

(2011) 03 DEL CK 0483
In the Delhi High Court
Case No : Writ Petition (C) 3898 of 1998

EX. N.K. Sanwat Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-03-2011

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 40

Citation : (2011) 03 DEL CK 0483

Hon'ble Judges : Suresh Kait, J; Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Ankur Chhibber, for the Appellant; Geeta Sharma and Tanu Goswami for UOI, for the Respondent

Judgement

Pradeep Nandrajog, J.—3 charges were laid against the Petitioner. Firstly, being under influence of liquor while on detachment on 9.12.1996; secondly the act of ambushing and assaulting a senior officer SIJ.S.P. Mishra and lastly, when sent for medical examination left the hospital and attempted to take away a government gypsy bearing No. DL-40B-7028.

2. Holding all 3 charges established, Petitioner was dismissed from service on 28.2.1997. Appeal filed was rejected vide order dated 24.10.1997.

3. Notwithstanding various grounds urged in the writ petition, learned Counsel for the Petitioner concedes that none of the grounds urged is worthy of consideration and thus does not press the same. However, counsel points out that the Petitioner had joined service on 16.5.1977. He would have completed 20 years" service on 16.5.1997. Being dismissed from service on 28.2.1997, counsel urges that after 2 months and 16 days thereof i.e. on 28.2.1997, Petitioner would have rendered 20 years" service. Taking the argument forward, learned Counsel urges that instant misdemeanour was the only misdemeanour committed by the Petitioner and past service of 19 years, 9 months and 15 days is without blemish.

4. On the aforesaid facts brought to our notice, counsel urges that the writ petition could be disposed of in harmony with the ethos expressed by a Division Bench of this Court in its decision dated 20.4.2007 in WP(C) 4656/2003 Ex. Sepoy Sube Singh v. UOI and Ors. WP(C) 4656/2003

5. Said decision shows that an army jawan was discharged from service on account of having earned red ink entries. The Court noted that whether or not the competent authority took note of the fact that Sube Singh would have earned pension in the near future was not forthcoming from the record. Accordingly, direction issued was that Sube Singh should be deemed to have been discharged from service effective from a postponed date, which was set by the Court as 21.10.2002 so that Sube Singh could earn retiral benefits.

6. We note that under CRPF, compulsory retirement from service is a punishment prescribed and as per Rule 40 of the CCS (Pension) Rules, a government servant who is compulsorily retired from service as a penalty would be eligible to be considered for grant of compulsory retirement pension, which would be at a rate not less than 2/3rd and not more than full compensation pension.

7. Keeping in view the fact that Petitioner has rendered 19 years, 9 months and 15 days service by the time he was dismissed from service; taking note that instant misdemeanor was the only one committed by him in his entire service span, we are of the opinion that ends of justice would be met in disposing of the writ petition in harmony with the ethos expressed by a Co-ordinate Division Bench of this Court in Ex. Sepoy Sube Singh's case (supra).

8. We dispose of the writ petition directing that for the misdemeanour committed by the Petitioner penalty to be imposed upon him would be that of compulsory retirement and date of effect would be 16.5.1997.

9. The Petitioner is also held entitled to pension as also gratuity (if payable) as per Rule 40 of the CCS (Pension) Rules, which we determine as 2/3rd of the compensation pension which he would have otherwise earned after rendering 20 years' service.

10. Since we have modified the penalty of dismissal from service to one of compulsory retirement, lest Petitioner raises an issue to be paid wages from 1.3.1997 till 16.5.1997, we hold that the Petitioner would not be entitled to any wages for the said period.

11. The pension directed to be paid to the Petitioner as per the present decision would be with effect from 17.5.1997 and would be released to him within 6 months from today. Future pension would be released each month.

12. No costs.