

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2968/2014

(HARIRAM BANSILAL MESHRAM **VERSUS** THE ORIENTAL INSURANCE CO.LTD. & ANOTHER)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri M.M. Sudame, counsel for the petitioner.
 Shri A.M. Quazi, counsel for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : JULY 23, 2015.

By this petition, the petitioner challenges the order of compulsory retirement, dated 21.02.2005 and seeks a direction to the respondents to treat the petitioner in service from 21.02.2005 till the date of retirement on superannuation, i.e. 31.01.2008. The petitioner seeks a direction to the respondents to pay the pension, amount towards leave encashment and other monetary benefits to the petitioner. Certain other ancillary relief is also claimed.

The petitioner, who was working as a Senior Assistant with the respondent-Insurance Company, was charged of having accepted a bribe and was departmentally proceeded against. At the same time, a criminal prosecution was launched against the petitioner. The petitioner participated in the departmental proceedings and it was found that the charges levelled against the petitioner were proved. The disciplinary authority, by an order dated 23.02.2005 imposed the punishment of compulsory retirement on the petitioner. The petitioner did not challenge the order of compulsory retirement dated 21.02.2005 either in a departmental appeal or in a Court of law. The Special Judge, by the judgment dated 12.06.2012 acquitted the petitioner of the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act. It is the case of the

petitioner that after the petitioner was acquitted by the criminal Court, the petitioner made representations to the respondent-Insurance Company for setting aside the order of compulsory retirement dated 21.02.2005 and grant of pensionary benefits. According to the petitioner, since the respondents did not pay any heed to the representations filed by the petitioner, the petitioner has approached this Court for seeking the aforesaid relief.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the petition including the judgment of the Special Judge in the criminal case that the relief sought by the petitioner cannot be granted. Firstly, the petitioner had not challenged the order of compulsory retirement dated 21.02.2005 either in a departmental appeal or before a Court of law for nearly ten years. Secondly, we find that the acquittal of the petitioner in the special case is not a clean acquittal and the petitioner was acquitted on benefit of doubt. It was held by the Special Judge that the complainant had turned hostile and, hence, the petitioner was entitled to the benefit of doubt. If that be so, the petitioner cannot effectively challenge the order of compulsory retirement, dated 21.02.2005. Also, even if the acquittal of the petitioner would have been a clean acquittal, still this Court would not have been in a position to grant the relief sought by the petitioner. It is well settled that departmental proceedings and criminal proceedings are independent of each other and though an accused may be acquitted in the criminal proceedings, he could be punished in the departmental proceedings. We find that apart from the fact that the petitioner does not have any case on merits, the petition is also liable to be dismissed on the ground of laches. The petitioner was compulsorily retired on 21.02.2005. The writ petition is filed on 09.05.2014. The petitioner has challenged the order of compulsory retirement by filing this petition. The petitioner cannot be permitted to approach this Court after nearly a decade for challenging the order of compulsory retirement.

An attempt has been made on behalf of the petitioner to seek compassionate allowance as per Clause 32 of the General Insurance Employees Pension Scheme, 1995. It is rightly stated on behalf of the respondents that the case of the petitioner is not a deserving one, inasmuch as the insurance company had lost faith in the petitioner. We find that the cause to seek a compassionate allowance, if any, had accrued to the petitioner on 21.02.2005. If the order of compulsory retirement did not speak of compassionate allowance, the petitioner ought to have approached this Court within a reasonable time from 21.02.2005.

Since the petition is devoid of merit and also suffers from laches, the same is dismissed with no order as to costs.

JUDGE

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