

CASE NO.:
Appeal (civil) 928 of 2002

PETITIONER:
The Director General, Border Security Force and Ors.

RESPONDENT:
Deenamma Sanuel

DATE OF JUDGMENT: 12/12/2007

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
J U D G M E N T

Dr. ARIJIT PASAYAT, J:

Heard learned counsel for the appellants.

Challenge in this appeal is to the judgment of a Division Bench of the Kerala High Court dismissing the writ appeal filed by the appellants. Challenge in the writ appeal was to the order passed by a learned Single Judge in O.P. No.4287 of 2000. The High Court relied on some earlier decisions to hold that a person resigning under Rule 19 of the Border Security Force Rules, 1969 (in short 'the Rules') is entitled to pension if he is eligible. The writ appeal was dismissed and the appellants were directed to dispose of the representation of the respondent in the light of the judgment referred to i.e. Jos. Vs. Border Security Force (1999 (3) KLT 904). Relying upon this judgment, the learned Single Judge had directed the respondents in the writ petition to consider the representation of the appellant within a stipulated time.

Learned counsel for the appellants submitted that the respondent was not eligible for pension as she had completed only 18 years and three months of service. Strong reliance is placed on a decision of this Court in Civil Appeal No.6166 of 1999 and connected cases, disposed of on 30.03.2001.

This Court, inter-alia, observed as follows:-

\023In the result, there is no substance in the contention of the learned counsel for the respondents that on the basis of Rule 49 of the CCS (Pension) Rules or on the basis of G.O., the respondents who have retired after completing qualifying service of 10 years but before completing qualifying service of 20 years by voluntary retirement, are entitled to get pensionary benefits. Respondents who were permitted to resign from service under Rule 19 of the BSF Rules before the attainment of the age of retirement or before putting such number of years of service, as may be necessary under the Rules, to be eligible for retirement are not entitled to get any pension under any of the provisions under CCS(Pension) Rules. Rule 49 only prescribes the procedure for calculation and quantification of pension amount. The G.O. dated 27.12.1995 does not confer additional right of pension on the BSF employee.\024

(Underlined for emphasis)

There is no appearance on behalf of the respondent inspite of service of notice.

In view of what has been stated by this Court, it is for the appellants to consider the question of eligibility. Neither the learned Single Judge nor the Division Bench decided about the eligibility. The only direction given was to consider the representation.

It was open to the appellants to reject the representation by deciding the issue of eligibility. If the respondent has any grievance to such rejection, she can take appropriate remedy as available in law. We, therefore, dispose of the appeal holding that the representation be disposed of, if pending within three months after deciding the question of eligibility. Needless to say if the respondent has any grievance, she can agitate it before an appropriate forum.

The appeal is disposed of accordingly. No costs.

JUDIS