

**G.C.Bhatt Vs. Uoi**

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**SooperKanoon Citation :** [sooperkanoon.com/921114](http://sooperkanoon.com/921114)

**Court :** Delhi

**Decided On :** Sep-15-2011

**Judge :** Pradeep Nandrajog; Sunil Gaur, Jj.

**Acts :** CCS Pension Rules - Rule 9

**Appeal No. :** WP(C) 6032/2007

**Appellant :** G.C.Bhatt

**Respondent :** Uoi

**Advocate for Def. :** Dr.Ashwani Bhardwaj, Adv.

**Advocate for Pet/Ap. :** Ms.Jyoti Singh; Mr.Amandeep Joshi, Adv.

**Judgement :**

1. Having completed 20 years' service, petitioner sought voluntary retirement. He claims not to have received any reply and on the plea that if within 3 months of his submitting application for being voluntarily retired the same was not rejected, he would be deemed to have retired. Instant petition came to be filed alleging that after he was formally released post acceptance of his application for being voluntarily retired, to the shock of his life, petitioner received a memo under Rule 9 of the CCS Pension Rules alleging misconduct of accepting illegal gratification in sum of `1,30,000/- to secure recruitment to a civilian and taking `70,000/- from his security aide and not returning the same.

2. Pleading grounds in the writ petition which relate to petitioner's entitlement to be voluntarily retired, which we note are nothing but an intention to mislead the Court, petitioner claims that inquiry cannot be held against him.

3. For the benefit of the petitioner we may note Rule 9 of the CCS Pension Rules:-

"9. Right of President to withhold or withdraw pension

(1) The President reserves to himself the right of withholding a pension or a gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and or ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any department or judicial proceedings, the petitioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pensions shall not be reduced below the amount of rupees three hundred and seventy-five Rupees Three thousand five hundred from 1-1-2006 per mensem.

(2)(a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service:

Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment,

(i) shall not be instituted save with the sanction of the President,

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

(3) Deleted

(4) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub- rule (2), a provisional pension as provided in Rule 69 shall be sanctioned.

(5) Where the President decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a Government servant.

(6) For the purpose of this rule,-

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date; and

(b) judicial proceedings shall be deemed to be instituted -

(i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognizance, is made, and

(ii) in the case of civil proceedings, on the date the plaint is presented in the Court."

4. Suffice would it be to state that the impugned memorandum issued to the petitioner to hold an inquiry on the listed charge is with the Presidential sanction.

5. The incidents relate to within preceding 4 years of petitioner retiring and thus the respondents are fully justified in investigating the matter.

6. We note that in terms of the interim orders passed by this Court the respondents were prohibited from taking a final decision in the matter and are given to understand that an inquiry has been completed.

7. Thus, declining the reliefs prayed for in the writ petition, we dismiss the writ petition permitting the respondents to take the inquiry to its logical conclusion and needless to state, if any penalty by way of cutting in pension is imposed upon the petitioner, he would be free to take appropriate action as per law.

8. No costs.