



LABOUR

Resignation vs. Retirement: Supreme Court Clarifies Pension Forfeiture but Protects Gratuity Rights

AUTHOR Nidhi Singh, Ritika Dedhia

PUBLISHED 16 December 2025

Introduction

The Supreme Court of India, in *Ashok Kumar Dabas (Deceased) v. Delhi Transport Corporation*¹, has revisited a recurring and often misunderstood issue in service law the **legal consequences of resignation vis-à-vis retirement**, and the extent to which retiral benefits survive such separation from service. The judgment decisively reaffirms that resignation results in forfeiture of past service for pensionary purposes, leaving no scope for courts to recharacterize it as voluntary retirement on equitable considerations.

At the same time, the Court draws a critical distinction between **pension governed by service rules** and **gratuity governed by welfare legislation**, holding that statutory gratuity cannot be denied merely because the employee resigned. The ruling thus balances strict statutory interpretation with social security principles, offering important guidance on the interplay between the CCS (Pension) Rules, 1972 and the Payment of Gratuity Act, 1972.

Table of contents

- [Introduction](#)
- [Factual Background \(Brief\)](#)
- [Legal Background](#)
- [Issues Before the Court](#)
- [Supreme Court's Analysis & Findings](#)
 - [1. Clear Legal Consequences of Resignation under Pension Rules](#)
 - [2. Distinction Between Resignation and Voluntary Retirement](#)
 - [3. Length of Service Is Irrelevant Once Resignation Is Tendered](#)
 - [4. Gratuity: Statutory Protection Despite Resignation](#)
 - [5. Leave Encashment Cannot Be Withheld](#)
 - [6. Relief Granted and Directions Issued](#)
- [Outcome](#)
- [Core Takeaways](#)
- [Significance of the Judgment](#)

Factual Background (Brief)

Ashok Kumar Dabas joined the Delhi Transport Corporation (DTC) as a Conductor in 1985. In 1992, upon introduction of a pension scheme by the Corporation, he opted to be governed by the said scheme. After nearly three decades of service, he submitted a letter dated 7 August 2014 seeking resignation from service on account of family circumstances. The resignation was accepted by the competent authority on 19 September 2014, thereby bringing his employment to an end.

Subsequently, the employee sought to withdraw his resignation by a representation dated 13 April 2015. This request was rejected by DTC on 28 April 2015. Thereafter, on 15 October 2015, he claimed release of retiral benefits, including pension, gratuity, leave encashment, and provident fund. The Corporation, by its communication dated 23 October 2015, held him entitled only to provident fund benefits, denying all other retiral dues on the ground that resignation resulted in forfeiture of service.

Aggrieved, the employee approached the Central Administrative Tribunal, Principal Bench, which dismissed his application. A review petition met the same fate. The Delhi High Court also declined to interfere, upholding the view that resignation disentitled the employee from pensionary benefits. During the pendency of proceedings, the employee passed away, and the appeal before the Supreme Court was pursued by his legal heirs, seeking recognition of entitlement to pension, gratuity, and leave encashment.

Legal Background

The dispute arose at the intersection of two distinct statutory frameworks:

1. **Central Civil Services (Pension) Rules, 1972:** These rules govern entitlement to pension and retirement benefits for employees opting into the pension scheme. Crucially:

- Rule 26(1) mandates forfeiture of past service upon resignation.
 - Rules 48 and 48-A permit voluntary retirement with pension only when retirement is undertaken in the prescribed manner after completing qualifying service.
2. **Payment of Gratuity Act, 1972:** A welfare legislation providing for gratuity as a statutory right, payable upon termination of employment including resignation after five years of continuous service, unless the employer is validly exempted.

The case required the Court to determine how these regimes operate when an employee resigns after long years of service.

Issues Before the Court

1. Whether resignation could be construed as voluntary retirement to preserve pensionary benefits
2. Whether resignation leads to forfeiture of past service under the CCS (Pension) Rules, 1972
3. Whether gratuity is payable despite resignation
4. Entitlement to leave encashment

Supreme Court's Analysis & Findings

1. Clear Legal Consequences of Resignation under Pension Rules

The Supreme Court began its analysis by examining the Central Civil Services (Pension) Rules, 1972, which governed the service conditions of the deceased employee. Emphasis was placed on Rule 26(1), which explicitly provides that resignation from service entails forfeiture of past service, unless such resignation is permitted to be withdrawn in public interest.

In the present case, the Court noted that the resignation tendered by the employee on 7 August 2014 was unequivocal, duly accepted by the competent authority, and that the subsequent request for withdrawal had been expressly rejected. Consequently, the Court held that the severance of service stood finalised through resignation, attracting the statutory consequence of forfeiture of past service.

2. Distinction Between Resignation and Voluntary Retirement

Rejecting the appellant's plea for a liberal or equitable interpretation, the Court reaffirmed the well-settled distinction between resignation and voluntary retirement. While voluntary retirement under Rules 48 and 48-A of the 1972 Rules preserves qualifying service and enables pensionary benefits upon completion of the requisite years, resignation operates in an entirely different legal field.

The Court categorically held that courts cannot recharacterize resignation as voluntary retirement merely on the basis of long service, personal hardship, or imperfect drafting of the resignation letter. Any such reclassification, the Court observed, would effectively render Rule 26 otiose and undermine legislative intent.

3. Length of Service Is Irrelevant Once Resignation Is Tendered

Addressing the argument that the employee had completed more than 20 years of service and was therefore eligible for pension, the Court held that qualifying service becomes legally irrelevant once resignation is tendered and accepted.

Even assuming that the employee fulfilled the minimum service requirement for voluntary retirement, the decisive factor remained the mode of exit from service. Since the employee consciously chose resignation, the benefits associated with retirement could not be claimed as a matter of right.

4. Gratuity: Statutory Protection Despite Resignation

On the issue of gratuity, the Court adopted a markedly different approach. Relying on Section 4 of the Payment of Gratuity Act, 1972, it held that gratuity is a statutory right flowing from a social welfare legislation, payable even in cases of resignation, provided the employee has completed five years of continuous service.

The Court found no evidence of any valid exemption under Section 5 of the Gratuity Act applicable to the Delhi Transport Corporation. As a result, denial of gratuity on the ground of resignation was held to be unsustainable. The Court clarified that service rules governing pension cannot override the mandate of a beneficial statute such as the Gratuity Act.

5. Leave Encashment Cannot Be Withheld

With respect to leave encashment, the Court accepted the respondent's concession that there was no legal bar to payment of accumulated leave dues upon resignation. Accordingly, it directed release of the leave encashment amount to the legal heirs of the deceased employee.

6. Relief Granted and Directions Issued

In conclusion, the Supreme Court partly allowed the appeal. While it denied the claim for pension and family pension owing to statutory forfeiture of service upon resignation, it directed payment of gratuity under the Payment of Gratuity Act, 1972 and leave encashment, together with interest at 6% per annum from the date of resignation until actual payment.

Outcome

Applying these principles, the Supreme Court:

- Denied pension and family pension due to statutory forfeiture of service upon resignation.
- Directed payment of gratuity under the Payment of Gratuity Act, 1972.
- Directed release of leave encashment.
- Awarded interest on delayed payment.

Core Takeaways

1. **Resignation leads to total forfeiture of pensionary benefits** under Rule 26 of CCS (Pension) Rules
2. **Courts will not rewrite resignation as voluntary retirement**, even on equitable grounds
3. **Gratuity survives resignation** as it flows from a statutory welfare enactment
4. **Pension rules cannot override the Payment of Gratuity Act** unless valid exemption exists
5. **Leave encashment remains payable** unless expressly barred
6. Long service or sympathetic circumstances **cannot dilute clear statutory consequences**

Significance of the Judgment

The judgment brings much-needed clarity and certainty to service jurisprudence governing retiral benefits. It firmly reaffirms that resignation carries statutory finality, leading to forfeiture of pensionary benefits under the CCS (Pension) Rules, and that such consequences cannot be diluted on equitable grounds.

Equally important is the Court's clear demarcation between resignation and voluntary retirement, preventing judicial recharacterization of service exits and preserving the legislative scheme of pension entitlement.

At the same time, the ruling strengthens the **protective scope of social welfare legislation** by holding that gratuity remains payable notwithstanding resignation, in the absence of a statutory exemption. This ensures that minimum social security benefits are not sacrificed to rigid service rules.

Overall, the decision balances statutory discipline with welfare protection, offering clear guidance to employees, employers, and adjudicating authorities alike.

For more details, write to us at: contact@indialaw.in

Related Practice Areas

Labour And Employment