



2025:DHC:11689-DB



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

Reserved on: 10.11.2025
Pronounced on: 22.12.2025

+ **W.P.(C) 1371/2018**

**THE ALL INDIA INSTITUTE OF MEDICAL SCIENCES
THROUGH ITS DIRECTOR**Petitioner

Through: **Mr. V.S.R. Krishna and Mr.V.
Shashank Kumar, Advs.**

versus

DR. MADHU BHARDWAJRespondent

Through: **Ms. Pallavi Parmar, Mr.Chirayu
Jain, Ms. Raksha Awasya and
Ms. Tanishqua Dhar, Advs.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. The present writ petition has been filed challenging the Order dated 28.07.2016 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal'), in O.A. No. 4120/2013, titled ***Dr. Madhu Bhardwaj v. AIIMS.***, whereby, the learned Tribunal disposed of the O.A. filed by the respondent herein with the following directions:

"8. In view of above observations, I issue the following directions to the respondent:

I) Take into account the services rendered by the applicant as Sr. Research Fellow from February, 1979 to April, 1983 for computing her qualifying years of service for the purpose of pensionary benefits in accordance when the decision of governing body of Allies dated



07.09.2002 (Annexure-B)

II) Compute the applicant's qualifying years of service in accordance with Rule 13 of CCS (Pension) Rules, 1972. While doing so, keep in mind the direction contained in (I) supra.

III) If the applicant is found to have rendered adequate qualifying years of service in the light of (I)& (II), supra, grant her pension w.e.f. April, 2003.

IV) Do not to recover any amount in lieu of the notice period as there has been inexplicable delay at the end of the respondent in deciding on the request of applicant for voluntary retirement dated 27.02.2003.”

2. Also in challenge is the Order dated 18.08.2017 passed by the learned Tribunal in R.A. No. 183/2017 in O.A. No. 4120/2013, whereby the review application filed by the petitioner herein was dismissed as being found devoid of any substance.

BRIEF FACTS:

3. The factual matrix of the present petition is that the respondent had initially served as a Senior Research Fellow from February 1979 to April 1983, under a research project sponsored by the Indian Council of Medical Research (ICMR) and implemented at the All India Institute of Medical Sciences (AIIMS), that is, the petitioner herein. The said appointment was under the aegis of ICMR.

4. Upon completion of the said fellowship, the respondent was appointed to the post of Clinical Psychologist with the petitioner in April 1983.

5. During her tenure, the respondent availed various categories of



leave, including earned leave, half-pay leave, and extraordinary leave without pay between 1997 and 2002, which were duly regularised by the petitioner.

6. The respondent last attended her duties on 30.10.2002, after which she remained absent.

7. Consequently, the petitioner, by its Memorandum dated 27.01.2003, directed her to report back to duty immediately, failing which disciplinary action would be initiated. In response, the respondent submitted a letter dated 27.02.2003, expressing her intention to seek voluntary retirement from service (VRS) on personal grounds. We quote the said communication below:

“This is in response to office memorandum No. F 6-29/83- Estt.I. dated January 27, 2003. I continue to have medical and personal problems due to which I am unable to join my duties. I had joined this Institute in February 1979 in the department of Paediatric surgery and worked on research projects till I was regularised on the position of Clinical Psychologist in April, 1983, I have now completed 20 years of qualifying service, including the research period. Under the compelling circumstances I would like to take voluntary retirement from the position of Clinical Psychologist. ...”

8. Thereafter, by her letter dated 27.04.2003 addressed to the petitioner, the respondent stated as under:

“This is in continuation to my letter dated February 27,2003 requesting for voluntary retirement to which I have not received any



response till date. Keeping in view my circumstances I hereby resign from the position of Clinical Psychologist. I therefore request you to kindly accept my resignation in retrospect.”

9. The petitioner thereafter issued an Office Memorandum dated 23.05.2003 stating as under:

“With reference to her application dated 27.4.2003, on the subject cited above, the resignation tendered by Dr. (Mrs.) Madhu Bhardwaj, Clinical Psychologist has been accepted by the competent authority from service of the Institute w.e.f. 30.10.2002 (F.N.). She is also required to deposit 3 months salary in lieu of notice period as required under the rules. ...”

10. Subsequent to the same, the respondent represented to the petitioner that the period of her service as a Senior Research Fellow from February 1979 to April 1983, be counted as part of her qualifying service for pensionary purposes, in terms of the decision of the Governing Body of the petitioner dated 03.09.2002, and that she be granted pensionary benefits under the CCS (Pension) Rules, 1972. This was followed by multiple other representations seeking clarification on her pensionary entitlements.

11. Upon filing an RTI application in 2010, she was informed that her service was governed by the CCS (Pension) Rules, 1972, and that her qualifying service was limited to the period between April 1983 and October 2002, excluding the ICMR fellowship period. The petitioner further stated that resignation entailed forfeiture of past



service and precluded grant of pension.

12. Aggrieved thereby, the respondent addressed a legal notice dated 01.10.2012, followed by another correspondence to the petitioner. The petitioner, *vide* its letter dated 11.12.2012, reaffirmed that the respondent's total service from 12.04.1983 to 30.10.2002, amounting to 19 years, six months, and nineteen days, was insufficient to qualify for pension, and that the ICMR fellowship period could not be included for such computation.

13. Dissatisfied with the said response, the respondent filed the above O.A. before the learned Tribunal, praying for the following:

- “a) Grant of pensionary and other associated benefits w.e.f. April 2003 in view of her qualifying service of 20 years starting from February 1979 in term of Rule 13 of the CCS Rules 1972; and/or*
- b) Grant interest on the pensionary benefits; and;*
- c) In alternative, grant pension proportionate to the years of service being rendered by the Applicant in terms of the Rule 49(2)(b) of the CCS Rules 1972.*
- d) Pass any other further order/order which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and in interest of justice.”*

14. The learned Tribunal, by its Impugned Order dated 28.07.2016, partly allowed the O.A., with the directions as have been reproduced hereinabove. Thereafter, the R.A. filed by the petitioner was dismissed *vide* the Impugned Order dated 18.08.2017.



15. Aggrieved of the above, the petitioner has filed the present writ petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

16. The learned counsel for petitioner submits that though the respondent, *vide* letter dated 27.02.2003, initially expressed her intention to seek voluntary retirement, she subsequently submitted her resignation on 27.04.2003. She, therefore, as a natural corollary, forfeited her claim to pension.

17. The learned counsel submits that the respondent remained absent from duty since 30.10.2002 and did not re-join thereafter. Her request for leave from that date stands rejected by the petitioner, *vide* letter dated 27.01.2003, wherein she was directed to resume duties immediately failing which disciplinary proceedings would be initiated. Instead of complying, she submitted her resignation in absentia, seeking that it be accepted retrospectively from 30.10.2002. The petitioner, keeping in view her request and in accordance with rules, accepted her resignation with effect from the said date.

18. The learned counsel submits that the direction of the learned Tribunal to consider the respondent case for grant of pensionary benefits, is contrary to Rule 26(1) of the CCS (Pension) Rules, 1972, which provides that resignation from service entails forfeiture of past service, unless such resignation is allowed to be withdrawn in the public interest. Since the resignation of the respondent stands accepted and not withdrawn, her past service stands forfeited, and she is not



entitled to any pensionary benefits. He submits that in fact, the question of counting of service rendered by the respondent under the ICMR is not relevant, as the said service, even if counted, would stand forfeited in view of the resignation.

19. He submits that even otherwise, the period during which the respondent served as Senior Research Fellow, from February 1979 to April 1983, cannot be counted for the purpose of computing qualifying service for pension. The said service was rendered under a research project of the ICMR, which is an organisation distinct and independent from the petitioner. The respondent herself admits that the fellowship was under the aegis of ICMR. He contends that the service rendered under a different organisation cannot, in law, be counted towards pensionary benefits under the petitioner.

20. The learned counsel for petitioner further argues that the reliance placed by the learned Tribunal upon the file noting dated 03.09.2002 is misplaced, as the said noting is not applicable to the facts of the present case. He submits that the learned Tribunal failed to appreciate the distinction between appointments made under an ICMR research scheme and substantive appointments made by the petitioner.

21. The learned counsel for the petitioner further contends that the O.A. filed in 2013 before the learned Tribunal is barred by limitation, as the respondent's resignation had been accepted by Office Memorandum dated 23.05.2003. The claim, having been raised after a lapse of nearly ten years, is clearly not maintainable.



22. The learned counsel further argues that the resignation was tendered retrospectively and without the requisite three months' notice as mandated by Rule 48-A of the CCS (Pension) Rules, 1972. Therefore, the respondent is liable to pay three months' salary in lieu of such notice. The learned Tribunal, he contends, has therefore erred in directing that no recovery be made on this account. He submits that the directions passed dehors the statutory provisions are, therefore, legally untenable. The Impugned Orders are liable to be set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

23. The learned counsel for the respondent submits that the period during which the respondent served as Senior Research Fellow, from February 1979 to April 1983, has to be counted for the purpose of grant of pensionary benefits. He places reliance on the application form for the said research fellowship, to submit that the same clearly stipulates that the service rules of the host organisation shall apply. The learned counsel for the respondent asserts that since the petitioner was the host institution for the ICMR project, its service rules would govern the respondent's engagement, thereby making her service period from 1979 to 1983 part of the qualifying service for pensionary computation.

24. The learned counsel further places reliance on the Resolution of the Governing Body of AIIMS bearing No. F.20-10/99 Estt.I dated 07.09.2002, wherein it was resolved that the service rendered by employees in research projects shall be counted towards qualifying



service for pensionary benefits. This decision was later affirmed through an Office Memorandum No. 20-19/90.Esst.I dated 08.12.2003, specifically confirming the inclusion of research periods for pensionary computation. Accordingly, he submits that the respondent's case is squarely covered under the said institutional policy.

25. The learned counsel further relies upon Rule 13 of the Central Civil Services (Pension) Rules, 1972, to submit that the same provides that the qualifying service of a Government servant shall commence from the date on which he or she takes charge of a post to which they are first appointed either substantively, in an officiating, or in a temporary capacity.

26. The learned counsel for respondent submits that a conjoint reading of the application form, the Board Resolution dated 07.09.2002, and Rule 13 of the CCS (Pension) Rules, 1972, makes it clear that the period served by the respondent as Senior Research Fellow under the aegis of AIIMS, qualifies to be included in her pensionable service. He submits that several similarly placed employees have already been granted the same benefit by the petitioner.

27. As regards the issue relating to the respondent's VRS and the alleged forfeiture of her service, the learned counsel submits that the respondent had submitted her VRS application dated 27.02.2003 while she was on duly sanctioned medical leave, supported by a medical



certificate issued by the Medical Superintendent of AIIMS. He argues that her absence from duty cannot be treated as unauthorised, as the same was supported by medical grounds and fell within the ambit of Rules 21 and 25 of the CCS (Pension) Rules, 1972, which provide that all leave during service, including extraordinary leave granted on medical certificate, shall count as qualifying service.

28. The learned counsel submits that following the petitioner's inaction on her VRS request, the respondent, after waiting for a reasonable period, sent a communication dated 27.04.2003, expressing her desire to be relieved from service. This letter, though styled as a resignation, was in furtherance of her pending VRS application. The petitioner subsequently accepted the same *vide* letter dated 23.05.2003, but erroneously made it effective retrospectively from 30.10.2002, despite the respondent being on the rolls of the petitioner and drawing salary till March 2003. He submits that such retrospective acceptance is neither fair nor in accordance with law.

29. The learned counsel submits that the petitioner, for nearly ten years after the said acceptance, did not make any reference to forfeiture of service under Rule 26(1) of the CCS (Pension) Rules, 1972 and that the same was informed to the respondent for the first time *vide* a letter dated 24.06.2013, without following due process of law.

30. The learned counsel places reliance on Rule 48-A of the CCS (Pension) Rules, 1972, which permits voluntary retirement after



completion of twenty years of qualifying service, subject to three months' notice. It is contended that the respondent had already completed over twenty years of service by February 2003. Therefore, even if no express acceptance of the letter dated 27.02.2003 which she had sent to the petitioner, the VRS would be deemed to have become effective upon expiry of the notice period, in terms of the proviso to Rule 48-A(2) of the CCS (Pension) Rules, 1972.

31. The learned counsel places reliance on the decision of the Supreme Court in ***Tek Chand v. Dile Ram***, (2001) 3 SCC 290, wherein it was held that if an authority fails to refuse permission for voluntary retirement before expiry of the notice period, the retirement shall become effective automatically upon expiry of such period. He also places reliance on the Judgement of the Supreme Court in ***Balram Gupta v. Union of India***, AIR 1987 SC 2354, the Judgement of the High Court of Rajasthan at Jaipur in ***State of Rajasthan v. RP Agarwal***, 2006 SCC OnLine Raj 202, and of this Court in ***Amita Singh v. Air India***, 2000 (56) DRJ (Supp) 300.

32. On the issue of proportionate pension, reliance is placed on the Judgements of this Court in ***Jagpal Singh v. Delhi Transport Corporation***, 1997 SCC OnLine Del 766, and ***Sanjeev Verma v. District & Sessions Judge***, 2013 SCC OnLine Del 60, to submit that even where full pension is not admissible, proportionate pension cannot be denied where substantial qualifying service has been rendered, and forfeiture cannot be assumed in the absence of an express order. Reliance is also placed on the Judgement of the



Supreme Court in *Yashwant Hari Katakhar v Union of India*, (1996) 7 SCC 113.

ANALYSIS AND FINDINGS:

33. We have considered the submissions made by the respective learned counsels and carefully perused the material placed on record.

34. The issues that arise for determination in the present writ petition are: (i) whether the petitioner was justified in treating the respondent's communication dated 27.04.2003 as a resignation attracting forfeiture of past service under Rule 26(1) of the CCS (Pension) Rules, 1972, thereby disentitling her to pensionary benefits; and (ii) whether the period spent by the respondent as Senior Research Fellow from February 1979 to April 1983 is liable to be counted as qualifying service for pension under Rule 13 of the CCS (Pension) Rules, 1972; and.

35. We are in agreement with the submission made by the learned counsel for the petitioner that the first question of whether the communication dated 27.04.2003 can be considered as a resignation from service attracting the provisions of Rule 26 (1) of the CCS (Pension) Rules, 1972, must be addressed at the outset. If the same is answered in the positive, the question of whether the respondent completed twenty years of service is rendered irrelevant for such service would stand forfeited.

36. On the first issue, we would first like to reproduce the relevant



provisions of the CCS(Pension) Rules, 1972, as under:

*“Rule 26. Forfeiture of service on resignation-
(1) Resignation from a service or a post, unless it
is allowed to be withdrawn in the public
interest by the appointing authority, entails
forfeiture of past service.”*

37. A perusal of Rule 26 of the CCS (Pension) Rules, 1972, clearly shows that resignation from service entails forfeiture of past service. In the case at hand, the record reflects that the respondent stopped attending duties after 30.10.2002 without authorisation. Her leave request stood rejected by the petitioner on 27.01.2003, with a clear direction to resume duties in order to avoid disciplinary action. Instead of returning, she submitted a request for voluntary retirement on 27.02.2003. Thereafter, on 27.04.2003, the respondent submitted a categorical resignation, specifically requesting that it be accepted retrospectively from 30.10.2002; the date she last attended duties. A resignation is a voluntary act, it is unambiguous and unequivocal. The same was duly accepted by the petitioner on 23.05.2003. Once accepted, Rule 26(1) of the CCS (Pension) Rules, 1972, mandates automatic forfeiture of her past service unless the resignation is withdrawn in public interest, an eventuality that never occurred. The respondent's subsequent attempt to reinterpret her resignation as a continuation of her VRS request hence cannot be accepted. To treat the resignation as something other than resignation would be unjustified. To this extent the Judgements of **Balram Gupta** (supra) and **Amita Singh** (supra) cannot come to the aid of the respondent.



38. Rule 48-A of the CCS (Pension) Rules, 1972 discusses the eligibility or grant of pension on completion of 20 years of qualifying service by giving notice of not less than three months. The same reads as under:-

“48-A. Retirement on completion of 20 years' qualifying service

(1) At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service.

Provided that this sub-rule shall not apply to a Government servant, including scientist or technical expert who is –

(i) on assignments under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry of External Affairs and other aid programmes,

(ii) posted abroad in foreign based offices of the Ministries/Departments,

(iii) on a specific contract assignment to a foreign Government, unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority :

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(3) - Omitted

(3-A) (a) Government servant referred to in sub-rule (1) may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor ;



(b) on receipt of a request under clause (a), the appointing authority subject to the provisions of sub-rule (2), may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(4) Government servant, who has elected to retire under this rule and has given the necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the specific approval of such authority : Provided that the request for withdrawal shall be made before the intended date of his retirement.

(5) Omitted vide notification GSR No.928 (E), dated 21st December, 2012 [F.No.38/80/08-P&PW(A)]

(6) This rule shall not apply to a Government servant who –

(a) retires under Rule 29, or

(b) retires from Government service for being absorbed permanently in an autonomous body of a public sector undertaking to which he is on deputation at the time of seeking voluntary retirement.

EXPLANATION - For the purpose of this rule the expression "appointing authority" shall mean the authority which is competent to make appointments to the service or post from which the Government servant seeks voluntary retirement."

39. The deemed acceptance of the resignation can only be effective three months after the submission of such an application by the employee. This Rule can also not come to the aid of the respondent as



she had resigned prior to the completion of the three months' notice period. To this extent the Judgement of ***Tek Chand*** (supra) cannot come to the aid of the respondent.

40. We may herein also usefully refer to the judgment of the Supreme Court in ***BSES Yamuna Power Ltd. v. Ghanshyam Chand Sharma***, (2020) 3 SCC 346, wherein the Supreme Court highlighted the effect of resignation and how it cannot be treated as Voluntary Retirement to extend the benefit of pension to the employee who may have completed the qualifying service. We quote from the judgment as under:

“14. In the present case, the first respondent resigned on 7-7-1990 with effect from 10-7-1990. By resigning, the first respondent submitted himself to the legal consequences that flow from a resignation under the provisions applicable to his service. Rule 26 of the Central Civil Service Pension Rules, 1972 (the CCS Pension Rules) states that:

“26. Forfeiture of service on resignation.—(1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the Appointing Authority, entails a forfeiture of past service.”

Rule 26 states that upon resignation, an employee forfeits past service. We have noted above that the approach adopted by the Court in Asger Ibrahim Amin [Asger Ibrahim Amin v. LIC, (2016) 13 SCC 797: (2015) 3 SCC (L&S) 12] has been held to be erroneous since it removes the important distinction between resignation and voluntary retirement. Irrespective of whether the first respondent had completed the requisite years of service to apply for voluntary retirement, his was a decision to resign and not a decision to seek



voluntary retirement. If this Court were to re-classify his resignation as a case of voluntary retirement, this would obfuscate the distinction between the concepts of resignation and voluntary retirement and render the operation of Rule 26 nugatory. Such an approach cannot be adopted. Accordingly, the finding of the Single Judge that the first respondent “voluntarily retired” is set aside.

15. We now turn to the question of whether the first respondent had completed twenty years in service. During the present proceedings, our attention was drawn to the fact that the first respondent had applied for voluntary retirement on 14-2-1990. By a letter dated 25-5-1990 the appellant denied the first respondent's application for voluntary retirement on the ground that the first respondent had not completed twenty years of service. It was thus urged that the appellant's decision to deny the first respondent voluntary retirement was illegal as the first respondent had completed twenty years of service.

16. This argument cannot be accepted. Even if he was denied voluntary retirement on 25-5-1990, the first respondent did not challenge this decision but resigned, on 7-7-1990. The denial of voluntary retirement does not mitigate the legal consequences that flow from resignation. No evidence has been placed on the record to show that the first respondent took issue with the denial of voluntary retirement between 25-5-1990 and 7-7-1990. To the contrary, in the legal notice dated 1-12-1992 sent by the first respondent to the appellant, the first respondent admitted to having resigned. The first respondent's writ petition was instituted thirteen years after the denial of voluntary retirement and eventual resignation. In the light of these circumstances, the denial of voluntary retirement cannot be invoked before this Court to claim pensionary benefits when the first respondent has admittedly resigned.



17. On the issue of whether the first respondent has served twenty years, we are of the opinion that the question is of no legal consequence to the present dispute. Even if the first respondent had served twenty years, under Rule 26 of the CCS Pension Rules his past service stands forfeited upon resignation. The first respondent is therefore not entitled to pensionary benefits.

18. For the above reasons, we accordingly allow the appeal and set aside the impugned order of the High Court of Delhi dated 26-5-2017 [BSES Yamuna Power Ltd. v. Ghanshyam Chand Sharma, 2017 SCC OnLine Del 12792]. There shall be no order as to costs."

41. Though in view of the above finding, the second issue is no longer relevant to the adjudication, we shall consider the same for purposes of completeness.

42. Rule 13 of the CCS (Pension) Rules, 1972 provides as under:

*"13. Commencement of qualifying service
Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity:*

Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post:

Provided further that –

(a) in the case of a Government servant in a Group 'D' service or post who held a lien or a suspended lien on a permanent pensionable post prior to the 17th April, 1950, service rendered before attaining the age of sixteen years shall not count for any purpose, and



*(b) in the case of a Government servant not covered by clause (a), service rendered before attaining the age of eighteen years shall not count, except for compensation gratuity.
(c) the provisions of clause (b) shall not be applicable in the cases of counting of military service for civil pension under Rule 19”*

43. The documents produced by the respondent herself demonstrate that the fellowship was sanctioned by ICMR and funded by ICMR. Merely because the project was executed within the premises of the petitioner does not *ipso facto* convert the engagement into AIIMS service. Rule 13 of the the CCS (Pension) Rules, 1972, contemplates commencement of qualifying service from a post under the appointing authority; an ICMR scheme appointment cannot be artificially treated as service under AIIMS.

44. The reliance placed by the respondent on the Governing Body Resolution dated 07.09.2002 and the subsequent Memorandum dated 08.12.2003, is also misplaced. The resolution no. F.20.10/99 Estt.I(P/File), dated 07.09.2002 is reproduced below:

“The scheduled meeting to discuss the issue of counting of past services rendered by various employees of the Institute under Research Project and for making availability of funds towards their leave salary/pension contribution, was held on 21" August 2002, at 3.30 pm in the office of the Director, AIIMS. The following were present:

XXXXXXX

The aforesaid issue was discussed in detail and it was finally agreed to that the liability on account of leave Salary/Pension Contribution is not a large amount and the same can be arranged out of the "Overhead Charges"



account of the Institute. It was also decided that all such cases be forwarded to the Research section and the Research Section will bear the Leave Salary/Pension Contribution towards the services rendered by the various employees of the Institute in Research Projects for counting of their past services.”

45. Subsequent Office Memorandum no. 20-19/90-Estt.I dated 08.12.2003 is reproduced herein below:

“Subject- Counting of past services rendered by various employees of the Institute under Research Projects at the AIIMS and also at various other Governmental Institutions for pensionary benefits only, at the AIMS, New Delhi.

The undersigned is directed to convey the approval of the Governing Body regarding counting of past services rendered by various employees of the institute under Research Projects at the AIIMS and also at various other Governmental Institutions for pensionary benefits only, at this intitule, as under:-

The individual may be permitted to remit leave salary/pension contribution towards counting of their past services rendered in Research Project/Organization only in the event the concerned Research Project/Organization fails to remit the same. It was also decided that in order to avoid such situation in future, the ongoing projects/new projects should make adequate provision for contribution towards the leave salary/pension contribution in respect of the staff working under them. The aforesaid decision is notified for all concerned for information and compliance.”

46. These documents contemplate the possibility of counting project service where the employees of AIIMS are made to render



services for Research Projects at the AIIMS or at other Government Institutions. Such service is to be rendered as an employee of AIIMS and not an external organisation, like ICMR in the present case. Therefore, the learned Tribunal's direction to include the respondent fellowship period for computing qualifying service, cannot be sustained. The respondent's qualifying service, therefore, could only be counted from her substantive appointment as Clinical Psychologist on 12.04.1983.

47. The issue of delay also weighs heavily against the respondent. Her resignation was accepted in May 2003. She did not challenge the same or assert any pensionary claim until late 2012, nearly a decade later. Though in matters of pension, it is a continuing cause of action and even in case of delay, the relief can be confined to commencing from the period of three years before the filing of the O.A., in the present case, for becoming entitled to pension, the respondent has to necessarily challenge the order dated 23.05.2003 by which her resignation had been accepted. The limitation for challenging the same commenced from the date of communication of the said order to the respondent and had long expired before the respondent filed the O.A.

48. On the respondent's reliance upon various judgments to establish a claim for proportionate pension, we again find no merit. The Judgement in *Yashwant Hari* (supra) was rendered in the context of premature retirement and has no application to the present facts. Similarly, in *Sanjeev Verma* (supra) the computation of service rendered during a period of suspension, which is distinguishable from



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the case at hand. Further, **Jagpal Singh** (supra) involved petitioners who had not forfeited their services, rendering it inapplicable to the respondent's circumstances in the present petition.

49. For the above reasons, we find that the learned Tribunal erred in treating ICMR fellowship as qualifying service; overlooking the statutory effect of resignation under Rule 26(1) of the CCS (Pension) Rules, 1972; and entertaining a claim barred by delay. The Impugned Orders dated 28.07.2016 and 18.08.2017, therefore, cannot be sustained and are liable to be set aside.

50. Accordingly, the writ petition is allowed.

51. There shall be no order as to costs.

MADHU JAIN, J.

NAVIN CHAWLA, J.

DECEMBER 22, 2025/P