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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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1 BSES Yamuna Power Ltd. v. Sh. Ghanshyam Chand Sharma & Anr.

2 Ravinder Mandal Vs. M/s D.L.F. Universal Ltd.

3 Rakesh Kumar Saini v. The Power Finance Corporation Ltd.

4 Jyoti Devi Versus Suket Hospital & Ors.

5 Madhu vs The State Of Kerala



Does resignation forfeit past service and pension eligibility?

CONTEXT: The first respondent, Ghanshyam Chand Sharma, was employed by the appellant, BSES Yamuna Power Ltd., and resigned in 1990 after a period of service that was potentially sufficient for voluntary retirement. He was denied pensionary benefits on the grounds that he had not completed twenty years of service and that his resignation constituted a forfeiture of past service. The High Court of Delhi ruled in favour of the respondent, granting him pensionary benefits. The appellant appealed against this decision to the Supreme Court.

1 The Supreme Court allowed the appeal, overturning the High Court's decision.

2 The Court determined that, regardless of whether the respondent had completed twenty years of service, his resignation resulted in the forfeiture of his past service according to the applicable rules, making him ineligible for pensionary benefits.

3 The Court emphasised the distinct legal consequences of resignation and voluntary retirement, rejecting the argument that the respondent's resignation should be reclassified as voluntary retirement as per Rule 26 of the Central Civil Service Pension Rules 1972.

PRECEDENTS:

**SENIOR DIVISIONAL MANAGER, LIC V. SHREE LAL MEENA
(2019) 4 SCC 479**

**BSES YAMUNA
POWER LTD. V. SH.
GHANSHYAM
CHAND SHARMA &
ANR.**
**[(2019) 14 S.C.R.
546]**

**RULE 26 OF THE
CENTRAL CIVIL
SERVICE PENSION
RULES 1972**

Whether the claimant is workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947?

CONTEXT: Ravinder Mandal, employed as a “Senior Foreman” with D.L.F Universal Ltd. since 2007, was transferred from Delhi to Chennai in 2017. Mandal refused to comply with the transfer, citing personal reasons. He argued that the transfer amounted to an unlawful termination, claiming that it was a result of his refusal to assist a superior in exchanging currency during the demonetization period. He claimed to be a “workman” as per the Industrial Disputes Act and sought relief for his alleged wrongful termination. D.L.F. Universal Ltd. argued that the transfer was valid, citing administrative reasons and a clause in Mandal's appointment letter allowing for transfers across India. The company denied terminating Mandal's services and claimed he was not a “workman” as defined by the Industrial Disputes Act because of his supervisory role.

① The court dismissed Mandal's claim, ruling in favour of D.L.F. Universal Ltd.

② The court determined that the transfer was valid, considering the company's right to transfer employees and the pre-existing clause in Mandal's appointment letter.

③ Mandal's refusal to comply was deemed unjustified, especially since the company offered to cover transfer-related expenses.

④ The court also found that Mandal did not provide sufficient evidence to support his claim of malicious intent behind the transfer.

RAVINDER
MANDAL VS. M/S
D.L.F. UNIVERSAL
LTD.
[2024 SCC ONLINE
DEL 7699]

SECTION 2(s) OF
THE INDUSTRIAL
DISPUTES ACT,
1947

Can the court order early cancellation and refund of 54EC Capital Gain Tax Exemption Bonds before the 5-year lock-in period?

CONTEXT: The Petitioner, Mr. Rakesh Kumar Saini, invested Rs. 48 lakhs in PFC bonds under Section 54EC of the Income Tax Act, 1961, aiming to avail capital gains tax exemption. He later realized he could have achieved the same exemption by using the funds to purchase a new property. Consequently, he requested the Respondent, Power Finance Corporation Ltd, to cancel the bonds and refund his investment. The Respondent refused, citing the absence of a premature redemption procedure and the mandatory 5-year lock-in period. This refusal led the Petitioner to file a writ petition seeking a court order for the cancellation and refund.

- 1 The writ petition was dismissed.
- 2 The court ruled against the Petitioner's request for premature cancellation and refund of the 54EC bonds.
- 3 The court emphasized that the 5-year lock-in period is a statutory requirement under Section 54EC of the Income Tax Act and is integral to the scheme's objective of encouraging long-term investment.
- 4 Permitting premature redemption would contravene this legislative intent and contractual terms.

RAKESH KUMAR
SAINI V. THE
POWER FINANCE
CORPORATION LTD
[W.P.(C)
12196/2024]

SECTION 54EC OF
THE INCOME TAX
ACT, 1961

When is the egg shell skull rule applicable in medical negligence cases?

CONTEXT: Jyoti Devi underwent an appendectomy at Suket Hospital. Post-surgery, she experienced persistent pain and was later found to have a needle retained in her abdomen. She filed a claim for compensation, alleging medical negligence and deficient services. The District Forum awarded her ₹5,00,000. The State Commission reduced the compensation to ₹1,00,000. The NCDRC, while acknowledging the hospital's negligence and the patient's prolonged suffering, awarded a compensation of ₹2,00,000. The claimant appealed to the Supreme Court seeking enhancement of the compensation.

1 The SC stated that “The respondents are not the ones who have approached this Court. As such, we are only required to examine the sufficiency of compensation as awarded by way thereof. The same, though, cannot be appositely done without having appreciated pronouncements of this Court on the scope and purpose of the Consumer Protection Act, medical negligence, and compensation in such cases as also the rule of tort law known as the ‘eggshell skull’ rule.”

2 In simple terms, a person who has an eggshell skull is one who would be more severely impacted by an act, which an otherwise “normal person” would be able to withstand. Hence the term eggshell to denote this as an eggshell is by its very nature, brittle.

3 The Supreme Court overturned the NCDRC and State Commission awards, restoring the District Forum’s award of ₹5,00,000 with 9% simple interest from the date of the District Forum’s award, plus ₹50,000 as litigation costs.

4 The Court found the NCDRC and State Commission’s rationale for reducing the compensation questionable, given the hospital’s admitted negligence, deficient service, and the patient’s prolonged suffering.

JYOTI DEVI V. SUKET
HOSPITAL & ORS.
[2024 LIVELAW (SC)
320]

SECTION 12 OF THE
CONSUMER
PROTECTION ACT,
1986

Sexual harassment need not be proved beyond reasonable doubt and can be established on the basis of a preponderance of probabilities

CONTEXT: The case involves the appeal of Madhu, a temple priest, against his conviction for the repeated sexual assault of a minor girl. Madhu had taken in a woman and her three children after they were abandoned by her husband. While they lived together, Madhu repeatedly sexually assaulted the eldest daughter, often in the presence of her siblings. The abuse was discovered when police found the family wandering, and the eldest daughter disclosed the assaults. The victim's testimony was corroborated by her brother and medical evidence. Despite the accused's denial of knowing the family, substantial evidence contradicted this claim. Although the exact age of the victim could not be definitively established, the court acknowledged she was a school-aged child and treated her as a minor. The accused was convicted under Section 376(1) of the Indian Penal Code (IPC) and sentenced to life imprisonment.

1 The Kerala High Court upheld the conviction and life sentence of the accused under Section 376(1) IPC. The court found the victim's testimony credible and supported by corroborative evidence, including her brother's statements and medical findings. The court dismissed the defence's argument that joint charges under the POCSO Act and IPC prejudiced the accused, citing Section 28(2) of the POCSO Act, which allows for joint trials.

2 The court also rejected the defence's attempt to discredit the victim's credibility due to minor inconsistencies in her statements, holding that such inconsistencies were natural and did not undermine her testimony's overall reliability.

3 Furthermore, the court emphasized that the inability to precisely prove the victim's age did not negate her minor status, as sufficient evidence demonstrated she was a child.

**MADHU VS THE
STATE OF KERALA**
**[CRL.A NO.644 OF
2016]**

**SECTION 376(1),
INDIAN PENAL CODE
(IPC)**

**SECTION 28(2)
PROTECTION OF
CHILDREN FROM
SEXUAL OFFENCES
(POCSO) ACT, 2012**