

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2634/2008

INDER SINGH DAHIYA Petitioner
Through Dr. Praveen Kumar Sharma, Advocate.

versus

THE DISTRICT SESSIONS JUDGE & ORS. Respondents
Through Nemo.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
01.05.2008

1. The petitioner invokes Article 14 of the Constitution of India and claims discrimination. It is the case of the petitioner that he had worked in the office of District Judge, Delhi from February, 1972 till March, 1985 and thereafter from April, 1985 till 30th June, 1985 in the office of Custom Excise Gold Control Tribunal. On 30th June, 1985 the petitioner resigned and got enrolled as an advocate on 8th August, 1985 and has been practicing as an advocate.

2. After 22 years of his resignation in 1985, on 18th August, 2007 the petitioner made a representation that he should be granted pro rata pension on the basis that he had completed more than ten years in service. The petitioner relies upon Office Memorandum dated 3rd January, 1995,

which refers to judgment of the Supreme Court in ***T.S. Thriruvengadam versus Union of India***, decided on 17th February, 1993.

3. The petitioner has raised the claim of pension almost 22 years from the date when he had resigned. Apart from the delay and laches, I find that the circular dated 3rd January, 1995 is not applicable to the case of the petitioner. The said circular applies to Government servants, who were absorbed in Public Sector Undertakings after completing ten years of service as Government servants, but before they completed qualifying service making them eligible for pension. In such cases, the Government of India had earlier issued Office Memorandum dated 16th June, 1967 granting pro rata pension to Government servants, who were absorbed in Central Public Sector Undertakings after 16th June, 1967. Pursuant to the judgment of the Supreme Court in ***T.S. Thriruvengadam*** (supra), this benefit was granted to Central Government employees, who were absorbed in Public Sector Undertakings even before 16th June, 1967. The said circular obviously does not apply to the petitioner as admittedly the petitioner never joined and was not absorbed in any Central Public Sector Enterprise/Undertaking. The petitioner after resignation got himself enrolled as an advocate and has been practicing.

4. At the time of resignation, the petitioner was aware that he is not

entitled to pension as he did not meet the qualifying service criteria. I do not think any case of discrimination under Article 14 is made out. The case of the petitioner cannot be compared to a case of a Government servant, who is absorbed in a Central Public Sector Undertaking after completing ten years of service. A Government servant, who resigns and starts his private practice, or is self employed or gets employed in a private enterprise, is entirely different and cannot be compared with Government servants who get absorbed in Public Sector Undertakings. The two classes are entirely separate and distinct. Violation of Article 14 is not made out.

5. Learned counsel for the petitioner submits that Members of Parliament, Members of Legislative Assemblies are entitled to pension after serving their term as elected members, which in most cases is only five years. Elected members of Legislature/Parliament form an entirely different class and the case of the petitioner or Government servants cannot be compared to them.

The writ petition is dismissed.

SANJIV KHANNA, J.

MAY 01, 2008

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