

(1998) 07 SC CK 0084

In the Supreme Court Of India

Case No : Civil Appeal No. 4704 of 1994

Pema Ram

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 29-07-1998

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 13B

Citation : (2000) 10 SCC 546

Hon'ble Judges : S. Saghir Ahmad, J;G. B. Pattanaik, J

Bench : Division Bench

Judgement

1. This appeal is directed against the judgment of the Division Bench of Rajasthan High Court dated 14-1-1993. By the impugned judgment the appellant's prayer for getting pension having been rejected, the appellant has approached this Court. Admittedly, the appellant had joined the Border Security Force (BSF) at the age of 16 years and 9 months as a Constable and then voluntarily resigned (sic retired) w.e.f. 15-5-1979. The appellant claimed pension on the ground that the entire period of services rendered by him shall be counted as qualifying service. The Union Government resisted the claim on the ground that the employees of the BSF are governed by the CCS (Pension) Rules, since no specific pension rule has been made for the border security organisation, and in terms of Rule 13-B of the CCS (Pension) Rules the services rendered before attaining the age of 18 years is not required to be counted for the purpose of pension, though it can be counted only for the purpose of computation of gratuity. The Division Bench of the High Court was persuaded to accept (he contention raised by the Union of India and dismissed the writ petition filed by the appellant.

2. The learned counsel appearing for the appellant urged before us that under the BSF Act as well as the Rules framed thereunder a person being allowed to be recruited at the age of 16 1/2 years, there is no rhyme or reason not to count that part of service for the purpose of computation of pension and on that

ground Rule 13-B cannot be said to be an embargo in computing the qualifying service of an employee under the BSF. According to the learned counsel for the appellant if the entire period of services rendered by the appellant in border security organisations is taken into account then he would be entitled to the pension. Learned Additional Solicitor General, on the other hand, contended that the provisions of the CCS (Pension) Rules being the only provision under which the pension of an employee under the BSF services can be counted, and Rule 13-B contained in the said Pension Rules would also get attracted and, therefore, any services rendered before attaining the age of 18 years shall not be counted as qualifying service for determining the pension. Having heard the learned counsel for the parties and on examining the provisions of the Pension Rules as well as the BSF Rules we are in agreement with the submissions of the learned Additional Solicitor General and hold that the provisions of Rule 13-B would get attracted to an employee under the BSF services and, therefore, any service rendered by him in the BSF prior to attaining the age of 18 years cannot be held to be a part of qualifying service for determining the pension of the employee. The High Court, therefore, was fully justified in negating the claim of the appellant for the purpose of pension. We see no illegality in the impugned order of the High Court to be interfered with by this Court. This appeal, accordingly, fails and is dismissed, but in the circumstances, no order as to costs.