

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8439 OF 2006**

Union of India and ors. ...Petitioners

Versus

Dr. Ashok Kumar Gupta ...Respondent

None present for the Petitioners.
Mr. P.J. Prasad Rao for the Respondent.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 17.07.2018.

ORAL JUDGMENT:

1] On 13.4.2007, this court, made the following order.

“ 1. Rule.

2. No interim relief. We are not in favour of granting interim relief since if the petitioner succeeds, the payments can be adjusted in the future payments.”

2] Since no interim relief was granted in this matter, the petitioners, have complied with the directions issued in the impugned judgment and order dated 21.10.2005.

3] Mr. P.J. Prasad Rao, learned counsel for the respondent, makes a statement that the directions in the impugned judgment and order has been fully complied with.

He also points out that the respondent has already retired and is drawing pension computed on the basis of compliance with the directions issues in the impugned judgment and order. He places on record a certificate issued by the Accounts Officer, National Institute of Virology dated 14.5.2008, which suggests that the respondent has retired way back on 31.3.2008 and is in respect of pension and other retiral benefits since then.

4] Mr. P.J. Prasad Rao has also placed on record yet another certificate issued by Drawing and Disbursing Officer dated 24.3.2018, which, again indicates that the respondent is not only drawing pension but further, such pension has been revised in terms of the recommendation of 7th CPC. Along with the certificate, is enclosed a statement entitled *"Due- Drawn Statement of Pensioner / Family Pensioner as per 7th CPC Recommendations"*.

5] For last few days, neither any officials of the petitioners nor their advocate have been appearing in the matter. On 28.06.2018, since there was no appearance on behalf of the petitioners, we stood over the matter to

29.06.2018. On the said date, advocate was appeared for the petitioner and applied for adjournment which was granted as a last chance. On 2.7.2018, advocate appeared for the petitioners and the matter was adjourned to 17.7.2018. Today, when the matter is called out, there was no appearance on behalf of the petitioners.

6] Since, this is a matter which pertains to the year 2006 and the respondent has already retired since the year 2008, we do not deem it appropriate to adjourn the matter any further.

7] We have perused the impugned judgment and order dated 21.10.2005 made by the Central Administrative Tribunal (CAT), Mumbai in O.A. No. 556 of 2004. We note that as against this order, the petitioners – UOI, had in fact, filed a review petition before the CAT, which also came to be dismissed by order dated 3.3.2006.

8] The respondent had applied for refixation of his pension by taking into consideration his service from 14.7.1978 to 6.12.1980 at the DRDE . This application was

not considered by the petitioners on the sole ground that the respondent had not applied through proper channel for the post of Biologist in CLW under Ministry of Works and Housing where he worked from 8.12.1980 to 31.01.1981.

9] The CAT, upon examination of record as also, the provisions of Rule 26(2) of CCS (Pension) Rules, 1972 has quite correctly held that there was no justification, in the facts and circumstances of the present case, to deny refixation of pension by taking into consideration the service at DRDE. The CAT has found that factually, the respondent had applied for the post of Biologist through the proper channel. The CAT, has noted that the respondent in his resignation letter to DRDE has expressly stated that he was tendering his resignation so as to be able to take up his new assignment at NICD, Delhi. The respondent, did join at NICD, Delhi, but worked there for short period of only two months. In such circumstances, the CAT has quite correctly held in favour of the respondent.

10] We see no jurisdictional error in the view taken by the CAT. In any case, there is no good ground to interfere with

the impugned judgment and order, at this point of time. For all the aforesaid reasons, we dismiss this petition. Rule is discharged. There shall, however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Dinesh
Sadanand
Sherla

Digitally signed
by Dinesh
Sadanand Sherla
Date: 2018.07.18
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