

CASE NO.:
Appeal (civil) 2561 of 2003

PETITIONER:
H. Chandra Shekhar

RESPONDENT:
State of Karnataka & Ors.

DATE OF JUDGMENT: 21/04/2004

BENCH:
CJI V.N. KHARE, S.B. SINHA & S.H. KAPADIA.

JUDGMENT:
J U D G M E N T

O R D E R

The appellant herein was in employment as lecturer in Geology in Hyderabad \026 Karnataka Education Society's Engineering College, Gulbarga, which is a government aided institution. He remained in that capacity from 6th July, 1962 to 20th January, 1971. Subsequently, on 22nd of January, 1971, the appellant was selected and appointed as a Geologist in the Government Department of Mines & Geology through a positive act of selection by the Public Service Commission, Karnataka. The appellant retired from service on 29th February, 1996. The service conditions and the grant of pensionary benefits are governed by the Karnataka Civil Service Rules, 1958. These Rules have been amended from time to time. The appellant, after retirement, wrote to the Principal Secretary of Government of Karnataka, Department of Commerce & Industries for counting his past service rendered by him in the government aided institution for the purpose of counting qualifying service for settling his pensionary benefits. The respondent calculated the pension of the appellant in terms of amended Rule 248 of the aforesaid Rules. Aggrieved by the said decision the appellant filed a petition before the Karnataka Administrative Tribunal and the same was rejected. A writ petition filed against that order met with the same fate. It is against that order the appellant has come before this Court by way of special leave.

After hearing learned counsel for the parties, we are of the view that the appellant is entitled to the benefit of either unamended Rule 247A or Rule 248, whichever is more beneficial to him. In the present case, it is found that the appellant is entitled to have the benefit of unamended Rule 247A of the Karnataka Civil Service Rules, 1958. In fact the appellant was within his rights to claim the benefit of unamended Rule 247A. The counsel for the appellant states that the appellant will claim the benefit of only additional 11 months and 20 days rounded-off to one year, and in total three years. We, therefore, direct that if the appellant moves an application in aforesaid terms to the respondent within one month for fixation of his pension, the respondent will consider the application within a period of three months after the filing of the application by the appellant, in accordance with law.

For the aforesaid reasons, the judgment under challenge is set aside and the appeal is allowed. There shall be no order as to costs.

JUDIS