

PETITIONER:
GURMESH PRAKASH BISHNOI

Vs.

RESPONDENT:
STATE OF HARYANA & ORS.

DATE OF JUDGMENT 05/05/1988

BENCH:
SUJATA V. MANOHAR, G.B. PATTANAİK

ACT:

HEADNOTE:

JUDGMENT:

THE 5TH DAY OF MAY, 1998

Present:

Hon'ble Mrs. Justice Sujata V. Manohar

Hon'ble Mr. Justice G.B. Pattanaik

B.S. Malik, Sr. Adv., K.S. Chauhan, Adv. with him for the
appellant

Ms. Nandini Gore, Prem Malhotra, Advs., for the Respondents

O R D E R

The following Order of the Court was delivered:

Special leave granted.

Heard both sides.

The appellant was appointed as member of the Haryana Public Service Commission with effect from 4.3.80. He continued as a member of the Haryana Public Service Commission till 28.8.84 when he was appointed as Chairman of the Haryana Public Service Commission. He continued as Chairman of the Haryana Public Service Commission for a period of six years up to 27.8.90. The appellant was granted pension at the rate of Rs. 1,800/- per month for his services as Chairman of the Haryana Public Service Commission.

The appellant contends that in addition, he is also entitled to pension for his services as a member of the Haryana Public Service Commission for a period of 4 years, 5 months and 24 days. The relevant Regulation of the haryana Government known as the Haryana Public Service Commission (Conditions of Service) Regulations, 1972 is Regulation 9A(1). The relevant portion of Regulation 9A is as follows:

9A(1): "Subject to the provisions of these regulations, every person, who, on or after the 1st day of November, 1966, ceases to hold the office of the Chairman or the Member, shall, with effect from the 1st December, 1973 or the date of his ceasing to hold the office, whichever is later, be entitled to pension for his life at the rate of two hundred rupees per month for each completed year of service as

the Chairman or the Member, as the case may be, rendered after the 31st day of October, 1966, subject to a maximum of eight hundred and fifty rupees and seven hundred and fifty rupees per month respectively:

.....
.....

Provided further that no pension shall be payable during the period for which.....the Member may, after his retirement as such, hold office asthe Chairman of H.P.S.C. or of any other State Public Service Commission."

The quantum of pension has since been revised to Rs.250/- per month for a member and Rs.300/- per month for the Chairman. The maximum quantum of pension has also been revised to Rs. 1,800/- per month in the case of the Chairman and Rs. 1,500/- per month in the case of a member. The appellant is entitled to the benefit of the revised amount.

Under Rule 9A(1) two separate ceilings are provided; one for the pension of a Chairman and the other for the pension of a member. The question is whether a person who has acted both as a member and subsequently as a Chairman, will be entitled to a pension only on the basis of his services as a Chairman or whether he will also be entitled to a separate pension on the basis of his services as a member of the Haryana Public Service Commission. Under the Union Public Service Commission (Members) Regulations 1969, there is an express provision contained in Explanation (II) to Regulation 9 which provides that when the total service for pension is rendered by a person, partly as a member and, partly as a Chairman, the pension Admissible to such person shall be the aggregate of the pension calculated separately for each such term as a member and as a Chairman. In the Haryana Public Service Commission (Regulations) 1972 there is no such express provision. However, the proviso to Rule 9A throws some light on the manner in which the pension is to be calculated. Under the proviso, when a member of the Haryana Public Service Commission retires as a member, he would be entitled to pension as a member. However, if he thereafter holds office (inter alia) as the Chairman of the Haryana Public Service Commission, he will not get any pension during the period for which he holds office as Chairman. There is an embargo on his receiving pension as a member during the period he functions as a Chairman. Once he ceased to function as a Chairman the embargo is lifted and he would be entitled to get pension as a member for the period during which he served as a member of the Haryana Public Service Commission. This, of course, will be subject to the ceiling prescribed under Regulation 9A. At the same time as the Chairman of the Haryana Public Service Commission, for the period of service rendered by him as Chairman, he would also get pension at the rate prescribed under Regulation 9A subject to the maximum. The appellant is, therefore, entitled to pension as a member for the service he rendered as a member prior to his appointment as Chairman subject to the maximum, as also pension as Chairman of the Haryana Public Service Commission calculated on the basis of the period during which he held office of the Chairman, subject to a maximum as laid down in Regulation

9A. The appeal is allowed accordingly. The impugned order of the High Court is set aside.

JUDIS