

A

RADHA KISHUN

v.

UNION OF INDIA AND ORS.

FEBRUARY 28, 1997

B

[K. RAMASWAMY AND SUJATA V. MANOHAR, JJ.]

*Service Law :*

C

*Superannuation—Recovery of amounts wrongly paid to employee—Employee remained in office for three years after the date of his superannuation—Department took action to recover the payments made to him as salary etc. during the period—Employee challenging the action on the ground that he had worked during the period—Claim rejected by Tribunal—Held, though the petitioner worked during the period but when he is not to continue in service as per law, he has no right to claim the salary—There is no illegality in the action taken by the authorities.*

D

E

*Lapse in taking timely steps to ensure retirement of an employee on attaining superannuation—Government directed to take appropriate disciplinary action against all persons concerned for their deliberate dereliction of duty in not ensuring petitioner's retirement on his attaining age of superannuation.*

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)  
Nos. 3721 of 1997.

F

From the Judgment and Order dated 26.11.96 of the Central Administrative Tribunal, Patna in O.A. No. 652 of 1995.

M.K. Dua for the Petitioner.

The following Order of the Court was delivered :

G

This is an astonishing and more shocking case. The petitioner who was, admittedly, to retire on May 31, 1991 remained in office till May 31, 1994 as if he was not to retire from service, enjoying all the benefits of service.

H

This special leave petition arises from the order of the Central

Administrative Tribunal, Patna Bench, made on November 26, 1996 in OA No. 652/95. The petitioner had joined the service in Tele Communications Department. Admittedly, his date of birth is May 13, 1933. On attaining the age of superannuation, he was to retire on May 31, 1991. Instead, he remained in service till May 31, 1994. When action was taken to recover the amounts paid to him for the period beyond the date he was to retire, viz., May 31, 1991 and to which he was not entitled, he filed OA in the Tribunal and the same has been dismissed. Thus, this special leave petition.

The learned counsel for the petitioner contends that since the petitioner has worked during the period, he is entitled to the payment of the pay and allowances from 1.6.1991 to 26.6.1994 and that he is also entitled to the payment of Provisional Pension, Death-cum-retirement gratuity, leave encashment, commutation of pension amount, GPF money and the amount deposited under CGHS on the plea that he retired from service on May 31, 1994. We are aghast to notice the boldness with which it is claimed that he is entitled to all the benefits with effect from the abovesaid date when admittedly he was to retire on May 31, 1991. It would be an obvious case of absolute irresponsibility on the part of the officer concerned in the Establishment in the concerned section for not taking any action to have the petitioner retired from service on his attaining superannuation. It is true that the petitioner worked during that period, but when he is not to continue to be in service as per law, he has no right to claim the salary etc. It is not the case that he was re-employed in the public interest, after attaining superannuation. Under these circumstances, we do not find any illegality in the action taken by the authorities in refusing to grant the benefits.

It is then contended that the petitioner would have conveniently secured gainful employment elsewhere and having worked, he cannot be denied of the legitimate salary to which he is entitled to. Though the argument is alluring, we cannot accept the contention and give legitimacy to the illegal action taken by the authorities. If the contention is given acceptance, it would be field day for manipulation with impunity and one would get away on the plea of equity and misplaced sympathy. It cannot and should not be given countenance.

Under those circumstances, we dismiss the petition with a direction to the Government of India to take appropriate disciplinary action against

- A all the persons concerned for their deliberate dereliction of duty in not ensuring the petitioner's retirement on his attaining the age of superannuation.

- B The Registry is directed to communicate this order to the Secretary, Telecommunications, Government of India. The Secretary is directed to ensure immediate action in the matter and submit the compliance report to the Registrar of this Court within three months from the date of the receipt of this order.

R.P.

Petition dismissed.