

(2010) 10 DEL CK 0250

In the Delhi High Court

Case No : Writ Petition (C) No. 18496 of 2006

Sushil Kumar Nangia

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 21-10-2010

Acts Referred:

Central Civil Services (Leave) Rules, 1972 — Rule 39, 39(1), 39(2), 39(5), 39(6)
Constitution of India, 1950 — Article 14, 19(1), 226, 227

Citation : (2010) 10 DEL CK 0250

Hon'ble Judges : Manmohan Singh, J

Bench : Single Bench

Advocate : Ranvir Singh, for the Appellant; D.S. Mahendru, for R-1 and 2 and P.K. Bansal, for R-3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Singh, J.—With this Order I shall dispose of the following three writ petitions being W.P. (C) No. 18496/2006, W.P. (C) No. 1732/2007 and W.P. (C) 1539/2007. The writ petitions have been filed by the petitioners under Articles 226 and 227 of the Constitution of India praying for writ/direction declaring the orders dated 22.07.2004 as ultra-vires and to direct the respondent Nos. 3 and 4 to encash the balance half-pay leave to full-pay along with 18% interest from their respective dates of retirement. The legal points and facts in all the three writ petitions are common. In W.P. (C) No. 18496/2006 the petitioner Mr. S.K. Nangia retired on 31.05.2001. Similarly, Mr. Banwari Lal Bhatia, petitioner in W.P. (C) No. 1732/2007 retired on 31.01.2002 and Mr. Jagdish Mitter petitioner in W.P. (C) 1539/2007 was retired on 31.12.2003. It is not disputed by the parties that all the three petitioners were retired prior to 12th July, 2004 when the relevant rules were made effective.

2. The facts as per Sh. S.K. Nangia the petitioner in W.P. (C) No. 18496/2006 are that he joined the Telecommunications Consultants of India Limited, hereinafter referred as "TCIL" on 01.06.1989 as a regular employee. He retired as a Joint

General Manager on 31.05.2001. According to the petitioner during the course of his employment with the TCIL he was neither on contract nor on casual or any other type of employment. Therefore, TCIL leave rules conveyed No. TCIL-9/1/79-Per dated 23.12.1980 were applicable to him but the said rules were deliberately not implemented. On his retirement as per the leave rules No. TCIL-0/1/79 dated 23.12.1980 he was due for leave encashment at full rates for 300 days and commutation of Half Pay Leave of 240 days into 120 days of full pay. He wrote a letter dated 10.05.2006 to respondent Nos. 3 and 4 regarding the same but by their letter dated 02.08.2006 respondent Nos. 3 and 4 refused to pay the benefits due to him. In the letter dated 02.08.2006 the respondents had stated that:

HPL encashment was not applicable in TCIL at the time of your retirement on 31.05.2001. The encashment of HPL was approved by TCIL Board on 12th July 2004 only on a prospective basis.

3. The contention of the petitioner is that as per para C (II) of order dated 23.12.1980, the Half Pay Leave is earned by a regular employee of the TCIL @ 20 days for each completed year of service which can be accumulated for a maximum of 240 days. As per para vii(c)(ii) of the said rules, earned leave on half pay to be commuted into earned leave on full pay at the option of the employee. On the day of retirement the petitioner had accumulated 240 days of earned leave therefore, he was entitled to encashment equivalent to 120 days of full pay leave which would have been Rs. 98,691/- at time of his retirement.

4. Petitioner applied for earned leave by conversion of "Half Pay" to "Full Pay" from 26.12.2000 to 13.02.2001 and it was sanctioned by respondent No. 3 but, on the request of the assigns and agents of respondent Nos. 3 and 4 he cancelled his leave in order to complete the pending projects. Considering the financial requirements and family commitments the petitioner decided to encash the leave for the said period at the time of his retirement but the respondent Nos. 3 and 4 did not encash it even though the act of the petitioner to cancel his leave from 26.12.2000 to 13.02.2001 was in consonance with the special clause on encashment of TCIL leave rules dated 23.12.1980 which reads as under:

...Encashment of leave will be allowed with a view to encourage employees to avail leave in a planned and systematic manner with necessary funds to meet their social obligations and other expenditure during leave period and also to reduce long absentism with consequent load on the staff requirement.

5. It has been further submitted by the petitioner that he is covered under the CDA rules and so is entitled to a maximum of 300 days of earned leave encashment on retirement. On his retirement he had 76 days of "earned leave" to his credit the encashment for which was duly sanctioned by letter dated 25.05.2001 but, in the said letter there was no mention of encashment of 240 days half pay leave available to the petitioner. The Group General Manager (HRD) was approached several times by the petitioner to which he informed the

petitioner in person that Half Pay Leave will not be encashed and also refused to give the same in writing.

6. Then petitioner informed respondent Nos. 3 and 4 regarding the order dated 06.04.1993 issued by respondent No. 1, Ministry of Personnel, Public Grievances and Pensions, Deptt. Of Personnel and Training as per which the Half Pay Leave was to be encashed for Government servants and in its para 2(i) the respondent No. 2 was specifically directed that benefit of encashment of Half Pay Leave to Full Pay shall be available w.e.f. 14.07.1982. Para 2 of the said order reads as under:

Para-2: The encashment will be subject to the following conditions:

i). The benefit will be admissible in respect of past cases on receipt of applications to that affect from the Petitioner concerned by the Administrative Ministry's concerned.

ii). In respect of future retirees, the amount of encashment of half pay leave will be calculated and paid together, with encashment of Earned Leave.

iii) Calculations of amount equivalent in respect of half pay leave had credit shall be made mutates-mutandi in the manner given in para-2 of Govt. of India decision No. 7 below Rule 39-C of this Central Civil Services (Leave Rules) 1972....

iv) The amount so calculated shall be paid on in one lump-sum as a onetime settlement.

7. The main contention of the petitioner is that the revised order dated 22.07.2004 issued by respondent Nos. 3 and 4 have not superseded the order dated 23.12.1980 and refusal by respondent Nos. 3 and 4 to implement their order dated 23.12.1980 clearly shows that TCIL is not functioning as per any rules and regulations but according to whims and fancies of respondent Nos. 3 and 4. Encashment of half pay leave to full pay for certain staff members further shows that functioning of respondent Nos. 3 and 4 is subjective to their personal will and not as a general policy and so in clear violation to the rules of 2004. There were around 40 officials to whom this benefit was given. The Respondent No. 4 was allowed to encash 160 half pay leave to full pay. These half pay leaves were not calculated properly and contained upto 73 days when the Respondent No. 4 was not even employed under Respondent No. 3. Actual half pay of Respondent No. 4 comes out to be just 53 days and not 160 days. These all acts of the Respondents clearly demonstrates discrimination against the petitioner.

8. Respondent No. 3 contended that petitioner claim being that leave Rules 2004 were formulated only to debar the petitioner from the benefits is not sustainable. Respondents contend that no employee who retired before 12-07-2004 was given any benefit under the new leave encashment rules framed in 2004. Also this petition has been filed after the lapse of 5 and 1/2 years from the date of petitioner's retirement, i.e. in December, 2006 and so is not maintainable.

9. Respondent further submitted that even if it is assumed for the sake of arguments that the petitioner was entitled for encashment of the half pay leave commuted into Earned Leave for full pay under 1980 Rules even then the petitioner was not entitled for any such benefit as he failed to even comply with Rule (c)(ii) of the 1980 Rule according to which the leave on half pay could have been commuted into Earned Leave on Full Pay for half only at the option of employee and it is admitted position that the petitioner at no stage prior to his retirement exercised any such option, therefore half pay leave accumulated in the account of the petitioner lapsed upon his retirement.

10. As per settled law of the Apex Court in various cases that no person can claim the benefit of any new scheme formulated after his/her retirement. Also the effective date for the implementation of the new policy is on the discretion of the Executive Domain depending on factors such as their economic conditions and financial constraints and no interference of court is required.

11. The 2004 rules were framed by Board of Directors and not CMD alone. These rules were made effective from 12-07-2004 after taking into consideration the relevant financial factors.

12. The encashment of half pay leave was never available to the petitioner as he retired on 31.05.2001 and the employees of TCIL became entitled to encashment of half pay leave on superannuation only after 12.07.2004 when it was introduced for the first time with prospective effect and prior to 12.07.2004 the relevant rules were of order dated 23.12.1980 which did not provide for encashment of half pay leave but only provided that leave on half pay may be commuted into Earned leave on Full pay for Half at the option of the employee. According to the respondent this was permitted only for the purpose of availing the leave and not for encashment therefore the plea of the petitioner is misconceived.

13. It is admitted by the petitioner himself that the "1980 Rules" only provided for encashment of Earned Leaves and not for encashment of half pay leave. And the same appears from various representations made by the petitioner wherein he is claiming that the rules issued in 2004 permitting encashment of half pay leave ought to be made applicable w.e.f. 14th July 1982 the date on which similar rules were made applicable to the Government servants. Therefore the contention of the petitioner that "1980 Rules" provided for encashment of Half Pay Leave is without any force.

14. The next contention of the petitioner that "2004 Rules", were framed only to debar him from availing the benefit of encashment of Half Pay Leave is also untenable as the "2004 Rules" were framed after the retirement of the petitioner. Hence now he cannot be allowed to state that "2004 Rules" were framed to prevent him from claiming such benefits.

15. As it has been admitted by the petitioner himself that the "1980 Rules" did not provide for encashment of half pay leave, therefore the prayer of declaration

of orders dated 22.07.2004 as ultra-vires, even if granted would not entitle the petitioner to claim encashment of the half pay leave as encashment of the half pay leave is provided only under the "2004 Rules" and not in "1980 Rules". Therefore, he is not entitled to derive any benefit provided under "2004 Rules".

16. Even otherwise the petition is to challenge the effective date i.e. 12.07.2004 which has been fixed under "2004 Rules". The Hon'ble Supreme Court of India has repeatedly held that a person who has retired prior to the implementation of new scheme can neither claim any benefit under the new scheme nor can challenge it on any ground. In this regard the defendant No. 3 has referred the following judgments:

(i) Union of India Vs. P.N. Menon and others, it was held:

12. In respect of grievance regarding encashment of earned leave up to maximum encashment of six months" leave, which was made available, it was pointed out that it was a new facility allowed to serving government servants and as such a date had to be fixed for its application. The date of its operation was fixed in consultation with the representatives of the government servants. Respondents, who were not in service on the relevant date, cannot make any grievance of the scheme regarding encashment of earned leave to a maximum period of six months.

13. Regarding the family pension scheme, it has been pointed out, that the family pension scheme was introduced with effect from 1-1-1964. Then the scheme was a contributory one and each government servant to be entitled to family pension under the scheme, had to contribute two months" pay or Rs. 3600 (the maximum amount of Rs. 3600 was raised to Rs. 5000 with effect from 1-1-1973), whichever was less. However, with effect from 22-9-1977, the scheme was made non-contributory. Thereafter, there was no obligation on the part of the government servants to contribute any amount for being eligible for family pension. As the respondents were not in the service on the said date, they were not eligible for the benefit aforesaid and the question of refunding the amount contributed by them under the old scheme, while they were in service, did not arise.

20. The scheme to merge a part of the dearness allowance for purpose of fixing the dearness pay, was evolved, and was linked with the average of cost of living index fixed at 272, which fell on 30-4-1977. In this background, it cannot be said that the date, 30-9-1977, was picked out in an arbitrary or irrational manner, without proper application of mind. The option given to employees, who retired on or after 30-9-1977 but not later than 30-4-1979, to exercise an option to get their pension and death-cum-retirement gratuity calculated by excluding the element of dearness pay as indicated in the aforesaid office memorandum or to get it included in their pension and death-cum-retirement gratuity, was not an exercise to create a class within class. The decision having a nexus with the price index level at 272, which it reached on 30-9-1977, was just and valid. It has

been rightly pointed out that respondents had never been in receipt of dearness pay and as such the office memorandum in question could not have been applied to them. Similarly, the encashment of leave was a new scheme introduced which could not have been extended retrospectively to respondents, who had retired before the introduction of the said scheme. Same can be said even in respect of family pension scheme which was earlier contributory, but with effect from 22-9-1977 the scheme was made non-contributory. The respondents not being in service on the said date, were not eligible for the said benefit and no question of refunding the amount, which had already been contributed by them, did arise. According to us, the High Court was in error in applying the principle of D.S. Nakaral in the facts and circumstances of the present case.

(ii) In State of A.P. and Another Vs. A.P. Pensioners Association and Others, the court held:

20. In State Government Pensioners' Association and Others Vs. State of Andhra Pradesh, , this Court accepted that when the revised scheme became operative from 1st April, 1978, non-payment of gratuity under the Revised Pension Rules, 1980 was not payable to those pensioners who retired prior thereto stating that at the time of retirement they were governed by the then existing rules and their gratuity was calculated on that basis. The Court rejected the contention that the same was ultra vires Article 14 of the Constitution of India.

23. In State of Punjab v. Boota Singh, (2000) 3 SCC 733 , it was stated:

7. On merits we find that the retirement benefits which are claimed by the respondent are benefits which are conferred by subsequent orders/ notifications. Therefore, persons who retired after the coming into force of these notifications and order are governed by different rules of retirement than those who retired under the old rules and were governed by the old rules. The two categories of persons, who retired were governed by two different sets of rules. They cannot, therefore, be equated. Further, granting of additional benefits has financial implications also. Hence, specifying the date for the conferment of such additional benefits cannot be considered as arbitrary.

24. In State of Punjab and Others Vs. Amar Nath Goyal and Others, , upon consideration of a large number of decisions, this Court opined that the decision of a State to limit the benefits only to employees who retire or died on or after a particular date upon calculating the financial implications thereof was neither irrational nor arbitrary. It was observed:

28. ...It is trite that, the final recommendations of the Pay Commission were not ipso facto binding on the Government, as the Government had to accept and implement the recommendations of the Pay Commission consistent with its financial position. This is precisely what the Government did. Such an action on the part of the Government can neither be characterised as irrational, nor as arbitrary so as to infringe Article 14 of the Constitution.

26. The decisions of this Court which have been noticed in Amar Nath Goyal (*supra*) categorically point out that financial implication is one of the relevant considerations for the State to deny certain benefits to a class of employees who retire on or before a particular date.

27. It is, therefore, beyond any shadow of doubt that the financial implication is a relevant criterion for the State Government to determine as to what benefits can be granted pursuant to or in furtherance of the recommendations made by the PRC. The PRC also said that while revision of pay shall take effect from 1.7.1998, the monetary benefit would be payable only from 1.4.1999. If monetary benefit was payable only from 1.4.1999, all rights to get the benefits computed on the basis of the revised scale of pay would only be for the purpose of payment of pay with effect from 1.4.1999 or payment of the recurring amount of pension with effect from that date.

29. We, therefore, are of the opinion that the intention of the State was not to grant any benefit towards payment of gratuity even in relation to those employees who had retired in between 1.7.1998 and 31.3.1999.

(iii) In *State of Punjab and Others Vs. Amar Nath Goyal and Others*, it was held:

30. In *Union of India v. N. Menon and Ors.* while implementing the recommendations of the Third Pay Commission with regard to dearness pay linked to average index level 272, which was to be counted as emoluments for pension and gratuity under Central Civil Services (Pension) Rules, 1972, the Central Government had fixed a certain cut-off date and directed that only officers retiring on or after the specified date were entitled to the benefits of the dearness pay being counted for the purpose of retirement benefits. This was challenged as arbitrary and violative of Article 14 of the Constitution. This Court turned down the challenge and observed:

Not only in matters of revising the pensionary benefits, but even in respect of revision of scales of pay, a cut-off date on some rational or reasonable basis, has to be fixed for extending the benefits. This can be illustrated. The Government decides to revise the pay scale of its employees and fixes the 1st day of January of the next year for implementing the same or the 1st day of January of the last year. In either case, a big section of its employees are bound to miss the said revision of the scale of pay, having superannuated before that date. An employee, who has retired on 31st December of the year in question, will miss that pay scale only by a day, which may affect his pensionary benefits throughout his life. No scheme can be held to be foolproof, so as to cover and keep in view all persons who were at one time in active service. As such the concern of the court should only be, while examining any such grievance, to see, as to whether a particular date for extending a particular benefit or scheme, has been fixed, on objective and rational considerations, *Ibid* at pp. 75-76 (para 14).

31. In *Action Committee South Eastern Railway Pensioners and Another Vs. Union of India (UOI) and Others*, it was held that, on merger of a part of

dearness allowance as deafness pay on average price index level at 272 with reference to different pay ranges, fixing a cut-off date in such a manner was not arbitrary and the principle enunciated in *D.S. Nakara (supra)* was not applicable. In this connection, the ratios in *Krishena Kumar and Others Vs. Union of India and others*, , *Indian Ex-Services League and others Vs. Union of India*, , *State Government Pensioners' Association and Others Vs. State of Andhra Pradesh*, , and *All India Reserve Bank Retired Officers Association and others Vs. Union of India and others*, are apt. In all these cases, the prescription of a cut-off date for implementation of such benefits was held not to be arbitrary, irrational or violative of Article 14 of the Constitution.

32. The importance of considering financial implications, while providing benefits for employees, has been noted by this Court in numerous judgments including in the following two cases. In *State of Rajasthan and another etc. Vs. Amrit Lal Gandhi and others etc.*, this Court went so far as to note that:

... Financial impact of making the Regulations retrospective can be the sole consideration while fixing a cut-off date. In our opinion, it cannot be said that this cut-off date was fixed arbitrarily or without any reason. The High Court was clearly in error in allowing the writ petitions and substituting the date of 1.1.1986 for 1.1.1990, *Ibid.* at p. 784 (para 17).

(emphasis supplied).

33. More recently, in *Veerasamy (supra)*, this Court observed that financial constraints could be a valid ground for introducing a cut-off date while implementing a pension scheme on a revised basis, *Tamil Nadu Electricity Board Vs. R. Veeraswamy and Ors.* . In that case, the pension scheme applied differently to persons who had retired from service before 1.7.1986, and those who were in employment on the said date. It was held that they could not be treated alike as they did not belong to one class and they formed separate classes.

34. In *State of Punjab v. Boota Singh*, (2000) 3 SCC 733 after considering several judgments of this Court in *K.L. Rathee Vs. Union of India and others*, it was held that *D.S. Nakara (supra)* should not be interpreted to mean that the emoluments of persons who retired after a notified date holding the same status, must be treated to be the same: *State of Punjab v. Boota Singh*, (2000) 3 SCC 733 .

36. In *Ramrao and Others Vs. All India Backward Class Bank Employees Welfare Association and Others*, a Division Bench of this Court said, even for the purpose of effecting promotion, the fixing of a cut-off date was neither arbitrary, unreasonable nor did it offend Article 14 of the Constitution. Moreover, the Court held that possible hardship to be endured by a person as a result did not make cut-off dates violative of Article 14, *Ibid.* at p. 88 (para 33).

(iv) In *A.K. Kaul and another Vs. Union of India and another*, the court said:

2. Rule 39 of the Leave Rules is entitled "Leave/cash payment in lieu of leave beyond the date of retirement, compulsory retirement or quitting of service". Rule 39(1) provides that no leave shall be granted to a government servant beyond the date of his retirement or final cessation of duties, the date on which he retires or is retired by giving notice or the date of his resignation. Rule 39(2) provides for grant of cash equivalent of leave salary for earned leave at the credit of the government servant on superannuation. Rule 39(5) provides that where a government servant retires or is retired from service (premature voluntary/compulsory retirement) he may be granted leave salary in respect of earned leave to his credit and also in respect of half pay leave, subject of course to the prescribed maxima; provided that the pension and pension equivalent of other retirement benefits shall be deducted from leave salary payable in respect of half pay leave. Rule 39(6)(a)(i) provides that where the services of a government servant are terminated by notice or by payment of salary, etc., in lieu of notice, he may be granted cash equivalent of earned leave at his credit on the date on which he ceases to be in service. Since the petitioner did not retire prematurely and since the notice period was not waived, he retired in due course and, therefore, the benefit of encashment of half pay leave could not be extended to him. Government servants who retire or are retired prematurely constitute a class distinct from the class of those who avail of the benefit of full service till the date of superannuation and, therefore, if they are governed by separate sets of rules in regard to leave encashment, the latter cannot complain of hostile discrimination nor can it be said that the rule governing the latter class is arbitrary as it does not extend the benefit of encashment of half pay leave to those who superannuate in due course. Under Rule 39(1) as soon as the services of a government servant terminates in one way or the other he ceases to be entitled to leave but provision is made for leave encashment and he would be entitled thereto under the rules only. The reasons for permitting encashment of half pay leave not exceeding the period between the date on which he retires or is retired and the date of his normal superannuation is that premature or compulsory retirement deprives the government servant of the chance to avail of half pay leave because of the sudden termination of his relationship which is not the case with those who retire in due course on superannuation. Since encashment of half pay leave was not admissible under the rules obtaining on the date of the petitioner's superannuation in 1980, we think the present petition is misconceived, more so because we do not find the challenge based on Article 19(1)(f) and Article 14 to be well founded.

(v) Union of India (UOI) and Another Vs. Manik Lal Banerjee, it was held:

25. We have noticed hereinbefore that in terms of the 1993 Rules the emoluments were to be paid in terms of the recommendations made by the Fourth Pay Commission. The Fifth Pay Commission no doubt recommended that dearness pay be linked to All India Consumer Price Index of 12.1.1966 as on 1.7.1993 but, the entitlements of the employees in terms thereof was directed to be prospectively affected with effect from 1.4.1995. The Central Government

accepted the said recommendations only with prospective effect from 1.4.1995 in terms whereof 97% of the dearness allowance was to be paid to those who were drawing salary up to Rs. 3500/- as basic pay. The Respondent retired on 31.1.1995. The recommendations of the Fifth Pay Commission, thus, were not applicable in his case.

26. It is now a well-settled principle of law that financial implication is a relevant factor for accepting revision of pay. [See Hec Voluntary Retd. Emps. Welfare Soc. and Anr. v. Heavy Engineering Corporation Ltd. and Ors. and State of Andhra Pradesh and Anr. v. State of A.P. Pensioners and Ors.

27. The matter might have been different if the revised scale of pay in terms of the recommendations of the Fifth Pay Commission would have been made applicable to the cases of the employees who had also retired prior to 1.4.1995 as was noticed by this Court in U. Raghavendra Acharya and Ors. v. State of Karnataka and Ors.

17. It has further been held and it is now a well settled principle of law that fixing of cut off date is in executive domain and the dates are fixed keeping in view the economic conditions, financial constraints etc. and the Courts should normally not interfere unless such an action on the part of the executive is blatantly discriminatory and arbitrary. Reference in this regard is made to Government of A.P. and Ors. v. N. Subbarayudu and Ors. JT 2008 (40) SC 282, paras 5 to 9.

18. It has also been argued by the petitioner that 2004 Rules were formulated by the CMD of respondent No. 3 under the powers of relaxation given to it under 1980 Rules. The said contention of the petitioner not correct as 2004 Rules has been formulated by the Board of Directors and not by the CMD alone. The respondent No. 3 company and CMD alone had no powers to formulate any such Rules. 2004 Rules have been framed on approval of the Board of Directors of respondent No. 3 company and not the CMD.

19. It is submitted that "2004 Rules" effective from 12.07.2004 has been framed by the Board of Directors after taking into consideration various financial implication and no discrimination and arbitrariness has been pointed out by the Petitioner. In any event, no such discrimination/arbitrariness could have been pointed out by the Petitioner since the Petitioner retired 3 years prior to the implementation of "2004 Rules" and the Petitioner is, therefore, not entitled to challenge the same in view of the aforesaid judgments passed by the Supreme Court.

20. The other submission of the petitioner also has no force to the effect that the said benefit has been extended to the other person. No cogent evidence has been produced that the benefit under 2004 Rules has been extended even to the persons who have retired prior to 12.07.2004. It is clear from Annexure P-19 filed by the petitioner himself that no person has been granted the benefit of encashment of half pay leave who have retired prior to 12.07.2004.

21. Even otherwise, the petition filed by the petitioner is also liable to be dismissed on the grounds of delay and laches since the petitioner retired in 2001 and the petition is filed only in December 2006 i.e. over 5 1/2 years after the date of retirement. Reliance is placed on Vinod Khanna Vs. Oriental Bank of Commerce and Others, and Ravinder Kumar and Ors. v. Delhi Subordinate Selection Board (DSSB) and Ors. 161 (2009) DLT 295 paras 11 to 13 and 18.

22. No doubt in-case the petitioner is legally entitled for the benefit for the encashment of half pay leave provided under 2004 Rules on merit, then the objection of delay and laches could be considered in favour of the petitioner, however, if the claim of the petitioner on the face of it is not tenable then the Court has to consider the objection of delay and laches raised by the other side seriously. Thus, the present petition has failed on both counts i.e. on merit and on the objection of delay and laches. Thus the decision referred by the petitioner in the case of State of Kerala and Ors. v. M. Padmanabha Nair AIR 1985 SC 3376 does not help the case of the petitioner. In that case, all retirement benefits were admitted dues, and the same were not paid by the management despite of reminders. Hence the benefit of delay was determined in favour of the retired workman.

23. The petitions are, therefore, dismissed being without any merit. No costs.