

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 19881 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 7740 OF 2017]

DR. NAZRUL ISLAM

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

SPECIAL LEAVE PETITION (C) NO. 7741 OF 2017

J U D G M E N T

KURIAN, J.

SLP (C) NO. 7740 OF 2017

1. Leave granted.
2. The appellant is before this Court challenging the Judgment dated 08.12.2015 passed by the High Court of Calcutta in WP CT No. 140 of 2015. The main contention of the appellant is that the disciplinary proceedings initiated against him cannot be continued once he has retired from service.
3. The learned senior counsel appearing for the Union of India and the State of West Bengal have invited our attention to Rule 6(1) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958 and submit that the departmental proceedings can be continued for the purpose of withholding the pension or gratuity, or both, either in full or in part,

whether permanently or for a specified period and even for recovery from pension or gratuity of the whole or in part if any pecuniary loss has been caused to the Central or State Government.

4. No doubt, such recovery is permissible only if the pensioner is found, in a departmental proceeding, to have been guilty of grave misconduct or to have caused pecuniary loss to the Central or State Government, by misconduct or negligence during his service, including the service rendered on reemployment after retirement. Rule 6(1), to the extent relevant, reads as follows :-

"The Central Government reserves to itself the right of withholding a pension or gratuity, or both, either in full or in part, whether permanently or for a specified period, and of ordering recovery from pension or gratuity of the whole or part of any pecuniary loss caused to the Central or a State Government, if the pensioner is found in a departmental or judicial proceedings to have been guilty of grave misconduct or to have caused pecuniary loss to the Central or a State Government by misconduct or negligence, during his service, including service rendered on re-employment after retirement;

Provided that no such order shall be passed without consulting the Union Public Service Commission."

5. Dr. Nazrul Islam, appellant, who is appearing in person, submits that in the Inquiry Report, a copy which was furnished to him during the pendency of these proceedings, there is no finding of any grave misconduct and, therefore, the proceedings cannot be continued in terms of Rule 6(1) referred to above. We are afraid, this contention cannot be appreciated at this stage.

6. Now that the Inquiry Report has been submitted, it is for the Central Government to take a decision as per the procedure prescribed under the Rules. Ultimately if the appellant is found guilty of a grave misconduct, then only the question of impact on pension arises and that stage has not arisen yet. These are all matters for the disciplinary authority to consider while passing final orders. In the facts of this case, we direct the Central Government to give an opportunity of hearing to the appellant before final orders on recovery, if any, are passed. It is for the appellant to raise all these contentions when the Central Government takes a decision under Rule 6(1).

7. In view of the above, the appeal is disposed of.

8. We further direct the Central Government, UPSC and the State Government to conclude the disciplinary proceedings expeditiously, taking note of the fact that the same commenced in the year 2012, and at any rate, within six months from today. It is made clear that in the unlikely event of such proceedings being not concluded within the said time, the disciplinary proceedings shall be deemed to have been dropped.

9. This period of six months shall stand extended in case the appellant asks for any extension of time, to that extent.

SLP (C) NO. 7741 OF 2017

In view of the Judgment passed in SLP (C) No. 7740 of 2017 above, no separate Judgment is required to be passed in this case. The same is, accordingly, disposed of in terms of the Judgment passed above.

.....J.
[KURIAN JOSEPH]

.....J.
[AMITAVA ROY]

New Delhi;
November 28, 2017.

ITEM NO.22

COURT NO.5

SECTION XVI

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(s) for Special Leave to Appeal (C) No(s). 7740/2017

(Arising out of impugned final judgment and order dated 08-12-2015 in WPCT No. 140/2015 passed by the High Court At Calcutta)

DR. NAZRUL ISLAM

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 3/2016
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 41623/2017)

WITH

SLP(C) No. 7741/2017 (XVI)

(FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 3/2016
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS ON IA 39524/2017)

Date : 28-11-2017 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Kalyan Bandopadhyay, Sr. Adv.
Mr. Kunal Chatterjee, Adv.
Mr. Saurav Gupta, Adv.
Mr. Chanchal Kumar Ganguli, AOR

Mrs. V. Mohana, Sr. Adv.
Mr. Shiv Mangal Sharma, Adv.
Mr. Sarad Kumar Singhania, Adv.
Mr. V. Balaji, Adv.
Mrs. Manjula Gupta, Adv.
Mr. S. S. Ray, Adv.
Mr. B. V. Balram Das, Adv.

Mr. Parijat Sinha, AOR

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

SLP (C) No. 7740 of 2017

Leave granted.

The civil appeal is disposed of in terms of the signed non-reportable Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

SLP (C) No. 7741 of 2017

In view of the Judgment passed in Civil Appeal No. 19881 of 2017 (@SLP (C) No. 7740 of 2017) above, this Special Leave Petition is disposed of.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)