

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7104 OF 2015

Mr. Darshan Pandurang Sakpal	...	Petitioner
Versus		
National Safety Council	...	Respondent

.....

Mr. Muhammed Iftikhar Ali for the Petitioner.

Mr. R.N. Shah a/w Mr. A.K. Gopalan i/b Mr. Haresh Mehta & Co., for the Respondent.

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CORAM : S.C.GUPTE, J.

DATE : 27 JUNE 2016.

P.C. :

. Heard learned Counsel for the Parties.

2 In this case, the Petitioner, who was a Class IV employee, was dismissed from service by the Respondent-Council after conducting a departmental inquiry and giving him an opportunity to show cause. The matter was brought before the Central Government Industrial Tribunal ('CGIT') on a Reference by the appropriate Government under Section 10(1)(d) and (2)(a) of the Industrial Disputes Act, 1947. The CGIT, by its Part-I Award, held the inquiry to be fair and proper, and accepted the findings of the inquiry officer. The CGIT, in Part-II Award, passed an order allowing the reference partly. The punishment of termination of services of the workman was directed to be replaced by compulsory retirement with all pensionary and retirement benefits as per the rules. It appears that in

pursuance of the order, the Petitioner workman applied for implementation of the award by payment of all retirement and pensionary benefits in accordance with the award. The application of the Petitioner workman for implementation of the award is placed on record. In pursuance of this application, a sum of Rs.47,192/- was duly paid by the Respondent to the Petitioner by cheque in full and final settlement of the benefits available to him upon compulsory retirement in accordance with the award. While the Petitioner accepted the award of compulsory retirement with all pensionary and terminal benefits, he returned the cheque on the ground that there was no bifurcation given for the amount paid to him. The Respondent, thereupon, by its letter dated 2 March 2015 issued the bifurcation of the amount offered to the Petitioner, and called upon the Petitioner to deposit the cheque issued by the Respondent. The Petitioner deposited and encashed the cheque representing the final amount payable to the Petitioner upon compulsory retirement. After the cheque was realised, the Petitioner addressed a letter dated 14 March 2015 to the Respondent, indicating that the cheque was deposited by him under protest. He called upon the Respondent to pay him all the dues on the basis that the compulsory retirement order operated from the date of the Court order and not from the date of his original dismissal. Since this demand was not complied with by the Respondent, the present Petition has been filed.

3 The Petitioner has challenged both Part-1 and Part-II Awards in the Petition on the ground that the inquiry was not fair and proper; that the finding of the inquiry officer was perverse; and the final order directing compulsory retirement of the Petitioner was not in accordance with law. The documents annexed to the Petition unequivocally establish that the

Petitioner had accepted the award of compulsory retirement. The only issue raised by him was that the order of compulsory retirement operated from the date of the Court order and not retrospectively from the date of the order of dismissal. The final award of CGIT makes it clear that the punishment of termination of service was disproportionate to the proved mischief and that ends of justice could be met if the punishment of termination of service was substituted by the punishment of compulsory retirement. In other words, the order clearly indicates that with effect from the date of dismissal, the Petitioner was to be treated as compulsorily retired. The inescapable conclusion is that the compulsory retirement benefits payable to the Petitioner would have to be calculated as of the date of his dismissal, namely, 22 August 2005.

4 In the premises, there is no merit in the Petitioner's contention that the compulsory retirement order operates from the date of the impugned final order of CGIT. This was the only grievance the Petitioner had all throughout. The allegations now made in the Petition are clearly in the nature of afterthought. There is no merit, thus, in the Petition, and the same is dismissed.

(S.C.GUPTE, J.)