

CASE NO.:
Appeal (civil) 1993 of 2002

PETITIONER:
STATE OF U.P. & ORS.

RESPONDENT:
JAWAHAR LAL BHATIA

DATE OF JUDGMENT: 03/02/2005

BENCH:
B.P.SINGH & B.N.SRIKRISHNA

JUDGMENT:
J U D G M E N T

B.P.SINGH, J.

This Appeal by special leave has been preferred by the State of U.P. against the Judgment and Order of the High Court of Judicature at Allahabad dated 27th August, 1999 in Civil Miscellaneous Writ Petition No.17655 of 1995 whereby the High Court partly allowed the Writ Petition and modified the Order dated 18.1.1995 by which 75% of the Respondent's pension was withheld. This followed a departmental proceeding against the respondent in which he was found guilty of certain charges. The respondent was a doctor employed in the hospital run by the Employees State

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Insurance Corporation and certain allegations were made against him with regard to illegal appointments, unjustified expenditure etc. It appears that during the pendency of the proceeding the respondent retired from service and the impugned order was passed on 18.1.1995 after his retirement. Obviously, therefore, no punishment could be inflicted upon him but his pensionary benefits could be curtailed in accordance with the Rules.

We have gone through the charges framed against the respondent. It also appears from the record that some other doctors were proceeded against on similar charges and some punishment was imposed upon them such as stoppage of two increments, etc. However, looking at the nature of charges levelled against the respondent and the findings of the Inquiry Officer which have been accepted by the disciplinary authority, we are of the view that withholding of pension of the respondent to the extent of 75% is excessive. We, therefore, modify the order dated 18.1.1995 and direct that the reduction of 25% of pension only shall

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be made. The respondent will be entitled to the difference in the pensionary dues calculated on the basis that only 25% of the pension is to be withheld.

This appeal is, therefore, partly allowed in the above terms.

We expect the State to calculate the pensionary dues which are

payable to the respondent and pay the same within a period of three months.

JUDIS