

A GURMESH PRAKASH BISHNOI
v.
STATE OF HARYANA AND ORS.

MAY 5, 1998

B [MRS. SUJATA V. MANOHAR AND G.B. PATTANAİK, JJ.]

Haryana Public Service Commission (Condition of Service) Regulations, 1972: Regulation (A(1))—Proviso.

C *Haryana Public Service Commission—Appointment of appellant as Member—Appointment of appellant-member as Chairman subsequently—Entitlement to pension—whether on the basis of service as Chairman or also on the basis of service as member—Held the appellant is entitled to pension as a member for the service he rendered as a member prior to his appointment as Chairman subject to the maximum, as also pension as Chairman of the*
D *Haryana Public Service Commission calculated on the basis of the period during which he held office of the Chairman, subject to maximum as laid down in Regulation 9A.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2723 of 1998.

E From the Judgment and Order dated 29.8.97 of the Punjab & Haryana High Court in C.W.P. No. 12291 of 1997.

B.S. Malik and K.S. Chauhan for the Appellant.

Ms. Nandini Gore and Prem Malhotra for the Respondents.

F The following Order of the Court was delivered :

Special leave granted.

Heard both sides. The appellant was appointed as member of the Haryana Public Service Commission with effect from 4.3.80. He continued as a member
G of the Haryana Public Service Commission till 28.8.84 when he was appointed as Chairman of the Haryana Public Service Commission. He continued as a Chairman of the Haryana Public Service Commission for a period of six years up to 27.8.90. The appellant was granted pension at the rate of Rs. 1,800 per month for his services as Chairman of the Haryana Public Service Commission.

H The appellant contends that in addition, he is also entitled to pension

for his services as a member of the Haryana Public Service Commission for a period of 4 years, 5 months and 24 days. The relevant Regulation of the Haryana Government known as the Haryana Public Service Commission (Conditions of Service) Regulations, 1972 is Regulations 9A(1). The relevant portion of Regulations 9A is as follows :

9A(1) : "Subject to the provisions of these regulations, every person, who, on or after the 1st day of November, 1966. Ceases to hold the office of the Chariman or the Member, shall, with effect from the 1st December, 1973 or the date of his ceasing to hold the office, whichever is later, be entitled to pension for his life at the rate of two hundred rupees per month for each completed year of service as the Chariman or the Member, as the case may be, rendered after the 31st day of October, 1966. Subject to a maximum of eight hundred and fifty rupees and seven hundred and fifty rupees per month respectively;

.....
.....

Provided further that no pension shall be payable during the period for whichthe Member may, after his retirement as such, hold office as.....the Chariman of H.P.S.C. or of any other State Public Service Commission."

The quantum of pension has since been revised to Rs. 250 per month for a member and Rs. 300 per month for the Chairman. The maximum quantum of pension has also been revised to Rs. 1,800 per month in the case of the Chairman and Rs. 1,500 per month in the case of a member. The appellant is entitled to the benefit of the revised amount.

Under Rule 9A(1) two separate ceilings are provided; one for the pension of a Chairman and the other for the pension of a member. The question is whether a person who has acted both as a member and subsequently as a Chairman, will be entitled to a pension only on the basis of his services as a Chairman or whether he will also be entitled to a separate pension on the basis of his services as a member of the Haryana Public Service Commission. Under the Union Public Service Commission (Members) Regulations 1969, there is an express provision contained in Explanation (II) to Regulation 9 which provides that when the total service for pension is rendered by a person, partly as a member and, partly as a Chairman, the pension, partly as

- A a member and, partly as a Chairman, the pension admissible to such person shall be the aggregate of the pension calculated separately for each such term as a member and as a Chairman. In the Haryana Public Service Commission (Regulations) 1972 there is no such express provision. However, the proviso to Rule 9A throws some light on the manner in which the pension is to be calculated. Under the proviso, when a member of the Haryana Public Service Commission retires as a member, he would be entitled to pension as a member. However, if he thereafter holds office (inter alia) as the Chairman of the Haryana Public Service Commission, he will not get any pension during the period for which he holds office as Chairman. There is an embargo on his receiving pension as a member during the period he functions as a Chairman.
- B Once he ceases to function as a Chairman the embargo is lifted and he would be entitled to get pension as a member for the period during which he served as a member of the Haryana Public Service Commission. This, of course, will be subject to the ceiling prescribed under Regulation 9A. At the same time as the Chairman of the Haryana Public Service Commission, for the period of service rendered by him as Chairman, he would also get pension at the rate prescribed under Regulation 9A subject to the maximum. The appellant is, therefore, entitled to pension as a member for the service he rendered as a member prior to his appointment as Chairman subject to the maximum as also pension as Chairman of the Haryana Public Service Commission calculated on the basis of the period during which he held office of the Chairman, subject to a maximum as laid down in Regulation 9A. The appeal is allowed accordingly.
- C The impugned order of the High Court is set aside.

T.N.A.

Appeal allowed.