



R. Tejaswini
Associate

ENTITLEMENT TO RETIRAL BENEFITS

The Supreme Court of India, in the recent case of *Ashok Kumar Dabas*,¹ partially allowed an appeal filed by the legal heirs of deceased employee, Ashok Kumar Dabas. It reaffirmed the legal distinction between resignation and voluntary retirement, holding that while resignation entails forfeiture of past service for pensionary purposes, it does not deprive an employee of statutory gratuity.

Brief Facts

- Dabas was appointed as conductor with the Delhi Transport Corporation (**DTC**) in 1985.
- In August 2014, after thirty years of service, he resigned citing family circumstances. It was accepted by the competent authority in September 2014.
- Later, he requested the release of his retiral benefits, including pension, gratuity, and leave encashment.
- DTC informed him that because he had resigned, he was only entitled to his provident fund and no other benefits.
- Both the Central Administrative Tribunal and the Delhi High Court dismissed his claims, leading to the present appeal before the Supreme Court.

Questions of Law

- Does voluntary resignation from service constitute a forfeiture of past service, thereby disqualifying an employee from receiving a pension under the Central Civil Services (Pension) Rules, 1972?
- Is an employee who has resigned entitled to gratuity under Section 4 of the Payment of Gratuity Act, 1972 (**PGA**), provided they have completed the minimum qualifying service?

¹ *Ashok Kumar Dabas v. Delhi Transport Corporation* 2025 INSC 1404.

Dabas' Contentions

- The resignation letter should not be construed literally; it was essentially a request for voluntary retirement after thirty years of service.
- Pension is not a bounty but a right earned through long service, and it is harsh to forfeit all benefits due to a “*minor error*” in the wording of his exit letter i.e., he communicated his resignation instead of voluntary retirement.
- Under Section 4 of the PGA, gratuity is payable even in cases of resignation if the employee has served for at least five years.

DTC's Contentions

- Under Rule 26(1) of the Pension Rules, 1972, resignation from a post entails the forfeiture of past service.
- Dabas' decision was specifically to resign, and the court cannot re-classify a resignation as “voluntary retirement” to bypass the clear operation of the rules.
- He had a checkered service record, including multiple suspensions and punishments, which influenced his decision to resign.

SC's Judgment & Reasoning

The Supreme Court:

- Following the precedent set in *BSES Yamuna Power Limited* case,² ruled that resignation and voluntary retirement are distinct legal concepts. Under Rule 26 of the PGA Rules, 1972 resignation leads to the forfeiture of past service; therefore, Dabas was not entitled to a pension.
- Observed that Section 4 of PGA explicitly states that gratuity is payable upon “retirement or resignation” after five years of continuous service. Since DTC is not exempt from the PGA, the claim for gratuity cannot be denied.
- Directed DTC to pay the gratuity as well as leave encashment with 6% interest per annum from the date of resignation until the date of payment.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

This is not legal advice and must not be treated so. For any clarifications, please contact us at: info@counselence.com. Past issues of *Counselence Connect* are available at the 'Newsletters' page of our website (www.counselence.com).

² *BSES Yamuna Power Limited v. Ghanshyam Chand Sharma* (2020) 3 SCC 346