

(2017) 02 JH CK 0049
In the Jharkhand High Court
Case No : W.P. (S) No. 5057 of 2013

Gour Chandra Mandal

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-02-2017

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 8

Citation : (2017) 1 JLJR 696

Hon'ble Judges : Mr. H. C. Mishra and Mr. Dr. S.N. Pathak, JJ.

Bench : Division Bench

Advocate : M/s Sri Jai Prakash Jha, Sr. Advocate and Binod Kumar Jha, Advocate, for the Petitioner; Mr. Prashant Vidyarthi, C.G.C, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the respondents.
2. The petitioner is aggrieved by the order dated 7.1.2013, passed by the Central Administrative Tribunal, Patna Bench, [Circuit Court at Ranchi], in O.A. No. 65 of 2011(R), whereby the application, filed by the petitioner, challenging the letter dated 6.5.2010, issued by the O.S.D./Commissioner, Ministry of Coal, Government of India, Dhanbad, informing that he was not entitled to get the pension, under Rule 8 of the CCS [Pension] Rules, 1972, has been dismissed by the Central Administrative Tribunal.
3. The facts of the case lie in a short compass. The petitioner was an employee of Coal Mines Labour Welfare Organisation [CMLWO, in short], appointed on 11.8.1971 and posted at BCCL and after merger of CMLWO with Coal India Limited w.e.f., 1.10.1986. The petitioner was working as Ward and Kitchen Servant, Central Hospital at Dhanbad. The petitioner was suspended vide order dated 15.1.1987 by the Medical Superintendent, Central Hospital, Dhanbad, as he was detained for more than 48 hours in police custody in connection with a

criminal case, but subsequently he was taken into service and he was allowed to render his services till his retirement 20.5.2008, as no evidence was found against the petitioner in the enquiry made by the department. It is the case of the petitioner that during the entire service period of the petitioner, no departmental proceeding was ever conducted against him by the Coal India Ltd.

4. However, the petitioner was convicted for the offence under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act and Section 161 of the Indian Penal Code, on the allegation that while the petitioner was working in the TB Ward of Central Hospital, he had demanded Rs. 100/- from a patient for forwarding/placing his case papers before the In-charge of the ward of Central Hospital, Dhanbad. The said patient had lodged a complaint on 18.1.1997 with CBI, ACB, Dhanbad, in which, the petitioner had been convicted by the Trial Court. Against the said conviction, passed by the Trial Court, the petitioner moved the High Court and his conviction was maintained by the High Court also, but his sentence was reduced to the period already undergone and the fine of Rs. 500/- as imposed by the Trial Court was also maintained. The fact, however, remains that the petitioner continued in service till his retirement, i.e., 20.5.2008 and after his retirement, the petitioner requested the concerned respondents for release of his Provident Fund, Gratuity, Leave Encashment, Group Insurance, Arrears of difference of Salary and Pension etc. However, the O.S.D./ Commissioner, CMLWO/CMPFO, Ministry of Coal, Government of India, Dhanbad, vide impugned letter dated 6.5.2010, as contained in Annexure-A/3 to the writ application, rejected the representation of the petitioner stating that the petitioner was convicted in a criminal case for the offence punishable under the Prevention of Corruption Act, and his appeal against the conviction, had been dismissed by the High Court on 23.3.2009. The petitioner was, therefore, informed that he was not entitled to the pension under Rule-8 of the CCS [Pension] Rules, 1972.

5. Aggrieved by the impugned letter dated 6.5.2010, the petitioner moved the Central Administrative Tribunal, in O.A. No. 65 of 2011(R), which upon adjudication of the claim of the petitioner, was dismissed by the Central Administrative Tribunal by the order dated 7.1.2013. In the said order, the Central Administrative Tribunal quoted Rule-8 of the CCS [Pension] Rules, 1972 and placing reliance upon the decision of Delhi High Court in Union of India & Anr. v. Prabhu Lal, rendered on 25th of January, 2010, and the decision of the Central Administrative Tribunal, Delhi Bench, in Sh. Lakhi Ram v. Commissioner, rendered on 22nd September, 2011, dismissed the application, filed by the petitioner, holding that the petitioner was involved in a "serious crime", and as such, the appointing authority was entitled to withhold his pension in view of Rule-8 of the CCS [Pension] Rules, 1972.

6. Learned counsel for the petitioner has submitted that though the conviction of the petitioner has been upheld up to the High Court, but the fact remains that the petitioner had been convicted for the offence, punishable under the

Prevention of Corruption Act for demanding the illegal money of a paltry amount of Rs. 100/- only, and accordingly, the offence, committed by the petitioner was not a "serious crime" and his case was not covered within Rule-8 of the CCS [Pension] Rules, 1972. Learned counsel has, accordingly, submitted that it is a fit case that the petitioner, being a poor employee, be given the benefit of pension.

7. Learned counsel for the respondents, on the other hand, has opposed the prayer and has submitted that the petitioner has been convicted for the offences, punishable under the Prevention of Corruption Act and the IPC, and it cannot be said that he had not committed the "serious crime", whatever be the amount involved in the offence. Learned counsel, accordingly, submitted that the case of the petitioner is fully covered by Rule-8 of the CCS [Pension] Rules, 1972, and there is no illegality in the impugned order, passed by the Central Administrative Tribunal.

8. Rule-8 of the CCS [Pension] Rules, 1972 reads as follows:-

"8. Pension subject to future good conduct- (1)(a) Future good conduct shall be an implied condition of every grant of pension and its continuance under these rules.

(b) The appointing authority, may by order in writing, withhold or withdraw pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct.

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9. A bare perusal of the aforesaid Rule clearly shows that if the petitioner is convicted for a "serious crime", the appointing authority has the power to withhold or withdraw the pension, either permanently or for a specified period. In the present case, the appointing authority has exercised the power by withholding the pension of the petitioner permanently.

10. In our considered view, the offence, committed under the provisions of Prevention of Corruption Act comes within the purview of "serious crime", irrespective of the amount involved in that crime.

11. In that view of the matter, we do not find any illegality in withholding the pension of the petitioner, as the petitioner has been convicted for a "serious crime", punishable under the Prevention of Corruption Act and IPC, and his conviction has been upheld up to the High Court .

12. We do not find any illegality in the impugned order dated 7.1.2013, passed by the Central Administrative Tribunal, in O.A. No. 65 of 2011(R).

13. There is no merit in this writ application and the same, is accordingly, dismissed.