2025:AHC-LKO:59758-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

Judgement reserved on September 15, 2025
Judgment delivered on September 25, 2025

WRIT - A No. - 2420 of 2023

Bhagwati Prasad

.....Petitioner(s)

Versus

Union Of India Thru. Under Secy. , Ministry Of Finance Deptt. Of Revenue C.B.D.T. New Delhi

.....Respondent(s)

Counsel for Petitioner(s)	:	Avinash Singh Vishen, Sajeet Singh
Counsel for Respondent(s)	:	A.S.G.I., Devrishi Kumar

Court No. - 1

HON'BLE RAJAN ROY, J.
HON'BLE PRASHANT KUMAR, J.

(Per : Rajan Roy, J.)

1. Heard Shri Avinash Singh Vishen, learned counsel for the petitioner and Shri Devrishi Kumar, learned counsel for the opposite parties.

2. By means of this petition challenge has been raised to a judgment and order dated 12.10.2022 rendered by Central Administrative Tribunal, Lucknow in Original Application No.332/00327/2021.

3. The petitioner herein had filed the aforesaid Original Application challenging an order dated 12.04.2021, whereby the President of India had ordered withholding of pension and gratuity payable to the applicant/ petitioner in its entirety. This decision was taken on the basis of petitioner's conviction on 26.04.2014 under Section 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 by the

Special Judge, Anti Corruption Bureau, CBI (West), Lucknow. He was sentenced to undergo maximum five years' rigorous imprisonment with a fine of Rs.90,000/-. The Central Administrative Tribunal, Lucknow has dismissed the Original Application.

4. The contention of petitioner's counsel before us was that there is a time limit of four years prescribed in Rule 9 of the Central Civil Services (Pension) Rules, 1972 which has not been taken into consideration while passing the order dated 12.04.2021 nor has the Tribunal taken into consideration the said proviso. In this context he referred to Rule 9(2)(b)(ii) read with Rule 9(6) of the Central Civil Services (Pension) Rules, 1972. The other contention was that the petitioner has challenged his conviction and sentence by way of filing Criminal Appeal No.590 of 2014 before the High Court where the appeal is still pending wherein his sentence has been stayed and, as, by virtue of pendency of the appeal the said conviction has not attained finality rather the judicial proceedings are still continuing, therefore, an order under Rule 9(1) of the Central Civil Services (Pension) Rules, 1972 could not have been passed but this aspect of the matter has been lost sight of by the Central Administrative Tribunal, Lucknow while passing the order dated 12.04.2021 and the judgment dated 12.10.2022 as the petitioner retired on 30.06.2000 and the charge sheet was filed in August, 2000, whereas the order dated 12.04.2021 has been passed beyond a period of four years. In this contention he referred to Rule 9(2)(b)(ii) read with Rule 9(6) of the Central Civil Services (Pension) Rules, 1972. These were the only two grounds pressed before us.

5. Rule 9 of the Central Civil Services (Pension) Rules, 1972 reads as under :-

*"**9. Right of President to withhold or withdraw pension** - [(1) The President reserves to himself the right of withholding a pension or*

gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement :

Provided that the Union Public Service Commission shall be consulted before any final orders are passed :

Provided further that where a part of pension is withheld or withdrawn the amount of such pensions shall not be reduced below the amount of rupees three hundred and seventy-five per mensem].

(2) (a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service :

Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

(b) The departmental proceedings, is not instituted while the Government servant was in service, whether before his retirement, or during his re-employment, -

> *(i) shall not be instituted save with the sanction of the President,*
>
> *(ii) shall not be in respect of any event which took place more than four years before such institution, and*

(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in relation to the Government servant during his service.

(3) [omitted]

(4) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 59 shall be sanctioned.

(5) Where the President decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a Government servant.

(5- A) The President may at any time, either on his own motion or otherwise call for the records of any inquiry and revise any order made under these rules, after consultation with the Union Public Service Commission, and may confirm, modify or set aside the order; or remit the case to any authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or pass such other orders as he may deem fit:

Provided that no order enhancing the amount of the pension or gratuity to be withheld or withdrawn, shall be made by the President unless the Government servant concerned has been given a reasonable opportunity of making a representation against the order proposed and except after consultation with the Union Public Service Commission.

(5-B) The President may at any time, either on his own motion or otherwise review any order passed under these rules, where extenuating or special circumstances exist to warrant such review or when any new material or evidence which could not be produced or was not available at

the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought, to his notice:

Provided that no order enhancing the amount of the pension or gratuity to be withheld or withdrawn, shall be made by the President unless the Government servant concerned has been given a reasonable opportunity of making a representation against the order proposed and except after consultation with the Union Public Service Commission.]

(6) For the purpose of this rule, -

> *(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date, and*
>
> *(b) judicial proceedings shall be deemed to be instituted -*
>
> > *(i) in the case of criminal proceedings, on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance is made, and*
> >
> > *(ii) in the case of civil proceedings, on the date the plaint is presented in the court."*

6. The pension and gratuity of the petitioner has been withheld entirely under Rule 9(1) of the Central Civil Services (Pension) Rules, 1972. The petitioner's counsel has relied upon Rule 9(2)(b)(ii) of the Central Civil Services (Pension) Rules, 1972. However, on a careful reading of the entire Rule 9 of the Central Civil Services (Pension) Rules, 1972 we find that Rule 9(2) relates only to departmental proceedings as referred in Rule 9(1). It does not relate to judicial proceedings which have been referred in Rule 9(1) of the Central Civil Services (Pension) Rules, 1972. No doubt

Rule 9(6) of the Central Civil Services (Pension) Rules, 1972 provides that for the purpose of said Rule judicial proceedings in the case of criminal proceedings shall be deemed to be instituted on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance, is made, but this Rule 9(6) is not referrable to Rule 9(1) under which the decision dated 12.04.2021 has been taken, rather, it is relatable and referrable to Rule 9(4) which provides that in the case of government servant who has retired on attaining age of superannuation or otherwise and against whom any departmental or judicial proceedings are **instituted** or where departmental proceedings are continued under Rule 9(2) of the Central Civil Services (Pension) Rules, 1972, a provisional pension as provided in Rule 59 of the Central Civil Services (Pension) Rules, 1972 shall be sanctioned. The institution of such departmental or judicial proceedings as referred in Rule 9(4) has to be understood as per Rule 9(6) of the Central Civil Services (Pension) Rules, 1972. Rule 9(4) of the Central Civil Services (Pension) Rules, 1972 only provides for a provisional pension in the eventualities mentioned therein and nothing more. Rule 9(4) or for that matter Rule 9(6) of the Central Civil Services (Pension) Rules, 1972 do not lay down any time limit for taking an action under Rule 9(1) based on any judicial proceedings. Such a time limit has been prescribed in Rule 9(2) of the Central Civil Services (Pension) Rules, 1972 but only in respect of departmental proceedings and not judicial proceedings, therefore, reliance placed by learned counsel for the petitioner upon Rule 9(2)(b)(ii) read with Rule 9(6) is mis-conceived.

7. As regards reliance placed by learned counsel for the petitioner on the decision of Karnataka High Court in the case of **N.K. Suparna vs. Union of India and others** reported in **ILR 2004 KAR 4628**, the Delhi High Court has considered the said judgment and has opined that relevant provisions do not lend themselves to the interpretation or understanding as opined by the Karnataka High Court. We concur with the observations

of the Delhi High Court in this regard, a fact which is also evident from the discussion made herein-above. The said decision of the Delhi High Court in the case of **P.C. Mishra vs. Union of India** reported in **W.P. (C) No.12470 of 2018** decided on 26.11.2018 has been referred in the decision dated 12.04.2021 which was impugned before the Central Administrative Tribunal, Lucknow. Infact the said order dated 12.04.2021 also refers to certain decisions of Hon'ble the Supreme Court such as in the case of **Union of India vs. V.K. Bhaskar** reported in **1997 (11) SCC 383** and **K.C. Sareen vs. CBI, Chandigarh** reported in **2001 (6) SCC 584**. We have also gone through the aforesaid decisions. They support the line of reasoning adopted by us as mentioned herein-above. While those decisions were rendered in a different context, that is of removal or dismissal of a person convicted of a criminal offence based on his conduct relating to such conviction etc., nevertheless, the principle referred and elucidated therein would apply to a case such as the one before us also. Of course the factum of pendency of the criminal appeal means that in the event the petitioner's appeal succeeds on merits he may be entitled to claim revocation of the decision dated 12.04.2021, but it does not mean that such pendency could thwart or impede a decision under Rule 9(1) of the Central Civil Services (Pension) Rules, 1972. No such law has been placed before us by the petitioner's counsel.

8. We accordingly hold that there being no time limit prescribed for taking such decision as has been taken in respect of the petitioner based on judicial proceedings with reference to Rule 9(1) of the Central Civil Services (Pension) Rules, 1972, such decision cannot be said to be time barred. The contention of petitioner's counsel to the contrary is accordingly rejected.

9. As regards the other contention noticed herein-above, no doubt the petitioner has challenged his conviction by filing a criminal appeal but mere filing of a criminal appeal does not wipe out the conviction as of

now especially as there is no stay on the conviction of the appellant in the criminal appeal. It is true that in view of filing of the criminal appeal by the petitioner, challenging his conviction vide judgment dated 26.04.2014 under Section 7 and 13(2) of the Prevention of Corruption Act, 1988, the conviction has not attained finality and the judicial proceedings are still going on, but, it is equally true that conviction has not been wiped off. In the event the petitioner's appeal succeeds, he may be entitled to claim revocation of the decision dated 12.04.2021, but it does not mean that such pendency is an impediment in taking a decision under Rule 9(1) of the Central Civil Services (Pension) Rules, 1972.

10. For all these reasons we are of the opinion that the order dated 12.04.2021 which contains a detailed and reasoned decision demonstrating due and proper application of mind and has been passed, after due opportunity to the petitioner as mentioned therein, a fact which is not in dispute. The judgment of the Central Administrative Tribunal, Lucknow upholding the said decision dated 12.04.2021 and dismissing the Original Application of the petitioner does not suffer from any error warranting an interference under Article 226 of the Constitution of India.

11. The petition lacks merit and is accordingly **dismissed**.

September 25, 2025
Arnima

(Prashant Kumar,J.) **(Rajan Roy,J.)**

Digitally signed by :-
ARNIMA SINGH
High Court of Judicature at Allahabad,
Lucknow Bench