

State and ors Vs. Ravechi Dan

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Court : Rajasthan Jodhpur

Decided On : Nov-07-2013

Appellant : State and ors

Respondent : Ravechi Dan

Judgement :

D.B.CIVIL SPECIAL APPEAL (W) No.28/2006.

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State & ORS.versus Ravechi Dan .Date of Order :: 7th November 2013.

HON'BLE Mr.JUSTICE DINESH MAHESHWARI HON'BLE Mr.JUSTICE V.K.MATHUR Mr.I.S.Pareek, Govt.

Counsel, for the appellants.

Mr.R.K.Charan, for the respondent.

<><><> BY THE COURT: The learned counsel Mr.R.K.Charan, who had filed Vakalatnama on behalf of the sole respondent, submits on instructions that the respondent has expired about two years back.

The learned counsel Mr.Charan also informs that the fact of demise of the respondent has been duly taken note of in the pending criminal case in the Court

of the Special Judge, Anti Corruption Cases, Jodhpur.

Though the learned Government Counsel Mr.I.S.Pareek appearing for the appellants submits that the fact about demise of the respondent has been stated in this matter for the fiRs.time and seeks to complete his instructions but we find no reason to doubt the statement made by the learned counsel, who had been appearing for the respondent.

When this statement is taken into account with reference to the subject matter of this litigation, in our view, this appeal abates and cannot be proceeded further.

This appeal has been filed against the order dated 23.11.2005 as passed in S.B.Civil Writ Petition No.1002/1993: D.B.CIVIL SPECIAL APPEAL (W) No.28/2006.

State & ORS.versus Ravechi Dan // 2 // Ravechi Dan versus State of Rajasthan & ORS.whereby, a learned Single Judge of this Court has accepted the writ petition filed by the respondent on his grievance against denial of pension and other retiral benefits.

The learned Single Judge took note of the facts that the respondent was served with two charge-sheets by the Department bearing numbers 123/1990 and 179/1990 in which, he was not found guilty.

The respondent retired on 31.07.1991.

However, in the criminal case, challan was filed against him for the offences under Sections 13(1)(c) and 13(2) of the Prevention of Corruption Act.

It was the case of the present appellants that because of the pendency of judicial proceedings, pension and other terminal benefits could not be granted to the respondent.

The provisions contained in Rules 170 and 170-A of the Rajasthan Service Rules, 1951 were referred.

The learned Single Judge took note of the said provisions and held that the petitioner could not have been deprived of the terminal benefits including full pension.

It was, of course, taken note of by the learned Single Judge that the provisional pension had been released to the respondent.

A Division Bench of this Court, in the place, considered this appeal on 13.01.2006 and posed the question if the respondent was responsible for continuance of the criminal case.

It was given out before the Court on 05.04.2006 that the trial of the criminal case was held up on account of stay order passed by this Court in a Revision Petition preferred by the respondent against framing of charges and thus, the respondent was responsible for delay in conclusion of the trial D.B.CIVIL SPECIAL APPEAL (W) No.28/2006.

State & ORS.versus Ravechi Dan // 3 // and not the appellants.

While taking note of the submissions so made, this appeal was admitted for hearing and the operation of the order of the learned Single Judge was stayed.

Such a position has hitherto continued.

As noticed, the only reason for withholding of the pension and other terminal benefits of the respondent had been the pendency of the criminal case.

The learned Single Judge found no justification for withholding of the retiral benefits on the ground so stated.

In any case, when now the position is that the respondent has expired, the criminal case against him cannot be considered pending any longer.

In the given set of facts and circumstances, in our view, this appeal cannot be proceeded further and the appellants are required to take appropriate steps for releasing of the payable amount, lest the family of the respondent is made to suffer unnecessarily.

With the observations foregoing, this appeal stands dismissed.

(V.K.MATHUR).J.

(DINESH MAHESHWARI).J.

/Mohan/

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