
Bhika Ram Bishnoi Vs State And Ors

Civil Writ Petition No. 4045 Of 2003

Court: Rajasthan High Court

Date of Decision: Sept. 9, 2019

Acts Referred:

Indian Penal Code, 1860 " Section 34, 120B, 302, 323, 447#Rajasthan Civil Services (Pension) Rules, " Rule 7, 23 (1)

Hon'ble Judges: S. Ravindra Bhat, J

Bench: Single Bench

Advocate: Sanjay Mathur, Sachin Mathur, Ravi Panwar

Final Decision: Disposed Off

Judgement

The petitioner is before this Court claims a direction that his pension and retirement benefits should be released.

The facts are that the petitioner was appointed as a Teacher Grade-III, by the State of Rajasthan on 20.07.1985. He was thereafter prosecuted for

the offences punishable under Sections 302, 323/34, 447 and 120-B of Indian Penal Code; charges were framed and he faced a trial. Ultimately, he

was convicted and sentenced to undergo life imprisonment on 24.05.1996. He appealed to this Court which apparently suspended the sentence on

07.08.1996. The petitioner's grievance is that he was placed under suspension on 07.12.1996, on the ground that he was convicted by a competent

court. He claims to have represented to the respondent employer to revoke his pension, but to no avail. Eventually, on 20.03.2001 the petitioner was

compulsorily retired, under Rule 23 (1) of the Rajasthan Civil Services (Pension) Rules, 1996 (hereafter referred to as "the Rules of 1996"). That

order was challenged before this Court by way of S.B.Civil Writ Petition No.2685/2001, Bhikha Ram Bishnoi Vs. State of Rajasthan & Ors.; the writ

petition was dismissed in limine on 14.09.2001. He subsequently retired from the services of the State at the end of March, 2001. The claim in these

proceedings is that the third respondent i.e. Joint Director, Directorate of Pensions passed an order with respect to provisional pension of the

petitioner, having regard to his record. In these circumstances, he claims that his pension and retirement benefits withheld, even after the order of

compulsory retirement, should be released.

It is evident from the above narration that the order withholding the pension was made in terms of the Rules of 1996 which empowers the competent

authority, - and the Governor to withhold or forfeit, wholly or in-part, pension in terms of Rule 7. According to that Rule, in case a public servant faces

a departmental enquiry or any other judicial proceeding which per-se includes criminal proceeding in the present case, the competent authority is

empowered to withhold pension or forfeit it. In the present case, pension and other retirement benefits were withheld on account of the

petitioner's conviction. As on date, it is not evident that whether the petitioner's conviction was confirmed or set aside by this Court.

In these circumstance, the Court holds that the State's action withholding the pension and other retirement benefits was warranted. However, the

competent authority shall ascertain the fate of the proceedings; in case the petitioner's conviction is set aside, appropriate action, under the Rules,

shall be taken within two months.

The writ petition is disposed of in the above terms.