

1. Mr. Sant, learned counsel for the petitioner submits that the petitioner was an employee of respondent nos. 2 to 4. The Departmental Enquiry was initiated against the petitioner. The petitioner was initially suspended on 25.04.2006. The punishment was imposed against the petitioner of removal from service on 20.6.2007. The learned counsel submits that no order was passed with regard to the suspension period. The petitioner is

entitled for the salary during the suspension period. The second charge-sheet was issued on 30.12.2006. The order was passed in the enquiry pursuant to the second charge-sheet that suspension period shall be treated as punishment. According to the learned counsel, the second charge-sheet was issued only on 30.12.2006. The period prior to that cannot be considered as a suspension period for the second enquiry. As no specific order has been passed in the first enquiry during the suspension period as punishment, the petitioner is entitled for the salary for the suspension period. The order of termination cannot be with retrospective effect.

2. Mr. Bajaj, learned counsel for respondent no. 2 submits that the petitioner has approached this Court after ten years. Earlier writ petition was filed by the petitioner seeking leave encashment. It has been disposed of by this Court. In the said writ petition, the petitioner has not claimed salary for the suspension period.

3. The learned counsel for respondent no. 2 further submits that the proceedings before the Labour Court were disposed of in the year – 2012. Even as per the age of superannuation, the petitioner would stand retired in July – 2007.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. It is not disputed that in both the enquiries initiated against the petitioner the punishment of removal was proposed. The petitioner also stood terminated from service pursuant to the first enquiry, and in the second enquiry the punishment was also imposed that the suspension period to be treated as such. The second enquiry commenced on 30.12.2006. Naturally, the period from 25.04.2006 to 30.12.2006 cannot be considered as a period of suspension for the second enquiry.

6. In the first enquiry the petitioner has been terminated from service. The petitioner is not

exonerated of the charges leveled against him.

7. It is not disputed that the petitioner has been paid subsistence allowance as per the Rules. The question would only for the period 25.04.2006 to 30.12.2006. It is not disputed that the petitioner had approached the Labour Court against the order of removal. However, the same was not decided on merits as it was held that the petitioner is not a workman. The petitioner has not challenged the order of termination from service before any other Authority or this Court. The appeal preferred by the petitioner certainly could not have been proceeded further as per the service rules upon petitioner attaining the age of superannuation. The petitioner attained the age of superannuation in July – 2007.

8. In the earlier writ petition filed by the petitioner seeking leave encashment, the petitioner could have claimed the salary for the suspension period also. The same was not

claimed. Ten years have lapsed since the order is passed. It would not be appropriate now to consider the case of the petitioner who has been held guilty of the charges as leveled against him after a long slumber of ten years.

9. In the light of above, the writ petition is disposed of. No costs.

[R. G. AVACHAT, J.] [S. V. GANGAPURWALA, J.]

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