



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 7th OF JANUARY, 2025

WRIT PETITION No. 28907 of 2024

R.N. GUTCH

Versus

M.P.M.K.V.V. CO. LTD. AND OTHERS

Appearance:

Shri Anand Kumar Jaiswal and Ms. Sindur Jain, Advocates for the petitioner.

Shri Sankalp Sharma, Advocate for respondent no.3.

ORDER

This petition, under Article 226 of the Constitution of India, has been filed seeking following relief(s):

“1. The Petitioner respectfully prays that this Hon'ble Court may be graciously pleased to direct Respondent No.1 to 3 to release additional 20% of the Basic Pension of the petitioner with effect from 01.04.2018 and also release additional 10% of the Basic Pension of the petitioner with effect from 01.04.2018 along with the Dearness Relief admissible on the enhanced amount of Basic Pension.

2. Any other relief which this Hon'ble Court may deemed fit in the circumstances of the case be also granted”

2. It is the case of petitioner that petitioner has been granted additional 20% pension after completing age of 80 years whereas 20% of additional



pension has to be granted from the beginning of age of 80 years and 30% of additional pension has to be granted from the beginning of age of 85 years. To buttress his contention, counsel for petitioner has relied upon judgment passed by Division Bench of Gauhati High Court in the case of **Virendra Dutt Gyani Vs. The Union of India and others** [W.P.(C) No.4224/2016] which was affirmed by the Supreme Court by order dated **08.07.2019** passed in **SLP (Civil) Diary No.18133/2019** as well as order by co-ordinate Bench of this Court in the case of **Om Prakash Saxena Vs. State of M.P. and others** decided on 02.01.2023 in W.P. No.7424 of 2022 (Gwalior Bench), **Sarvesh Chandra Sharma Vs. Managing Director and others** decided on 19.07.2024 in W.P. No.19295/2024 (Indore Bench).

3. *Per contra*, petition is vehemently opposed by counsel for respondents. It is submitted that judgment passed by the Division Bench of Gauhati High Court in the case of **Virendra Dutt Gyani (Supra)** is distinguishable on facts which have gone unnoticed by co-ordinate Benches of this Court.

4. Heard learned counsel for the parties.

5. Since respondents have claimed that case in hand is not covered by the law laid down by the Division Bench of Gauhati High Court in the case of **Virendra Dutt Gyani (Supra)**, therefore, it is necessary to consider the facts and circumstances of the case as well as the law in relation to grant of additional pension from or after attaining the age of 80 years and onwards.

6. In the case of **Virendra Dutt Gyani (Supra)**, the Division Bench of Gauhati High Court was considering Section 17B of the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2009 which provides that additional quantum of 20% of basic pension or family pension would be paid “from 80 years to less than 85 years”. Therefore, the question for consideration before the Division Bench of



Gauhati High Court was that what is the meaning of “from 80 years”. The Division Bench of Gauhati High Court in the case of **Virendra Dutt Gyani (Supra)** has held as under:

“20. To answer this question, It is necessary to examine the meaning of the expression "from eighty years" as appearing in Section 178. As noticed above, the benefit of additional quantum of pension would be entitled to a retired judge from eighty years to less than eighty five years. What precisely would be the meaning of the expression "from eighty years"?

21. In Collins English Dictionary, the word "from" has been defined to mean indicating the point of departure, source, distance, cause, change of state etc. Mr. Goswami had also argued that the word "from" is used to specify a starting point in spatial movement i.e. to specify starting point in an expression of limits. In Black's Law Dictionary, 6th Edition, the word "from" has been defined to mean implying a starting point, whether it be of time, place or condition, and having a starting point of motion, noting the point of departure, origin, withdrawal etc. However, it has been explained that the word "from" does not have an absolute and invariable meaning but should receive an inclusion or exclusion construction according to the intention with which such word is used.

22. Therefore, as per the dictionary meaning, the expression "from eighty years" would indicate the starting point of eighty years. However, as a note of caution, it has also been clarified that inclusiveness or exclusiveness associated with the expression would have to be interpreted having regard to the intention for use of such word or expression.”

7. The word "from" assumes importance to appreciate the law governing the *lis* in question. The Division Bench of Gauhati High Court in the case of **Virendra Dutt Gyani (supra)** held that use of word "from" would certainly mean beginning of age of 80 years. However the word "from" is missing in the rules which are applicable to the facts of the case.



8. Govt. of M.P. Finance Department has issued Circular dated 3/8/2009, relevant part of which reads as under:-

Age of Pensioner/Family Pensioner	Additional Pension
80 years to less then 85 years	20% of basic pension/family pension

Hindi Version:

पेंशनर/परिवार पेंशनर की उम्र	अतिरिक्त राशि
80 वर्ष से तथा 85 वर्ष से कम	मूल पेंशन/परिवार पेंशन का 20%

The MPSEB has adopted the aforesaid circular by its circular dated 13/8/2009 and relevant part of the circular which has been notified and adopted provides as under:

Hindi Version

पेंशनर/परिवार पेंशनर की उम्र	अतिरिक्त राशि
80 वर्ष से तथा 85 वर्ष से कम	मूल पेंशन / परिवार पेंशन का 20%

The word "from" is missing in the Rule. Therefore, this Court is of considered opinion that there is vital difference between the provisions which were applicable to the case of **Virendra Dutt Gyani (Supra)** and the case in hand and the same have material effect on the outcome and entitlement of petitioner. As already pointed out in the case of **Virendra Dutt Gyani (Supra)** it was held that the incumbent would be entitled to get additional pension of 20% of basic pension from the beginning of his age of 80 years and for reaching to the said conclusion, word "from" has been taken into consideration. In the present case, the word "from" is missing. Therefore, it cannot be said that petitioner would be entitled to get 20% of additional pension from the beginning of his age of 80 years and it has to be necessarily



interpreted that petitioner would receive additional pension of 20% after completing the age of 80 years. The co-ordinate Benches have applied the ratio laid down in the case of **Virendra Dutt Guani (Supra)** under an impression that word “from” is also mentioned in circular, but in fact the word “from” is not mentioned. Furthermore, the English and Hindi version of Circular dated 3/8/2009 issued by Finance Department have been reproduced. Even if there is any conflict in English version & Hindi Version then in the light of judgment passed by Supreme Court in the case of **M/s Park Leather Industry (P) Ltd. & Anr. Vs. State of U.P. & Ors** reported in **(2001)3 SCC 135**, the English version would prevail. A Division Bench of this Court in the case of **CMD Vs. Hindustan Copper Ltd.**, by order dated 10/5/2018 passed in W.P. No. 1249/2017 had held that Hindi version would prevail, but that order has been stayed by Supreme Court by order dated 30/7/2018 passed in SLP (C) No. 17436/18.

9. Under these circumstances, this Court is of considered opinion that respondents did not commit any mistake by making payment of additional pension of 20% after age of 80 years was completed by petitioner. The co-ordinate Benches of this Court have not considered this vital difference between the rules which were applicable in the case of **Virendra Dutt Gyani (Supra)** and which are applicable to the case in hand.

10. Accordingly, no case is made out warranting interference. Petition fails and is hereby dismissed.

(G.S. Ahluwalia)
Judge

(and)