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

Date of pronouncement: 26th July, 2018

\+ W.P.(C) 2042/2002

RAJESH KUMAR KAIM ..... Petitioner

Through: Mr.Jainendra Maldahiyar with Mr.J.N. Patel, Advs.

versus

UOI & ORS. ..... Respondents

Through: Mr.Mohinder Singh, Mr.Ankur Goel and Mr.Luvkesh Aggrawal, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

% **JUDGMENT (ORAL)**

1. The petitioner joined the Life Insurance Corporation (hereinafter referred to as "the LIC") on 22nd February, 1988 as Assistant Administrative Officer. On 10th October, 1998, he was appointed as Deputy Director (Admn./Insurance).

2. On 14th May, 1999, the petitioner resigned from the services of the LIC. On 22nd May, 1999, the petitioner's resignation was accepted by the LIC and he was relieved from the said organisation, consequent whereupon, on 24th May, 1999, the petitioner joined the services of the Employees State Insurance Company (hereinafter referred to as 'ESIC').

3. It appears that the petitioner applied, to the LIC, for grant of

pro-rata pension, but that, *vide* order dated 10th May, 2000, the said request was rejected by the LIC, on the ground that "as per the pension Rules, pension can be paid to an employee either on superannuation or on voluntary retirement and since you have resigned from the LIC you are not eligible for the same".

4. The petitioner represented, thereagainst, to the Zonal Manager, LIC, on 18th September, 2000. In the said representation, the petitioner relied on Rule 26 (2) of the Central Civil Services (Pension) Rules, 1972 (hereinafter referred to as "the CCS (Pension) Rules"), contending that, under the said sub-rule, his past services could not be forfeited for the grant of pro-rata pension. It was further contended, in the said representation, that Rule 23 of the LIC (Employees') Pension Rules, 1995 (hereinafter referred to as "the LIC Pension Rules"), on the basis whereof, the LIC was seeking to deny pro-rata pension to the petitioner, did not throw any light on a situation in which the employee resigned to take up a job in another governmental organisation with proper permission. Rule 23 of the LIC Pension Rules reads as under:-

> "23. Forfeiture of service- Resignation or dismissal or removal or termination or compulsory retirement of an employee from the services of the Corporation shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits."

5. Faced with the aforementioned provision, Mr. Maldahiyar, learned counsel for the petitioner relies on Rule 56 of the LIC Pension Rules. Rule 56 of the LIC Pension Rules, which reads thus:

> "56. Residuary provisions - Matters relating to pension and other benefits in respect of which no express provision has been made in these rules shall be governed by the corresponding provisions contained in the Central Civil Services (Pension) Rules, 1972 or the Central Civil Services (Commutation of Pension) Rules, 1981 applicable for central government employees."

6. It does not appear possible to accept the submission of Mr.Maldahiyar.

7. Rule 56 of the LIC Pension Rules is in the nature of a residuary provision, and expressly states that it applies only to "matters relating to pension and other benefits in respect of which no express provision has been made in these rules".

8. A juxtaposed reading of Rule 23 of the LIC Pension Rules and Rule 26 of the CCS (Pension) Rules makes it apparent that the LIC has consciously adopted only sub-rule (1) of Rule 26 of the CCS (Pension) Rules and has omitted to include sub-rule (2).

9. Sub-rule (2) of Rule 26 of the CCS (Pension) Rules is, in fact, in the nature of a proviso to sub-rule (1) thereof. Where the authorities framing the LIC Pension Rules have consciously omitted to include, therein, any provision parallel to Rule 26 (2) of the CCS (Pension) Rules, it would be doing violence to the intention of the legislation (subordinate though may be) to read, into it, a provision akin to Rule 26 (2) of the CCS (Pension) Rules, by relying on Rule 56.

10. Rule 56, in my considered view, applies only to situations

regarding which the LIC Pension Rules are completely silent. They cannot be used as a device to include, into the said rules, a provision, which, clearly, has expressly been omitted therefrom.

11. For the above reasons, I am of the view that there is no substance in the writ petition, which is, consequently, dismissed without any orders as to costs.

C.HARI SHANKAR, J

JULY 26, 2018
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