A

UNION OF INDIA AND ORS.

v.

BRAJ NANDAN SINGH

OCTOBER 19, 2005

B

[ARIJIT PASAYAT AND DR. AR. LAKSHMANAN, JJ.]

Service Law: Central Civil Service Pension Rules—Rule 26(1)—Resignation of employee—Pensionary benefits—Entitlement of—Held: Under
C *Rule 26(1) past service stands forfeited on resignation and is excluded from the qualifying period of service for receiving pension—Under Rule 26(2) resignation does not entail in forfeiture of past service when it is sought for seeking another appointment under the Government where service qualifies—On facts, section 26(2) not attracted and since the employee did not have qualifying period of service, he is not entitled to pension and as such order*
D *of Tribunal and High Court set aside.*

Interpretation of statutes: Legislative intention—Determination of—Held: Is determined from language employed in a statute—Court cannot read anything into a statutory provision which is plain and unambiguous—Attention is to be paid to what has been said as also to what has not been said—
E *Construction which requires for its support, addition or substitution of word or which results in rejection of words as meaningless is to be avoided—Rule of Construction.*

Respondent-temporary sorter with Railway Mail Service tendered
F **his resignation and the same was accepted. However, the respondent filed application for grant of pension after 21 years and was denied pension since by Rule 26(1) of the Central Civil Services Pension Rules his past service stood forfeited on resignation. Respondent filed an application. Tribunal held that the forfeiture of past service was not sustainable and as such he cannot be denied pension. High Court upheld the order. Hence**
G **the present appeal.**

Respondent-employee contended that the entitlement of pension flows from the Rules; that Rule 26 cannot be pressed into service to deny the benefits; and that Rule 26(2) provides an escape route to the forfeiture of past service.

H

Allowing the appeal, the Court A

HELD: 1.1. Rule 26 of the Central Civil Services Pension Rules in clear terms provides that resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the Appointing Authority, entails forfeiture of past service. The language is couched in mandatory terms. However, sub-rule (2) is in the nature of an exception B which provides that resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies. Admittedly this is not the case in the instant appeal. [360-D] C

1.2. The effect of Rule 26 sub-rules (1) and (2) cannot be lost sight of while deciding the question of entitlement of pension. The language of Rule 26 sub-rule (1) and (2) is very clear and unambiguous. All the provisions of a statute have to be read together and no particular provision should be treated as superfluous. In terms of Rule 26 sub-rule (1) the past D service stands forfeited after the acceptance of resignation, and has to be excluded from the period of qualifying service. That being so, for the purpose of deciding entitlement to pension the respondent did not have the qualifying period of service and as such is not entitled to grant of pension. Further, it cannot be said that Rule 26 sub-rules (1) and (2) have limited operation and do not wipe out entitlement to pension as quantified E in Rule 49. Said Rule deals with amount of pension and not with entitlement. [360-F, G, H; 361-A]

2.1. The Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the Legislature. The F language employed in a statute is the determinative factor of legislative intent. Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the Legislature enacting it. The intention of the Legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a G consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided. [361-B, C]

Institute of Chartered Accountants of India v. *M/s Price Waterhouse and Anr.*, **AIR (1998) SC 74**; *The State of Gujarat and Ors.* v. *Dilipbhai Nathjibhai* H

A *Patel and Anr.*, **JT (1998) 2 SC 253, relied on.**

Union of India and Ors. **v.** *Filip Tiago De Gama of Vedem Vasco De Gama,* **AIR (1990) SC 981;** *Dr. R. Venkatchalam and Ors. etc.* **v.** *Dy. Transport Commissioner and Ors. etc.,* **AIR (1977) SC 842 and** *Maulavi Hussein Haji Abraham Umarji* **v.** *State of Gujarat and Anr.,* **AIR (2004) SC**
B **3946, referred to.**

Crawford **v.** *Spooner,* **(1846) 6 Moore PC 1 and** *Lenigh Valley Coal Co.* **v.** *Yensavage,* **218 FR 547, referred to.**

2.2. It is contrary to all rules of construction to read words into an
C **Act unless it is absolutely necessary to do so. Rules of interpretation do not permit Courts to do so, unless the provision as it stands is meaningless or of doubtful meaning or unless clear reason for it is to be found within the four corners of the Act itself. [361-E]**

Jamma Masjid, Mercara **v.** *Kodimaniandra Deviah and Ors.,* **AIR**
D **(1962) SC 847, referred to.**

Stock **v.** *Frank Jones (Tiptan) Ltd.,* **[1978] 1 All E R 948(HL), referred to.**

E CIVIL APPELLATE JURISDICTION : Civil Appeal NO. 4406 of 2005.

From the Judgment and Order dated 17.4.2003 of the Patna High Court in C.W.J.C. No. 3812 of 2003.

Harish Chandra, Shailendra Sharma, V.K. Verma and Shreekant N.Terdal
F for the Appellants.

Saket Singh and Ms. Niranjana Singh for the Respondent.

The Judgment of the Court was delivered by

ARIJIT PASAYAT, J. Challenge in this appeal is to the judgment
G rendered by a Division Bench of the Patna High Court holding that respondent is entitled to pension under the Central Civil Services Pension Rules (in short the 'Rules'). The view expressed by the Central Administrative Tribunal about the respondent's entitlement to suspension was upheld.

H The undisputed factual background is as follows:-

The respondent was serving as a temporary Sorter on being appointed by the Superintendent, Railway Mail Service, 'U' Division, Muzaffarpur w.e.f. 14.10.1959. He was posted in the office of SRO Sonepur. He tendered his resignation on 16.5.1977 to contest election to Bihar Legislative Assembly. The resignation was accepted by letter dated 17.5.1977. Long after the resignation was accepted i.e. nearly after about two decades, the respondent filed a representation before the Chief Post Master General, Bihar Circle, Patna for grant of pension. The same was rejected on the ground that since the respondent had resigned, by operation of Rule 26(1) of the Rules his past service stood forfeited and, therefore, he was not entitled to any pension. The decision was communicated by the Assistant Director, Bihar Circle, Patna. An application under Section 19 of the Administrative Tribunal Act, 1985 was filed before the Patna Bench of the Central Administrative Tribunal (in short the 'Tribunal'). The Tribunal by its order dated 14.3.2001 held that the forfeiture of past service was not sustainable in law. It was held that by operation of Rule 26 the benefit available to a retired government servant cannot be denied on the purported ground of forfeiture of past service. It was noticed that though the original application was filed after about 21 years from the date of acceptance of resignation same cannot be a ground to deny the benefits. The appellants filed a writ petition before the Patna High Court questioning correctness of Tribunal's decision. The High Court by its order dated 17.4.2003 held that to receive retirement benefits is a right of service which is inherent, and Rules should not be torn out of context to deny post retirement benefits.

In support of the appeal learned counsel for the appellants submitted that Rule 26(1) in clear terms postulates about forfeiture of past service in case of resignation. Once the past service is forfeited the qualifying period for receiving pension does not exist. Therefore, the Tribunal and the High Court were not justified in their views.

In response, learned counsel for the respondent submitted that the entitlement of pension flows from the Rules. There are specific provisions under which pensionary benefits can be denied. Rule 26 cannot be pressed into service to deny the benefits. He submitted that Rule 26(2) provides an escape route to the forfeiture of past service. Merely because after acceptance of resignation the employee did not take up another appointment under Government that would not take away the right to receive pension flowing from the Rules.

A In order to appreciate rival submissions Rule 26 which is the pivotal provision needs to be quoted. The same reads as under:

> "26. *Forfeiture of service on resignation*
>
> (1) Resignation from a service or post, unless it is allowed to be
> B withdrawn in the public interest by the Appointing Authority, entails forfeiture of past service.
>
> (2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government
> C where service qualifies."

Rule 26 as the heading itself shows relates to forfeiture of service on resignation. In clear terms it provides that resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the Appointing Authority, entails forfeiture of past service. The language is
D couched in mandatory terms. However, sub-rule (2) is in the nature of an exception. It provides that resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies. Admittedly this is not the case in the present appeal. Rule
E 5 on which great emphasis was laid down by the learned counsel for the respondent deals with regulation of claims to pension or family pension. Qualifying service is dealt with in Chapter III. The conditions subject to which service qualifies are provided in Rule 14. Chapter V deals with classes of pensions and conditions governing their grant. The effect of Rule 26 sub-
F rules (1) and (2) cannot be lost sight of while deciding the question of entitlement of pension. The High Court was not justified in its conclusion that the rule was being torn out of context. After the past service is forfeited the same has to be excluded from the period of qualifying service. The language of Rule 26 sub-rules (1) and (2) is very clear and unambiguous. It is trite law that all the provisions of a statute have to be read together and
G no particular provision should be treated as superfluous. That being the position after the acceptance of resignation, in terms of Rule 26 sub-rule (1) the past service stands forfeited. That being so, it has to be held that for the purpose of deciding question of entitlement to pension the respondent did not have the qualifying period of service. There is no substance in the plea of the
H leaned counsel for the respondent that Rule 26 sub-rules (1) and (2) has limited operation and does not wipe out entitlement to pension as quantified

in Rule 49. Said Rule deals with amount of pension and not with entitlement. A

It is well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of legislative intent.

B

Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the Legislature enacting it. (See *Institute of Chartered Accountants of India* v. *M/s Price Waterhouse and Anr.*, AIR (1998) SC 74). The intention of the Legislature is primarily to be gathered from the language used, which means C that attention should be paid to what has been said as also to what has not been said. As a consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided. As observed in *Crawford* v. *Spooner* (1846 (6) Moore PC 1), Courts, cannot aid the Legislatures' defective phrasing of an Act, we cannot add or mend, and by construction make up deficiencies D which are left there. (See *The State of Gujarat and Ors.* v. *Dilipbhai Nathjibhai Patel and Anr.*, JT (1998) 2 SC 253). It is contrary to all rules of construction to read words into an Act unless it is absolutely necessary to do so. (See *Stock* v. *Frank Jones (Tiptan) Ltd.*, [1978] 1 All ER 948 (HL). Rules of interpretation do not permit Courts to do so, unless the provision as it stands E is meaningless or of doubtful meaning. Courts are not entitled to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself. (Per Lord Loreburn L.C. in *Vickers Sons and Maxim Ltd.* v. *Evans* (1910) AC 445 (HL), quoted in *Jamma Masjid, Mercara* v. *Kodimaniandra Deviah and Ors.*, AIR (1962) SC 847).

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The question is not what may be supposed and has been intended but what has been said. "Statutes should be construed not as theorems of Euclid". Judge Learned Hand said, "but words must be construed with some imagination of the purposes which lie behind them". (See *Lenigh Valley Coal Co.* v. *Yensavage* 218 FR 547). The view was re-iterated in *Union of India and Ors.* G v. *Filip Tiago De Gama of Vedem Vasco De Gama,* AIR (1990) SC 981.

In *Dr. R. Venkatchalam and Ors. etc.* v. *Dy. Transport Commissioner and Ors. etc.* AIR (1977) SC 842, it was observed that Courts must avoid the danger of a priori determination of the meaning of a provision based on their own pre-conceived notions of ideological structure or scheme into which the H

A provision to be interpreted is somewhat fitted. They are not entitled to usurp legislative function under the disguise of interpretation.

The above position was highlighted by this Court in *Maulavi Hussein Haji Abraham Umarji* v. *State of Gujarat and Anr.*, AIR (2004) SC 3946.

B The High Court's judgment affirming the order of the Tribunal cannot be sustained and deserves to be set aside which we direct. The appeal is allowed but without any order as to costs.

N.J. Appeal allowed.