

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 113 OF 2019  
[@ SPECIAL LEAVE PETITION (C) NO. 22105 OF 2018]

I. K. MANIK

Appellant(s)

VERSUS

THE STATE OF KARNATAKA & ORS.

Respondent(s)

O R D E R

Leave granted.

Heard the learned counsel appearing for the parties at length.

This is a case which reflects how the appellant has been harassed by the State of Karnataka. He was appointed as Incharge Tutor in the year 1960. After rendering the services for more than 15 years, he was suspended in the year 1976. The Director of Health and Family Welfare revoked the suspension order on 13.12.1994 and a decision was taken to reinstate him. Thereafter, he was posted to Primary Health Centre, Ingalahalli, Hubli Taluk, Dharwad on 06.01.1995.

The Medical Officer, Inglahalli wrote a letter to Respondent No. 2 seeking his guidance regarding annual increments, leave and other benefits to the appellant. The appellant filed a representation, however, nothing was done. Ultimately, on attaining

the age of superannuation, the appellant retired from service on 31.05.1999. The appellant, thereafter, approached the State Government by way of an appeal under Rule 19 of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

The Medical Officer, Inglehalli, wrote a letter to the District Health and Family Welfare Officer on 11.01.2008 informing that pension of Rs. 1075/- per month was sanctioned and Rs. 35,456/- payable as Gratuity was withheld on account of the disciplinary action. As the pension was withheld, the appellant submitted a representation on 28.08.2011. Aggrieved by the inaction, the appellant filed an original application before the Tribunal praying for the relief of regularisation of the period of suspension from 01.03.1976 TO 13.12.1994 as the period spent on duty and release the pension and other benefits also. The Tribunal dismissed the original application on the ground of delay.

Aggrieved by the dismissal order of the Tribunal, the appellant approached the High Court by way of filing a Writ Petition, being W.P.(C) No. 107172 of 2017. The same has been decided by the impugned order dated 12.12.2017. The High Court has also dismissed the writ petition on the ground of delay.

We have heard the learned counsel for the parties at length. In our opinion, the original application

and the writ application filed by the appellant could not have been dismissed by the Tribunal and the High Court on the ground of delay. When the appellant had retired on attaining the age of superannuation in the year 1999, it was incumbent upon the respondent-State to regularise the period of suspension by passing the requisite order under the fundamental rules. That has not been done. It was a lapse on the part of the employer. The employer was required to regularise the aforesaid period as no punishment had been imposed and the appellant had been kept under suspension for the aforesaid period in question. Since the prayer of the appellant was confined to counting the period from the date of suspension to reinstatement i.e. 01.03.1976 to 13.12.1994 as spent on duty, we are of the view that once suspension has been revoked and the incumbent has been reinstated, obviously the period has to be counted as 'spent on duty' for the purpose of grant of service benefits available on retirement. Thus, the period has to be counted and his retiral dues, pension and other dues payable on retirement have to be worked out afresh and to be paid to the appellant as it was the fault of the respondent-State. The same shall be paid to the appellant from the date of superannuation along with interest at the rate of 10% per annum. Let the amount be calculated and paid to the appellant

positively within two months from today, failing which the same shall be treated as non-compliance of the order passed herein. Let compliance be reported to this Court immediately after two months.

The orders passed by the Tribunal as well as by the High Court are set aside and the appeal is allowed.

.....J.  
[ ARUN MISHRA ]

.....J.  
[ NAVIN SINHA ]

New Delhi;  
January 07, 2019.

ITEM NO.47

COURT NO.5

SECTION IV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 22105 of 2018

(Arising out of impugned final order dated 12.12.2017 passed by the High Court of Karnataka at Dharwad Bench in W.P.(C) No. 107172 of 2017)

I. K. MANIK

Appellant(s)

VERSUS

THE STATE OF KARNATAKA &amp; ORS.

Respondent(s)

(IA No.71265/2018-EXEMPTION FROM FILING O.T. )

Date : 07-01-2019 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Mr. Shailesh Madiyal, AOR  
Mr. Sudhanshu Prakash, Adv.

For Respondent(s) Mr. V. N. Raghupathy, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)  
COURT MASTER

(JAGDISH CHANDER)  
BRANCH OFFICER

(Signed order is placed on the file)