

PETITIONER:
VASANT GANGARAMSA CHANDAN

Vs.

RESPONDENT:
STATE OF MAHARASHTRA & ORS.

DATE OF JUDGMENT: 15/07/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIAK (J)

CITATION:
1996 SCALE (5)691

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.
Heard both sides.

This appeal by special leave arises from the judgment and order of the Bombay High Court, Aurangabad Bench made on November 11, 1993 in Writ Petition No.3505/93. The appellant was working as on April 1, 1957 as Peon-cum-Watchman in the Hyderabad Agricultural Committee. Consequent upon the State's reorganisation, the appellant had gone to and joined the service of the Krishi Utpadan Bazar Samiti at Jalna district. He retired from service on April 1, 1991 after completing about 35 years of service. His qualifying service was computed w.e.f. October 1, 1969. He claimed the service from the date of his appointment. It was denied on the ground that he started contributing towards Provident Fund w.e.f. the aforesaid date and, therefore his pensionary benefit required to be computed from that date.

Clause 23 of Chapter VI in the scheme reads as under:

"Qualifying service of a Market Committee employee shall commence from the date he takes charge of the post to which he is first appointed or from the date the employer started deducting the P.F. contribution for the employee which ever later.

A reading clearly indicates that the qualifying service is from the date he takes charge of the post to which he was first appointed or from the date the employer started deduction of provident fund from the employee, whichever is later. Pension is not a bounty of the State. It is earned by the employee for service rendered to fall back, after retirement. It is a right attached to the office and cannot be arbitrarily denied. Therefore, we read down the rule. We hold that reading the rule which is "later" must be read down to whichever is "earlier". If so read, the rule is

valid. Otherwise, it would be arbitrary offending Article 14 of the Constitution. Mr. Khanwilkar, learned counsel for the respondent contended that the appellant is not entitled to the D.A.; on the other hand, learned counsel for the appellant contended that pursuant to the order passed by the High Court to pay D.A. resolution had already been passed by the Committee and the D.A. has already been paid to him.

The pensionary benefit will be computed from April 1, 1957 within two months from the date of receipt of this order and payment of arrears be paid accordingly.

The appeal is allowed accordingly. No costs.

JUDIS