

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 3828 OF 2020
(Arising out of SLP (C) No. 12104/2016)

MAJOR (RETD.) KAPTAN SINGH

Appellant(s)

VERSUS

THE STATE OF RAJASTHAN & ANR.

Respondent(s)

O R D E R

Leave granted.

After retiring from the Indian Army on 31.12.2004, the appellant submitted an application for resettlement through the Director General, Resettlement Department of Ex-servicemen, Ministry of Defence. He was appointed as District Sainik Welfare officer on contractual basis on 16.09.2005 for a period of one year. The period of contract was periodically extended till the re-employment was terminated on 04.05.2015. On 17.12.2014, the appellant submitted an application seeking cash payment in lieu of unutilized privilege leave on the date of retirement. The said application was rejected on the basis of the amendment that was made to the Rajasthan Civil Services (Pension) Rules, 1996 vide notification dated 22.09.2014.

The writ Petition, filed by the appellant was dismissed, which was upheld by the Division Bench of the Rajasthan High Court. Aggrieved by which this appeal is filed.

Mr. Rakesh Dahiya, learned counsel for the appellant submitted that Rule 158 of the Rules is not applicable to him as his

contractual appointment was terminated in 2014 itself. The said rule applies only to persons who retired after the rule had come into force. Dr. Manish Singhvi, learned Senior Counsel for the respondent-State submitted that the Rule 158 was notified on 22.09.2014, according to which, the encashment of balance of provident fund during the period of re-employment cannot be paid to the appellant. The appellant, admittedly, retired on 04.05.2015. There cannot be any doubt that Rule 158, which came into force on 22.09.2014, is applicable to the appellant.

Having heard learned counsel for the parties, we see no fault in the judgment of the High Court wherein it has been held that the amendment to the rules came into effect on 22.09.2014 and the same squarely applies to the appellant, whose re-employment came to an end on 04.05.2015.

Accordingly, the appeal is dismissed.

..... J.
(L. NAGESWARA RAO)

..... J.
(HEMANT GUPTA)

..... J.
(AJAY RASTOGI)

New Delhi;
November 23, 2020.

ITEM NO.23 Court 5 (Video Conferencing) SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 12104/2016

(Arising out of impugned final judgment and order dated 18-11-2015 in DBCSA No. 567/2015 18-11-2015 in SBCWP No. 5594/2015 passed by the High Court Of Judicature For Rajasthan At Jaipur)

MAJOR (RETD.) KAPTAN SINGH Petitioner(s)

VERSUS

THE STATE OF RAJASTHAN & ANR. Respondent(s)

Date : 23-11-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. Rakesh Dahiya, AOR
 Mr. Satyavan Kudalwal, Adv.
 Mr. Aditya Dahiya, Adv.

For Respondent(s) Dr. Manish Singhvi, Sr. Adv.
 Mr. Sandeep Kumar Jha, AOR

 Mr. Rohit K. Singh, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is dismissed in terms of the signed order.

Pending applications, if any, stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(ANAND PRAKASH)
BRANCH OFFICER

(Signed order is placed on the file)