Nishith Verma vs The Registrar General High Court Of ... on 20 November, 2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2026:AHC:238306

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 70709 of 2013

Nishith Verma

.....Petitioner(s)

Versus

The Registrar General High Court Of Judicature At Alld

.....Respondent(s)

Counsel for Petitioner(s)

:

Akhilesh Kumar Singh, Sunil Srivastava

Counsel for Respondent(s)

:

Ashish Mishra, S.C.

Court No. - 34

Sl. No. 76

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Shri Sunil Srivastava, learned counsel for the petitioner and Shri Ashish Mishra, learned counsel appearing for the respondents.

2. The instant petition has been filed seeking the following reliefs:

> "a. Issue a writ, order or direction in the nature of mandamus directing the respondents to make payment of petitioner's retiral benefits after providing seven withheld increments of suspension period and one increment in new pay band and re- fixation of pay accordingly and also make payment of arrears of salary after re-fixation in Sixth Pay Commission.
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> b. Issue a writ, order or direction in the nature of mandamus directing the respondents to make the revision of pension, gratuity, commutation, encashment of earned leave and three month's salary after re-fixation of pay in Sixth Pay Commission in compliance with order dated 10.1.2007 passed by Hon'ble the Chief Justice.
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> c. Issue a writ, order or direction in the nature of mandamus directing the respondents to pay interest at the rate of 12% per annum on the delayed payment of post retiral benefits of the petitioner in accordance with Government orders."

3. Due to serious misconduct alleged against the petitioner he was put under suspension vide order dated 3.11.1999 with the condition that during the suspension period the petitioner will get one half of the salary payable on the date of his suspension as subsistence allowance. The orders were issued in this regard from time to time. Later vide final order dated 11.1.2007 the petitioner was compulsorily retired from service with the following conditions:

> "As soon as retirement becomes final the suspension period of Sri Nishith Verma, Review Officer (under suspension), High Court, Allahabad, shall be treated as on duty with all consequences but not before."

4. Learned counsel for the petitioner has placed reliance upon the judgement of learned Single Judge of Lucknow Bench of this Court in Service Single No. 7336 of 2008 (Rakesh Verma Vs. Mohd. Rizvan Samiksha Adhikari Establishment High Court, Luck) dated 19.12.2012 wherein the identical terms of the compulsory retirement order have been interpreted by the learned Single Judge which has been upheld by the Division Bench of this Court at Lucknow as well as by the Apex Court. The order of learned Single Judge of this Court at Lucknow dated 19.12.2012 reads as under:

> "Heard Ms Saamiksha Verma, learned counsel for the petitioner and learned Standing Counsel.
>
> Through the instant writ petition, the petitioner has challenged the Office Memorandum dated 19th September, 2008(Annexure No. 5) whereby petitioner's application for payment of full pensionary benefits in terms of order dated 21.11.2006 has been rejected. The operative portion of the Office Order dated 22.11.2006, whereby the petitioner was compulsorily retired speaks as under;
>
> "As soon as retirement becomes final the suspension period of Sri Rakesh Verma, Review Officer(Under Suspension) High Court Lucknow Bench, Lucknow shall be treated as on duty with all consequences, but not before."

Learned counsel for the petitioner emphasizes on the wordings, intention and motive of the order from which according to him, it transpires that during the period of suspension, the petitioner has been treated on duty till the date of compulsory retirement with all consequences. It is stated that accordingly the petitioner is entitled for all service benefits as he was in service till the date of retirement.

Upon perusal of the record I find that the petitioner was awarded punishment of withholding two increments with cumulative effect for his misconduct by means of order dated 10 th August, 2001. The petitioner does not raise question on the said punishment at this stage but submits that after withholding said two increments, the petitioner should be permitted to get the pensionary benefits on the basis of basic pay scale applicable on the date of retirement after counting the whole services of the period of suspension.

On the other hand, learned Standing Counsel submits that after withholding the said two increments, his basic pay was fixed at Rs.6725/- as was applicable on 1.9.1997, i.e, the date of suspension and accordingly he has been extended the benefit of service. However, the period of suspension has been calculated in the length of his service to extend the pensionary benefits. He drew the attention of this Court towards Article 486 Rule 1(a) of Civil Services Regulations which is reproduced herein under;

> "Rules 1- If during the last three years of his service, an officer has been absent from duty on leave with allowance, or having been suspended, has been reinstated without forfeiture of service, his emoluments, for the purpose of ascertaining the average, should be taken at what they would have been had he not been absent from the duty or suspended: Provided always(a) that his pension must not be increased on account of increase in pay not actually drawn and (b) that an officer will not during leave be allowed to count as emoluments the sub- protem allowances which he could have been entitled to so count under Article 486 (h) had he remained on duty, if another officer has been appointed sub portem to the same appointment during the period of such leave. But if his absence on department or recess leave is reckoned as service under Article 409, only the allowances, if any, actually received during such leave

should be taken into account."

In the light of the aforesaid provisions, it is stated by learned Standing Counsel that the petitioner's pension cannot be increased on account of increased in pay not actually drawn and he will not be allowed to count as emoluments the sub protem allowances which he could have been entitled to so count under Article 486(h) had he remained on duty.

However, in the case at hand, I find that the situation is different one as it is not the case in which the order of punishment has been quashed ordinarily rather during the course of disciplinary proceedings, the petitioner has been retired compulsorily treating him as on duty during the period of suspension with all consequences.

The word " consequences" has been defined in the New Laxicon Websters's Dictionary as under';

Consequences:-. That which follows something and arises from it, " a logical inference", it follows as a consequence that..... importance, a matter of consequence in consequence of as as a result of to take the consequences to put up with a penalty, punishment or suffering brought about by one's own action.

Thus, it defines that the loss caused to the petitioner due to his own action shall be restored to the petitioner, meaning thereby that had the petitioner been in service during this period, he would have discharged the duties and received salary. Moreover, the result of compulsory retirement is that till the date of retirement the petitioner was in service. Therefore, his pensionary benefits cannot be counted on the basis of his basic pay scale as on the date of suspension or on the basis of its increased occurred before the date of retirement.

Therefore, 1 am of the view that the petitioner has to be extended his pensonary benefit on the basis of the pay scale, as was applicable on the date of his retirement and accordingly direction is issued to the respondents to pay the pensionary benefits to the petitioner.

With the aforesaid directions, the writ petition is allowed."

5. Against the said order Special Appeal (D) No. 159 of 2013 was filed by the Registrar General, Allahabad High Court which has been disposed of vide judgement and order dated 19.3.2013, which reads as under:

> "By this special appeal, the High Court-appellant made a request to quash the order dated 19.12.2012 passed in Writ Petition No.7336 (S/S) of 2008.
>
> The brief facts of the case are that the private-respondent was posted as Officer on Special Duty (Litigation) in the Allahabad High Court at Lucknow Bench, Lucknow. He was placed under suspension vide order dated 01.09.1999. Finally, on 22.11.2006, an order was passed for his compulsory retirement. The operative portion of the said order, on reproduction, reads as under:-

> "As soon as retirement becomes final, the suspension period of Sri Rakesh Verma, Review Officer (Under Suspension) High Court, Lucknow Bench, Lucknow shall be treated as on duty with all consequences, but not before."

The private-respondent has assailed the same in Writ Petition NO.3127 (S/S) of 2007, which was dismissed by the judgment and order dated 01.05.2008. But the private-respondent again sought for a fresh direction by moulding relief clause in the writ petition as his representation dated 19.09.2008 was rejected. So, he filed another Writ Petition No.7336 (S/S) of 2008, where Hon'ble Single Judge vide its order dated 19.12.2012 (impugned) has defined the word 'Consequences'. The operative portion reads as under:-

> "Thus, it defines that the loss caused to the petitioner due to his own action shall be restored to the petitioner, meaning thereby that had the petitioner been in service during this period, he would have discharged the duties and received salary. Moreover, the result of compulsory retirement is that till the date of retirement the petitioner was in service. Therefore, his pensionary benefits cannot be counted on the basis of his basic pay scale as on the date of suspension or on the basis of its increased occurred before the date of retirement.
>
> Therefore, I am of the view that the petitioner has to be extended his pensionary benefit on the basis of the pay scale, as was applicable on the date of his retirement and accordingly direction is issued to the respondents to pay the pensionary benefits to the petitioner. With the aforesaid directions, the writ petition is allowed."

Being aggrieved, the High Court-appellant has filed this special appeal.

With this background, heard Sri Manish Kumar, learned counsel for the High Court submits that the appellant will suffer irreparable loss if the affect and operation of the judgment and order dated 19.12.2012 is not stayed and the private respondent is claiming revision of his pension on the basis of the order dated 19.12.2012.

On specific query from the Bench, learned counsel for the appellant accepted that the similar benefit was given to other employees situated in the similar circumstances. He also accepted that the compulsory retirement order was passed after the necessary approval of the Hon'ble Chief Justice as per Article 486 Rule 1 (a) of Civil Service Regulations, which has already been quoted by the Hon'ble Single Judge in the impugned order.

On the other hand, Km. Saamiksha Verma, learned counsel for the private- respondent justified the impugned order passed by the Hon'ble Single Judge. She also relied on the ratio laid down by the Hon'ble Apex Court in the case of R.P.Kapur vs. Union of India (1999) 8 SCC 110.

By considering the totality of the facts and circumstances of the case, we find nothing wrong in the order dated 22.11.2006 communicated by the Registrar General of the High Court after obtaining approval of the Hon'ble Chief Justice, where the private respondent was treated as on duty during

the suspension period. He was entitled for the consequential benefits. The Hon'ble Single Judge has defined the word consequences (supra), the same appears reasonable in the facts and circumstances of the case. Moreover, similar benefit was given to other employee situated in the identical circumstances. When it is so, then we find no reason to interfere with the impugned order passed by the Hon'ble Single Judge. The same is hereby sustained along with the reasons mentioned therein.

Hence, the special appeal is dismissed at the admission."

6. The said order was later corrected vide order dated 3.4.2013, which reads as under:

> "(C.M.Application No. 30210 of 2013-Application for correction of order dated 19.3.2013) On due consideration, the application is allowed and the expression 'Officer on Special Duty (Litigation)' is replaced by 'Review Officer'.
>
> Thus, the judgment as aforesaid stands modified and corrected. This order shall also form part of order dated 19.3.2013 and will be issued therewith."

7. The aforesaid orders were challenged by the Registrar General of Allahabad High Court before the Apex Court by filing SLP (Civil) No. 20979 of 2013 which was dismissed vide order dated 23.9.2013, which reads as under:

> "The special leave petition is dismissed being wholly meritless.
>
> The Administration of the Allahabad High Court is directed to pay the amount due to the respondent within a period of three months from today.
>
> The Registry is directed to send a copy of this order to the respondent by registered post at the address mentioned in the memo of special leave Petition."

8. Thus the import and interpretation of the consequences of the observations made in the compulsory retirement has already been interpreted by the learned Single Judge, which has been up held by the Apex Court.

9. In such view of the matter, the instant petition is disposed of in terms of the order passed by the learned Single Judge in Service Single No. 7336 of 2008 (Rakesh Verma Vs. Mohd. Rizvan Samiksha Adhikari Establishment High Court, Luck) dated 19.12.2012 and the petitioner will be entitled for all the benefits in terms of the same.

(Anish Kumar Gupta,J.) November 20, 2026 o.k.