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deceased. No effort has been made to examine any doctor by them, to show that the deceased had been attended to by them. The defence gives a lending assurance to the prosecution case that the deceased was in the company of the accused persons and it cannot be denied that it was Prem Singh who had taken the dead body of the deceased to Rajendra Hospital, Patiala. Dr. Mohinder Singh PW-1 vouchsafes that. DW-3 Gurmail Singh's saying that Amar Singh PW-6 did not come to his house is of no consequence, for he cannot be expected to be sitting all the time in his house. The accused have not taken the positive plea that the deceased did not meet her death by homicide or that she had met her death by suicide. They have calculatedly left it to conjectures. In our view, they were required to give an account of high probability as to how the deceased died when she was undeniably last seen in their company and she otherwise circumstantially was presumed to be in their company. They have failed to do so is another circumstance pointing to their guilt.

(30) To sum up, the prosecution has been able to prove the strong motive for the crime, the fact of the deceased being last seen alive in the company of the accused on the date of the occurrence, the defence taken by the accused being false, and the deceased dying an unnatural homicidal death. Thus, in our considered view, the prosecution has been able to establish its case and we find no reason to interfere in the conviction of the appellants Amarjit Singh and Prem Singh. The reasoning advanced by the learned trial Judge for acquitting Bimal Kaur may not be fully convincing but since he has taken that view, we would not upset it in the State appeal and we thus affirm her acquittal.

(31) The end result is that both these appeals fail and are hereby dismissed.

R.N.R.

Before D. V. Sehgal, J.

S. B. NARINDER SINGH,—Petitioner.

versus

STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 6379 of 1986

May 12, 1988

Punjab State Public Service Commission (Conditions of Service) Regulations, 1958—Regulation 8—Petitioner member of Indian

Administrative Service—Appointed as Member of Punjab Public Service Commission after retirement—Remained member of Punjab Public Service Commission till 1957—Petitioner—Whether entitled to pension.

Held, that a plain reading of Regulation 8(2) of the Punjab State Public Service Commission (Conditions of Service) Regulations, 1958 brings out that the purport of the same is that in case of a retired Government servant service as Members of the Commission shall not count as qualifying service for purposes of re-calculating his service at the expiry of his tenure of office as Member of the Commission. It is nowhere lays down that such a Member who at the time of his appointment as such had retired from government service shall not be entitled to pension under the Regulation. Regulation 8 is to be construed reasonably and petitioner is entitled to the grant of pension under sub regulation (3), the same is not to be denied to him by a misplaced reliance on the other provisions of the said regulations which have no applicability to his case. (Para 5)

Petition under Art. 226 of the Constitution of India praying that a writ of Certiorari, Mandamus or any other suitable Writ, Direction or Order be issued, directing the respondent:—

- (i) to produce the complete records of the case;
- (ii) to pay to the petitioner the pension as admissible under the rules ;
- (iii) this Hon'ble High Court may also grant all the consequential reliefs in the nature of arrears of pension/salary or any other relief to which the petitioner may be found entitled to after the decision of the present petition;
- (iv) the petitioner be exempted from filing the originals of annexures;
- (v) this Hon'ble High Court may also pass any other order which it may deem just and fit in the circumstances of the case;
- (vi) the costs of this writ petition may also be awarded to the petitioner.

J. L. Gupta, Sr. Advocate with Rajiv Atma Ram, Rakesh Khanna, T. S. Dhindsa, Arun Kathpalia, Pawan Mutieeja & Narinderjit Kaur, Advocates, for the Petitioners.

S. K. Sharma, A.A.G., for Punjab State.

Ashok Bhan Sr. Advocate with Ajay Mittal, Advocate, for U.T.

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JUDGMENT

D. V. Sehgal, J.—

(1) The petitioner is a nonagenarian. He was a member of the Indian Administrative Service (for short 'the Service'). He was due to retire from service away back in the year 1952. He initially made a claim in the petition that he was still a member of the Service when he was appointed as a Member of the Punjab Public Service Commission (for short 'the Commission') with effect from 11th November, 1952. On completion of his tenure he retired and ceased to be a Member of the Commission in the year 1957 after he attained the age of 60 years. He, therefore, made a claim that the period for which he remained a Member of the Commission should count as qualifying service rendered by him, the pension payable to him should be re-determined on its basis and respondent No. 1 should be directed to pay him the pension as admissible under the rules. In support of his claim, he relied on regulation 8 of the Punjab State Public Service Commission (Conditions of Service) Regulations, 1958 (for short 'the Regulations'), as amended,—*vide* notification dated 10th August, 1972, Annexure P. 2, which reads thus—

"8(1) In the case of a Member who at the time of his appointment was in the service of the Central or a State Government, Service as Member shall count for pension, under the rules applicable to the Service to which such Member belonged and unless the Member be a member of the Indian Civil or Administrative Service or entitled to a pension under Army Regulations, service as Chairman shall also count as service in the higher grade for the special additional pension and service as Member, as service in the lower grade for the special additional pension under rule 6.15 of the Civil Service Rules (Punjab) Vol. II, if he is governed by the old Pension Rules, in force prior to the 10th of June, 1961, or other rules applicable to him at the date of his appointment, to the Commission, in case provision for the grant of special additional pension is there in those rules.

(2) In the case of a retired Government servant, service as Member shall not count as qualifying service for the purpose of recalculating his pension at the expiry of his tenure of office as Member.

- 3(i) A Member, who at the date of his appointment as such was not in the service of the Central or a State Government shall, on his ceasing to hold office as such member, be paid a pension of four hundred rupees per month.

Provided that no such pension shall be payable to a Member—

- (a) unless he has completed not less than three years of service for pension as such Member; or
- (b) if he has been removed from office as such Member;
- (c) Pension under this sub-regulation shall be payable to a Member, for life.

Provided that no such pension shall be payable during any period for which such Member may, after his retirement as such, hold office as the Chairman or Member of the Union Public Service Commission or as the Chairman of the Punjab Public Service Commission or of any other State Public Service Commission.

Explanation.—Where a Member, who has completed not less than three years of service for pension, resign from his post and such resignation is accepted by the Governor, pension shall be payable to such Member in accordance with these Regulations.

- (3) In the said Regulations, after regulation 8, the following regulation shall be inserted, namely:—

- (8) (A) *Pension when not payable* :—(1) No pension shall be payable under these Regulations to a Member:—

- (i) who, at the date of his appointment as such, was in the service of a local body or any other body wholly or substantially owned or controlled by Government; or
- (ii) who, at the date of his appointment as such had retired from service under a local body or any other body wholly or substantially owned or controlled by Government if he is in receipt of, has received or has become entitled to receive, any retirement benefit by

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way of pension, gratuity, payment from any Contributory Provident Fund or otherwise, but such pension may at his option, come under the pension scheme under these Regulations, if the amount of the pension or the pension equivalent of the retirement benefits or both admissible to him in accordance with the rules and order of the service to which he belonged falls short of the amount of the pension admissible to him under these Regulations.

- (2) A Member holding office as such shall communicate the option referred to in sub-regulation (1) in writing to the Governor during his tenure as such Member, the option being once exercised being final;
- (3) If a Member exercising his option under this regulation has received any gratuity on retirement from his service under Local Body or any other body wholly or substantially owned or controlled by the Government, he shall refund:—
 - (i) the amount of the gratuity so received in lumpsum;
 - (ii) the pension, if any, drawn by him; and
 - (iii) whether the pension has been commuted, the value of the amount of pension so commuted.
- (4) If a Member exercising his option under this regulation has received any benefits of Contributory Provident Fund on retirement from the service under a Local Body or any other body wholly or substantially owned or controlled by the Government, he shall not become eligible for pension under those Regulations unless he refunds in lumpsum the Government's or employers' contribution, as the case may be, with interest thereon, together with other retirement benefit, if any, received by him".

(2) The petitioner has thus claimed that in view of the provisions of sub-regulation (1) *ibid* his service as a Member of the Commission should count towards the qualifying service for purposes of determination of his pension.

(3) The respondent, however, opposed the petition and in the written statement it was averred that the petitioner retired from

service on 26th July, 1952. It was after his retirement that he was appointed a Member of the Commission on 10th December, 1952. Therefore, in view of the provisions of sub-regulation (2) *ibid* the service of the petitioner as Member of the Commission is not to count as qualifying service for the purpose of recalculating his pension at the expiry of his tenure of office as a Member. During the course of arguments before me Mr. S. K. Sharma, Assistant Advocate-General, Punjab, produced the papers regarding sanction of pension to the petitioner which clearly mention that he retired from service on 26th July, 1952. At this, Mr. Jawahar Lal Gupta, Senior counsel appearing for the petitioner candidly admitted that he cannot sustain his claim under sub-regulation (1) *ibid*. He, however, submitted that the petitioner is entitled to grant of pension under sub-regulation (3) of regulation 8 *ibid*, which provides that a Member who at the time of his appointment as such was not in Government service shall on his ceasing to hold office as such Member be paid a pension of Rs. 400 per month. The learned counsel for the respondents, however, contended that the petitioner is not entitled to grant of any pension under sub-regulation (3) *ibid* for the reason that he was a retired Government servant.

(4) I have considered the rival contentions of the learned counsel for the parties. I am of the view that the petitioner is entitled to maintain his claim for pension under sub-regulation (3) of regulation 8 *ibid*. Two-fold objection was raised by the respondents to this claim of the petitioner. Firstly, it was submitted that sub-regulation (2) of regulation 8 clearly provides that a retired Government servant is not entitled to grant of pension. Secondly, regulation 8(A) (ii) lays down that a Member of the Commission who at the time of his appointment as such had retired from service under a Local Body or any other Body wholly or substantially owned or controlled by Government if he is in receipt of, has received or has become entitled to receive, any retirement benefit by way of pension, gratuity etc., he is simply entitled at his option to get pension under regulation 8(3) if the pensionary and other retirement benefits admissible to him on retirement from service of such a body fell short of the amount of pension admissible to him under the aforesaid regulation. Learned counsel for the respondents contends that when both the aforesaid provisions are read together, it is made evident that a Member of the Commission who was appointed as such after his retirement from Government service is not entitled to the pension under sub-regulation (3) of regulation 8 *ibid*.

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(5) I am, however, not impressed by the above contention of the learned counsel for the respondents. A plain reading of regulation 8(2) *ibid* brings out that the purport of the same is that in case of a retired Government servant service as Member of the Commission shall not count as qualifying service for purposes of re-calculating his service at the expiry of his tenure of office as Member of the Commission. It nowhere lays down that such a Member would not be entitled to pension under the Regulations if it is otherwise admissible for his tenure as Member of the Commission. Likewise, regulation 8(A) (ii) simply states that no pension shall be payable under the Regulations to a Member who, at the date of his appointment as such had retired from service under a Local Body or any other Body wholly or substantially owned and controlled by the Government. It is nowhere laid down that a Member who at the date of his appointment as such had retired from Government service shall not be entitled to pension under the Regulations. Therefore, regulation 8(A) (ii) cannot be unreasonably stretched to deny the right to grant of pension to the petitioner under regulation 8(3). Regulation 8 *ibid* is to be construed reasonably and if the petitioner is entitled to the grant of pension under sub-regulation (3), the same is not to be denied to him by a misplaced reliance on the other provisions of the said regulation which have no applicability to his case.

(6) It could not be disputed before me that after his retirement from service on 26th July, 1952, the petitioner was not in the service of Central or State Government when he was appointed a Member of the Commission on 10th December, 1952. There can, therefore, be no doubt whatsoever that he is entitled to grant of pension under sub-regulation (3).

(7) In view of the law laid down in *D. S. Nakara and others v. Union of India* (1) the ratio of which was applied by I. S. Tiwana, J. in *Bhagat Ram Sharma v. Union of India and others*, (2), the petitioner is entitled to grant of pension under regulation 8(3) *ibid* in spite of the fact that he ceased to be a Member of the Commission nearly 15 years before the aforesaid provision was introduced in the year 1972.

(1) A.I.R. 1983 S.C. 130.

(2) 1985(1) S.L.R. 481.

(8) In view of the above discussion, I allow this writ petition with costs and direct respondent No. 1 to grant to the petitioner pension under regulation 8(3) of the Regulations with effect from 10th August, 1972 at the rate of Rs. 400 per month and at such revised rates which were sanctioned from time to time. The arrears of pension from 10th August, 1972 till today should be paid to the petitioner along with interest at the rate of 12 per cent per annum within two months from today. The costs are assessed at Rs. 500.

S.C.K.

Before M. M. Punchhi and M. R. Agnihotri, JJ.

DALJIT KAUR AND ANOTHER,—*Petitioners.*

versus

MUNICIPAL CORPORATION OF AMRITSAR AND ANOTHER,—
Respondents.

Civil Writ Petition No. 5134 of 1988

June 10, 1988.

Land Acquisition Act (I of 1894)—S. 4 and 17(1)—Punjab,

*Municipal Corporation Act (XLII of 1976)—S. 170 and 171—
Notification under Section 4 invoking urgency provisions—Ground
for invoking urgency provisions—Sufficiency of such grounds—
No attempt made under Section 170 of the Municipal Act—Right of
State to act under Section 171.*

Held, that the widening of streets and providing of parking places, beautification and redevelopment of the area around the Golden Temple Complex is one facet of the acquisition. Besides, it has been viewed that it would be serving the purpose of preserving and improving peace, law and order and safety of the public. This purpose i.e., for preserving and improving peace, law and order and safety of public would be dear to every citizen of the country and the public at large. 'Individual good' must make way to 'public good' and all sentimentality and all the cry for commercial convenience etc. must drown before the larger cry for improvement of peace, law and order and safety of the public. The contention of the petitioner that purposes of acquisition are hardly covered under the urgency provisions of Section 17 of the Land Acquisition Act, 1894, is rejected. (Para 5)