



\$~31

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: 13th October, 2023

+ **W.P.(C) 13558/2023 & CM APPL.53576-53578/2023**

KHIMJI BHAI Petitioner

versus

UNION OF INDIA AND ORS. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Krishna Kumar Yadav with
Mr.Aakash Malik and Mr. Abhishek
Singh, Advocates.

For the Respondents: Mr. Sanjay Kumar, SPC for UOI.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks quashing of order dated 20.09.1999 whereby the request of the petitioner seeking resignation from service has been accepted without any pensionary benefits.

2. Petitioner had joined the Border Security Force as a Constable on 03.07.1987. On 20.09.1999, as per the petitioner, on account of personal and family problems, petitioner tendered his resignation, which was accepted. However, no pensionary benefits were granted



to the petitioner.

3. Petitioner thereafter made several representations, however, they have not been allowed.

4. Learned counsel for the petitioner submits that petitioner had resigned on account of certain personal reasons and had already put in qualifying service of 10 years.

5. Learned counsel for the petitioner relies on the decision of the Kerala High Court dated 11.08.2023 in W.P.(C) 28475/2014 titled *P.P. Jose vs. Union of India* to contend that he is entitled to the pension for the service already rendered.

6. We are unable to accept the contentions of learned counsel for the petitioner for the reason that Rule 26 of the CCS (Pension) Rules, 1972 specifically provides that resignation from service or a post entails forfeiture of past service.

7. In the case of petitioner, he admittedly had tendered his resignation on 20.09.1999 which was accepted with effect from the same date. The order accepting his resignation dated 20.09.1999 records that his request for resignation has been accepted without any pensionary benefits.

8. In any event, in terms of Rule 26 of the CCS (Pension) Rules, 1972 when a Government servant resigns from service or a post, he forfeits his entire past service. Forfeiture of past service entails that there is no qualifying service left for computing or calculating the



pensionary benefits.

9. In the case of the petitioner, since he has resigned voluntarily, there is automatic forfeiture of pension.

10. Reliance placed by learned counsel for the petitioner on the judgment of the Kerala High Court in *P.P. Jose vs. Union of India* is misplaced for the reason that in the case of *P.P. Jose (supra)*, he had been discharged from service after putting in qualifying service and the order of dismissal and removal did not specify that the pensionary benefits shall be forfeited. In those circumstances, the Kerala High Court granted pensionary benefits to him.

11. The facts of the case of the petitioner are clearly distinguishable from the facts in *P.P. Jose (supra)*. Accordingly, the said judgment is not applicable to the facts of the present case.

12. In view of the above, we find no merit in the petition.

13. Petition is, consequently, dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

OCTOBER 13, 2023

st