he was transferred to Lower Middle School, Kathlout, District Pathankot. He retired on 30.4.1968. His retiral benefits were determined only with reference to his service between 1953 and 1968.

3. The respondent filed a suit on 13.5.1997 for calculating the pension and other benefits on the basis of service of 38 years and 30 days, i.e. from 1.4.1930 to 30.4.1968 instead of for 15 years. During the pendency of suit, on 18.12.2000, the plaintiff died and his legal heirs were brought on record. The trial Court decreed the suit on 30.7.2001 and directed the State Government to recalculate the pensionary benefits and other benefits with reference to a service of 38 years 30 days and pay the difference within three months. The appeal filed by the State was dismissed on 10.2.2006 and the second appeal filed by the State was dismissed by the High Court on 18.7.2007.

4. The challenge to the decree is mainly on the ground of limitation as the suit was filed in 1997, though the employee retired in 1968. Where a retired employee approaches the court with a grievance that fixation of his pension is erroneous, the assertion is in regard to a continuing wrong and a fresh cause of action arises every month when he is paid a lesser pension or denied the pension, on the basis of a wrong computation. Therefore, the issue of limitation was held against the appellant. This Court therefore issued notice on the special leave petition limited to the question whether the monetary benefits could have been granted for a period prior to three years before the filing of the suit.

5. It is now well settled that while the claim for re-

fixation may not be barred by limitation, the claim for arrears beyond three years will be barred by limitation. In M.R. Gupta vs. Union of India - 1995 (5) SCC 628, this Court held that the question of limitation would arise in respect of the recovery of dues for the past period. In Union of India vs. Tarsem Singh - 2008 (8) SCC 648, this Court that the relief regarding arrears had to be restricted to only three years before the date when the employee approaches the court. Therefore, the arrears can be awarded only in regard to a period of three years prior to the suit.

6. We, therefore, allow this appeal in part and restrict the arrears of monetary benefits arising out of the fresh calculation of pension to a period of three years before the filing of the suit.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
February 01, 2010.

.....J.
(K.S. RADHAKRISHNAN)