

VASANT GANGARAMSA CHANDAN  
v.  
STATE OF MAHARASHTRA AND ORS.

JULY 15, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Constitution of India, 1950 : Article 14.*

*Service Law—Pension—Hyderabad Agricultural Committee—Employee—Reorganisation of States—Joining service of Krishi Utpadan Bazar Samiti in Maharashtra—Retirement—Claim for qualifying service from date of initial appointment—Permissibility of—Pension scheme providing for computation of qualifying service from the date of first appointment or from the date employer started deducting P.F. contribution whichever occurred later—Held Rule whichever is 'later' must be read down to whichever is 'earlier'—So read the Rule is valid otherwise violative of Article 14—Held employee's qualifying service should be computed from the date of his initial appointment—Pension is not a bounty of State—It is a right attached to office and cannot be arbitrarily denied.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9860 of 1996.

From the Judgment and Order dated 9.11.93 of the Bombay High Court in W.P. No. 3505 of 1993.

S.K.C. Pasi for the Appellant.

A.M. Khanwilkar for the Respondents.

The following Order of the Court was delivered :

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. Con-

- A sequent 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 :

- C "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 whichever later."
- D 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 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
- E 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.