
(1999) 09 OHC CK 0012
In the Orissa High Court
Case No : O.J.C. No. 6886 of 1999

Dhruba Charan Panda and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 08-09-1999

Acts Referred:

Citation : (1999) 88 CLT 637 : (1999) 2 OLR 433

Hon'ble Judges : A. Pasayat, Acting C.J.; B.P. Das, J

Bench : Division Bench

Advocate : Manoranjan Mohanty, R.K. Rath, D.R. Patnaik and B.K. Patnaik
Amicus Curiae, for the Appellant; R.K. Mohanty, A.G.A., for the Respondent

Judgement

A. Pasayat, Acting C.J.

1. A question of universal importance revolving round the role of employer, more particularly the State Government to grant "pension" to its retired employees is involved in this case. Several learned counsel assisted the Court in this case without any particular reference to background facts of the case at hand. The problem is of wide amplitude and grievances factually are more or less the same. After rendering years of service the employer finds from records that the employee has reached a particular age and he should retire. Immediate consequence of these is reduction in the payment made to him by the employer. Thereafter what the employee gets is normally called pension. Factual matrix as indicated above only assists in dealing with broader issues involved.

2. A political society which has a goal of setting up of a welfare State, would introduce and has in fact introduced as a welfare measure wherein the retiral benefit is grounded on consideration of State obligation to its citizens who having rendered service during the useful span of life must not be left to penury in their old age, but the evolving concept of social security is a later day development. And this journey was over a rough terrain. To note only one stage in 1856 a Royal Commission was set up to consider whether any changes were necessary

in the system established by the 1834 Act. The Report of the Commission is known as "Northoote-Trevelyan Report". The Report was pungent in its criticism when it says that: "in civil services comparable to lightness of work and the certainty of provision in case of retirement owing to bodily incapacity, furnish strong inducements to the parents and friends of sickly youth to endeavour to obtain for them employment in the service of the Government, and the extent to which the public are consequently burdened, first with the salaries of officers who are obliged to absent themselves from their duties on account of ill health, and afterwards with their pensions when they retire on the same plea, would hardly be credited by those who have not had opportunities of observing the operation of the system". (See Gerald Rhodes, Public Sector Pensions, pp. 18-19).

3. This approach is utterly unfair because in modern times public services are manned by those who enter at a comparatively very young age. with selection through national competitive examination and ordinarily the best talent gets the opportunity.

4. Let us therefore examine as was done by the apex Court in D.S. Nakara and Others Vs. Union of India (UOI), as to what are the goals that pension scheme seeks to subserve. A pension scheme consistent with available resources must provide that the pensioner would be able to live; (i) free from want with decency, independence and self-respect, and (ii) at a standard equivalent at the pre-retirement level. This approach may merit the criticism that if a developing country like India cannot provide an employee while rendering service a living wage, how can one be assured of it in retirement ? This can be aptly illustrated by a small illustration. A man with a broken arm asked his doctor whether he will be able to play the piano after the cast is removed. When assured that he will, the patient replied, "that is funny, I could not before". It appears that in determining the minimum amount required for living decently is difficult, selecting the percentage representing the proper ratio between earnings and the retirement income is harder. But it is imperative to note that as self-sufficiency declines the need for his attendance or institutional care grows. Many are literally surviving now than the past. We owe it to them and ourselves that they live, not merely exist. The philosophy" prevailing in a given society at various stages of its development profoundly influences its social objectives. Those objectives are in turn a determinant of a social policy. The law is one of the chief instruments whereby the social policies are implemented and pension is paid according to rules Which can be said to provide social security law by which it is meant those legal mechanisms primarily concerned to ensure the provision for the individual of a cash income adequate, when taken along with the benefit in kind provided by other social services (such as free medical aid) to ensure for him a culturally acceptable minimum standard of living when the normal means of doing so failed. (See Social Security Law by Prof. Harry Calvert, p. 1).

5. Viewed in the light of the present day notions pension is a term applied to periodic money payments to a person who retires at a certain age considered

age : of disability; payments usually continue, for the rest of the natural life of the recipient. The reasons underlying the grant of pension vary from country to country and from scheme to scheme. But broadly stated they are ; (i) as compensation to former members of the armed forces or their dependants for old age, disability, or death (usually from service causes), (ii) as old age retirement or disability benefits for civilian employees, and (iii) as social security payments for the aged, disabled, or deceased citizens made in accordance with the rules governing social service programmes of the country. Pensions under the first hand are of great antiquity. Under the second head they have been in force in one form or another in some countries for over a country but those coming under the third head are relatively of recent origin, though they are of the greatest magnitude. There are other views about pensions such as charity, paternalism, deferred pay, rewards for service rendered, or as a means of promoting general welfare (See Encyclopaedia Britannica, Vol. 17, p. 575). But these views have become otiose.

6. Pension to civil employees of the Government and the defence personnel as administered in India appear to be a compensation for service rendered in the past. However, as held in *Dodge v. Board of Education* : (1937) 302 US 74 : 82 Law Ed. 58 a pension is closely akin to wages in that it consists of payment provided by an employer, is paid in consideration of past service and the purpose of helping the recipient meet the expenses of living. This appears to be the nearest to our approach to pension with the added qualification that it should ordinarily ensure freedom from undeserved want.

7. Summing up it can be said with confidence that pension is not only compensation for loyal service rendered in the part, but pension also has a broader significance, in that it is a measure of socio-economic justice which inheres economic security in the foil of life when physical and mental powers is ebbing corresponding to aging progress and therefore, one is required to fall back on savings. One such saving in kind is when you gave your best in the hey day of life to your employer, in days of invalidity, economic security by way of periodical payment is assured. The term has been judicially defined as a stated allowance or stipend made in consideration of past service or a surrender of rights or emoluments to one retired from service. Thus the pension payable to a Government employee is earned by rendering long and efficient service and therefore can be said to be a deferred portion of the compensation for service rendered. In one sentence one can say that the most practical *raison detre* for pension is the inability to provide for oneself due to old age. One may live and avoid unemployment but not senility and penury if there is nothing to fall back upon.

8. The discernible purpose thus underlying pension scheme or a statute introducing the pension scheme must inform interpretative process and accordingly it should receive a liberal construction and the Courts may not so interpret such statute as to render them loose (See American Jurisprudence

24.881).

9. From the discussion three things emerge : (i) that pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer and that it creates a vested right subject to Orissa Civil Services (Pension) Rules, 1992 (in short, the "Rules") or any other Rules holding the field, (ii) that the pension is not an ex gratia payment but it is a payment for the past service rendered; and (iii) it is a social welfare measure rendering socio-economic justice to those who in the hey day of their life ceaselessly toiled for employer on an assurance that in their old age they would not be left in lurch. It must also be noticed that the quantum of pension is a certain percentage correlated to the average emoluments drawn during last three years of service reduced to ten months under liberalised pension scheme. Its payment is dependent upon an additional condition of impeccable behaviour even subsequent to retirement, that is, since the cessation of the contract of service and that it can be reduced or withdrawn as a disciplinary measure.

10. In *Corpus Juris Secundum*, Volume 70 at page 423, it is stated that the title "pension" includes pecuniary allowances paid periodically by government to persons who have rendered services to the public or suffered loss or injury in the public service, or to their representatives; who are entitled to such allowances and rate and amount thereof; and proceedings to obtain and payment of such pensions.

A pension is a periodical allowance of money granted by the Government in consideration or recognition of meritorious past services, or of loss or injury sustained in the public service. A pension is mainly designed to assist the pensioner in providing for his wants, and it presupposes the continued life of the recipient.

In its strict sense a pension is not a matter of contract, and is not founded on any legal liability; it is a mere bounty or gratuity "springing from the appreciation and consciousness of the sovereign", and it may be given or withheld at the discretion of the sovereign. It may be bestowed on such persons and on such terms as the law-making body of the government prescribes, and it is, at most, an expectancy granted by the law. The term "pension" has been compared and distinguished from "bonus", "compensation", "profits", and "retirement payment". A pension fund is to be distinguished from an annuity fund derived in part from voluntary contributions under a statutory opinion to contribute or refrain from contributing.

The term "pension" is frequently, particularly in recent years, used in the broad sense of retirement pay or compensation in which it may partake of the nature of a contractual right rather than of gratuity, and, as used in this sense with respect to persons in the service of the Government, the term is fully discussed in *Officers* q. 92. A pension is a gratuity only where it is granted for services previously rendered which at the time they were rendered gave rise to no legal

obligation.

11. A somewhat discordant note on the question whether pension and gratuity are bounty to be distributed by the Government to its employee on their retirement vis-a-vis the position as indicated in *Corpus Juris Secundum*. a similar view was also expressed in *State of Kerala and Others Vs. M. Padmanabhan Nair*, . It was observed that pension and gratuity are no longer any bounty to be distributed by the Government to its employee on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. The view has been recently reiterated in *Dr. Uma Agrawal Vs. State of U.P. and Another*,

12. It is to be noted that in certain countries wrongful withholding of pension money has been made a criminal offence and it has been observed in some of the western countries that the federal statute making the wrongful withholding of pension money a criminal offence must be strictly construed. The purpose of the statute, it was held, to protect the pensioner against fraud until the unconditional payment of the money to him.

13. In *Halsbury's Laws of England*. Fourth Edition, Reissue- Volume 16, it has been observed on the subject as follows:

"Pension" means, a periodical payment or lump sum by way of pension, gratuity or superannuation allowance as respects which the Secretary of State is satisfied that it is to be paid in accordance with any scheme of arrangement having for its object or one of its objects to make provision in respect of persons serving in particular employments for providing them with retirement benefits and, except in the case of such a lump sum which had been paid to the employee, that :

(1) the scheme or arrangement is established by Act of Parliament or of the Parliament of Northern Ireland, or other instrument having the force of law, or

(2) the benefits under the scheme or arrangement are secured by an irrevocable trust which is subject to the laws of any part of Great Britain; or

(3) the benefits under the scheme or arrangement are secured by a contract of assurance or an annuity contract which is made with;

(a) an insurance company to which the Insurance Companies Act, 1982 applies; or

(b) a registered friendly society: or

(c) an industrial and provident society registered under the Industrial and Provident Societies Act. 1965, or

(4) the benefits under the scheme or arrangement are secured by any regulation or other instrument, not being a regulation or instrument having the force of law, made with the authority of a Minister of the Crown or with the consent of the

Treasury for the purpose of authorising the payment to persons not employed in the Civil Service of the State of such pensions. gratuities or other like benefits as might have been granted to person so employed: or

(5) the scheme or arrangement is established by an enactment or other instrument having the force of law in any part of the Commonwealth outside the United Kingdom: and that the provision made to enable benefits to be paid, taking into account any additional resources which could and would be provided by the employer, or any person connected with the employer, to meet any deficiency, is adequate to ensure payment in full of such benefits.

"Pension" includes any part of a pension. "Pension" does not include:

(i) a payment to an employee which consists of solely of a return of his own contributions, with or without interest:

(ii) that part of a payment to an addition which is attributable solely to additional voluntary contributions by that employee made in accordance with the scheme or arrangement:

(iii) a periodical payment or lump sum. in so far as that payment or lump sum represents compensation under statutory compensation scheme and is payable under a statutory provision, whether made or passed before, on or after 31 st July, 1978.

If in any case the Secretary of State is satisfied that benefits under the scheme or arrangement are wholly or mainly provided for the benefit of persons not resident to Great Britain, he may if he thinks fit and subject to such conditions, if any as he thinks proper, waive the requirement contained in head (2) above in respect of a scheme or arrangement the benefits under which are secured by an irrevocable trust or the requirements of heads (3) (a), (3)(b) or (3)(c) above in the case of a scheme or arrangement the benefits under which are secured by a contract of assurance or an annuity contract."

14. Considering urgency so far as its employees are concerned the State of Orissa has framed the "Rules" which are operating the field presently Rules 57, 58, 59, 60, 61, 62 and 65 appearing in Chapter VIII of the Rules are relevant. They read as follows :

"57. Preparation of list of Government servants due for retirement -

(1) Every Head of Office shall have a list prepared every six months, that is, on the 1st day of January and the 1st day of July, each year of all Government servants working under him who are due to retire within the next 24 to 30 months.

(2) A copy of every such list shall be supplied to the Accountant- General, Orissa, Appointing Authority Administrative Department concerned, Director of Treasuries and Inspection, Orissa, and the Estate Officer or the competent authority, as the case may be (if the Government servant concerned is an

allottee of Government accommodation) not later than the 31 st of January or the 31 st of July, as the case may be, of that year in the Form I.

(3) In the case of a Government servant retiring for reasons other than by way of superannuation, the Head of Office shall promptly inform the authorities stated in Sub-rule (2) as soon as the fact of such retirement becomes known to him.

58. Preparation of pension papers - (1) Every Head of Office shall undertake the work of preparation of pension papers in Form 7 two years before the date on which a Government is due to retire on superannuation. Where the retiring Government is himself the Head of Office/Head of Department, the preparation of pension papers shall be undertaken by the Head of Department/Administrative Department, as the case may be.

(2) The Head of Office shall be responsible for obtaining the particulars from the Government servant at least one year before the date of retirement in Form 6 and complete the proceeding of pension papers as early as possible and in no case not later than eight months in advance of retirement of the employee.

(3) Where the Head of Office is not the appointing authority, pension papers shall be transmitted to the appointing authority one year before the date of retirement of the Government servant and the Head of Office shall take the action well in advance keeping this time limit in view.

59. Stages for proceedings of pension papers - (1) The Head of Office shall go through the service book and the service roll, if any, of the Government servant and satisfy himself as to whether the certificates of verification for the entire service period are recorded therein.

(2) In respect of the unverified portion or portions of service he shall arrange to verify the portion or portions of such service, as the case may be, reference to any bills, acquittance rolls or other relevant records and record necessary certificates in the service book or service roll, as the case may be.

(3) If the service for any period is not capable of being verified in the manner specified in Sub-rule (1) and Sub-rule (2), that period of service if rendered by the Government servant in another office or Department, reference shall be made to that office/ Department in which the Government servant is shown to have served during that period for the purpose of verification.

(4) If any portion of service rendered by a Government servant is not capable of being verified in the manner specified in Sub- rule (1) or Sub-rule (2) or Sub-rule (3) the Government servant shall be asked to file a written statement on plain paper stating that he had in fact rendered that period of service and shall, at the foot of the statement, make and subscribe to a declaration as to the truth of that statement, and shall in support of such declaration produce documentary evidence and furnish all information which is in his power to produce or furnish.

(5) The authority competent to sanction pension to that Government servant

shall, after taking into consideration the facts in the written statement and the evidence produced and the information furnished by that Government servant in support of the said period of service, admit that portion of service having been rendered for the purpose of calculating the pension of that Government servant.

60. Making good omission in the Service Book - (1) The Head of Office while scrutinising the certificates of verification of service, shall also verify if there are any other omissions, imperfections or deficiencies which have a direct bearing on the determination of emoluments and the service qualifying for pension.

(2) Every effort shall be made to complete the verification of service, as in Rule 59 and to make good omissions, imperfections or deficiencies referred to in Sub-rule (1) above. Any omissions, imperfections or deficiencies including the portion of service shown as unverified in the Service Book which it has not been possible to verify in accordance with the procedure laid down in Rule 59 shall be treated as qualifying service for the purpose of pension unless there is specific entry in the Service Book/ Record to the contrary.

(3) For the purpose of calculation of "emoluments" the Head of Office shall verify from the Service Book the correctness of emoluments or to be drawn for last twelve months preceding the date of retirement.

61. Completion of pension papers - The Head of Office shall complete Part I of Form 7 not later than 6 months of the date of retirement of the Government servant.

62. Forwarding of Pension papers to the Appointing Authority/Accounts Officer - (1) After completing Part 1 portion of Form 7 the Head of Office shall forward the same along with Form 6 to the Appointing Authority (where the Head of Office is not the appointing authority) with the service book/service roll of the Government servant duly completed up to date and any other document relied upon for the verification of the service.

(2)(i) The Appointing Authority shall sanction the pension in Part 11 of Form 7 and intimate in same to the Accountant General, Orissa in Form 9 not later than four months before the date of retirement of Government servant.

(ii) It shall be the sole responsibility of the pension sanctioning authority to forward the pension/family pension papers to the Accountant-General in time prescribed under Clause (i) of this sub-rule and Sub-rule (2) of Rule 75 failing which he shall be liable for disciplinary action.

(3)(i) The Appointing Authority at the time of forwarding the pension papers of a Government servant to the Accounts Officer, should prepare in triplicate as certified calculation sheet, in Form 8 and forward it to the Accounts Officer, along with pension papers and shall retain an additional copy as his office copy.

(ii) The Accounts Officer, while issuing the pensionary authorisation, countersign the calculation sheet as certified by the appointing authority, retain one copy

(out of the three received by him from the appointing authority) and forward one copy as countersigned by him to the pensioner, along with the intimation of his having sent the pension payment order to the Treasury. The other certified copy of the calculation sheet as countersigned by the Accounts Officer shall be returned to the appointing authority concerned who shall keep the same in a guard file with a proper index for future reference.

xxx xxx xxx 65. Provisional Pension - (1) In cases where it may not be possible for the Appointing Authority to forward the pension papers referred to in Rule 62 to the Accountant General- Orissa within the period prescribed therein after following due procedure, or where the pension papers have been forwarded to the Accountant General. Orissa within the prescribed period but the Accountant General has either not issued the pension payment order in time or has returned the pension papers to the Pension Sanctioning Authority soliciting further information before issue of pension payment order and order for the payment of gratuity, the Pension Sanctioning Authority in such a case if is of the opinion that the Government servant is likely to retire before sanction of his pension and gratuity or both and such pension and gratuity cannot be finally assessed and settled in accordance with the provisions of these rules prior to the date of retirement, he shall without delay, take steps to determine the qualifying years of service and emoluments qualifying for pension after the most careful summary investigation that may be made. For this purpose he shall -

(i) rely upon such information as may be available in the official records; and

(ii) ask the retiring Government servant to furnish a written statement on plain paper stating the total length of qualifying service including details of emoluments last drawn but excluding the breaks/other non-qualifying periods of service.

(2) The Government servant while furnishing the statement as in Clause (ii) of Sub-rule (1) shall at the foot of the statement make and subscribe to a declaration as to the truth of the statement.

(3) The Pension Sanctioning Authority shall thereafter determine the qualifying years of service and the emoluments qualifying for pension in accordance with the information available in the official records and the information obtained from the retiring Government servant under Sub-rule (1). He shall then determine the amount of provisional pension and the amount of provisional gratuity.

(4) After the amount of pension and gratuity have been determined under Sub-rule (3), the Pension Sanctioning Authority shall take further action as follows :

(a) He shall issue a sanction order in Form 1 7 endorsing a copy thereof to the Accounts Officer/Head of Office/Government servant/Treasury Officer authorising :

(i) 100 per cent of pension as determined under Sub-rule (3) as provisional pension till the final pension is authorised by the Accountant General, Orissa; and

(ii) 100 per cent of the gratuity as provisional gratuity is determined under Sub-rule (3) withholding ten per cent of such gratuity or one thousand rupees whichever is less.

(b) He shall also indicate in the sanction letter the amount recoverable from the gratuity under Sub-rule (2) of Rule 63. After issue of the sanction order the Head of Office shall draw -

(i) the amount of provisional pension; and

(ii) the amount of provisional gratuity after deducting therefrom amount mentioned in Sub-clause (ii) of Clause (a) and the dues, if any, mentioned in Rule 68 in the same manner as pay and allowance of the establishment are drawn by him.

(5) The amount of provisional pension and gratuity payable under Sub-rule (4) shall, if necessary, be revised on the completion of the detailed scrutiny of the records.

(6)(a) As soon as the amount of final pension and the amount of final gratuity are determined by the appointing authority, he shall intimate the same to the Accountant-General, Orissa: On receipt the Accountant General, Orissa, shall -

(i) issue the pension payment order,

(ii) direct the Treasury Officer, to draw and disburse the difference between the final amount of gratuity and the amount of provisional gratuity paid under Sub-clause (ii) of Clause (b) of Sub-rule (4) after adjudicating the Government dues, if any, which may have come to notice after the payment of provisional gratuity.

(b) If the amount of provisional pension disbursed to a Government servant under Sub-rule (4) is on its final assessment, found to be in excess of the final pension assessed by the Accounts Officer, it shall be open to the Accounts Officer to adjust the excess amount of pension out of gratuity withheld under Sub-clause (ii) of Clause (a) of Sub-rule (4) or direct the disbursing officer to recover the excess amount of pension in instalments by making short payment of the pension available in future.

(c)(i) If the amount of provisional gratuity disbursed by the Head of Office under Sub-rule (4) is larger than the amount finally assessed the excess as paid shall be adjusted against commuted value of pension or by making short payment in pension in suitable instalments.

(ii) The Appointing Authority shall ensure that chances of disbursing amount of gratuity in excess of the amount finally assessed are minimised.

(7) If the provisional pension or gratuity or both sanctioned under Sub-rule (4) is desired to be received by the pensioner through money-order or bank draft, the same shall be remitted to him through money order or bank draft at his cost :

Provided that in the case of any amount of pension, not exceeding the amount

specified in Note 3 of subsidiary Rule 310 of the Orissa Treasury Code, Vol. I plus the amount of temporary increase on pension that amount shall at the request of the pensioner in writing be remitted to him by money order at the cost of the Government,"

Chapter IV deals with conditions for grant of pension. Sanctity attached to expeditious payment to a pensioner is revealed from the modalities prescribed; some of them being time bound and even specifying the officials who are to take steps. In a nutshell, the modalities can be described as follows :

Authority Duty of Time Schedule Relevant Authority provision/ notification _____

_____ 1. Head of 1. Verification He shall verify the Finance Deptt. Office of service of Government O.M.No. 5731/ particulars servant 5 years before F.,Dt. 15.2.1997. prior to the date of retirement retirement. or after 25 years service which is earlier. 2. Processing (i) He shall prepare pension Sub-rule (1.) of of pension papers 2 years before the Rule 56 of the papers. date of retirement on Rules. superannuation. (ii) He shall obtain the Sub-rule (2) of particulars from Govt. Rule 58 of the servant at least one year Rules before the retirement and complete proce- ssing of pension papers not later than 8 months in advance of the date of retirement. (iii) Where Head of Sub-rule (3) of Office is not the Rule 58 of the Appointing Rules. Authority, the pension paper shall be transmitted to the PSA one year before the date of retirement. (iv) Head of Office shall Rule 61 of the complete Part I of Rules. OCS(P) Form 7 not later than 6 months of the date of retirement and forward the same along with Form 6 to the Appointing Authority. 2. Pension Sanction of Appointing authority Rule 62 (2) of Sanctioning pension shall sanction the the Rules, Authority pension and intimate the (Appointing same to the A.G. not Authority) later than 4 months before the date of retirement of Government servant. 3. Accountant Authorisation of A.G. shall issue the Rule 64 (1) of General, P.P.O./G.P.O. P.P.O./G.P.O. not later the Rules. Orissa than one month in advance of the date of retirement

15. Learned counsel assisting this Court submitted that the procedures are observed more in breach than in observance. The large number of cases coming before this Court relating to grant of pension shows that grievance made is genuine. The purpose for which the Rules have been framed are lost in the never-ending procedural wrangles. There is lack of urgency on the part of those who are to play a meaningful rule in quantification and payment of pension. It is common scene to see old persons moving in the corridors of Courts for a direction for payment of legitimate pension. In most cases they develop a feeling that they are no longer useful in the eye of the State, and therefore the apathy. They feel that they are not good currency but are mutilated and discarded currency notes intended to go out of circulation. Those who can show concern for the plight of these people, seem to forget that one day they will be placed in same situation and at that time they may be faced with same insensitiveness and

non-concern they are showing to their seniors. Counsel after counsel brought to our notice the harrowing experience of the old, sometimes inform retired persons who run from pillar to post to get their pension. As observed in M. Padmanabhan Nair's case (supra) it is a valuable right and property in the hands of the retired persons. But in reality it seems to be a mere paper declaration with no tangible result emerging. Retired Government official is sensitive to delay in drawing monetary benefits. And to avoid posthumous satisfaction of the pecuniary expectation of the superannuated public servant - not unusual in Government, it is becoming necessary to issue directions in several cases, for early payment of those dues.

16. Learned counsel for State while fairly accepting that there is need for urgency in dealing with the cases of pension, pointed out some practical difficulties and submitted that persons who are going to retire have also a role to play, because some of the information and particulars are to be furnished by them. That should be adhered to as the Rules themselves provide that a duty is cast on different categories of persons who are to take steps at different stages to do the needful. No doubt if a person is apathetical and unconcerned about his own affairs, the officials cannot be blamed. But it is hard to believe that a person who is going to retire would be so negligent and recalcitrant as to even not furnishing particulars when asked for. The main question is what is the remedy. It is not a very difficult question to answer, if the authorities specified in the Rules do specified acts within the time frame provided almost all the practical problems posed can be sorted out.

17. In Dr. Uma Agrawal's case (supra), the apex Court observed as follows :

"We have referred in sufficient detail to the Rules and instructions which prescribe the time-schedule for the various steps to be taken in regard to the payment of pension and other retiral benefits. This we have done to remind the various governmental departments of their duties in initiating various steps at least two years in advance of the date of retirement. If the rules/instructions are followed strictly much of the litigation can be availed and retired Government servants will not feel harassed because after all, grant of pension is not a bounty but a right of the Government servant. Government is obliged to follow the Rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too there is a prescribed procedure. This is indeed unfortunate. In cases where a retired Government servant claims interest for delayed payment, the Court can certainly keep in mind the time-schedule prescribed in the rules/instructions apart from other relevant factors applicable to each case."

18. We dispose of this application with a direction to the State Government to administratively instruct all the Heads of Departments and the concerned officials to ensure that different steps prescribed to be taken under the Rules are rigidly followed and any non-observance thereof is to be strictly viewed. If there is any

delay in payment of pension the pensioner shall be entitled to 18% interest per annum for the period of delay and this interest shall be recovered from the person/persons responsible for the delay. While fixing the rate of interest, we have kept in view the minimum bank rate of interest charged for borrowing from bank. This aspect shall also be notified to all concerned. We are sure, if such stringent steps in addition to those, which the State Government may feel necessary to impose, are taken there shall be strict compliance of the requirement of law and in future the old retired persons shall not be required to move in the corridors of the Courts with tears in their eyes and a faint ray of hope of getting remedy early, and not posthumous. We record our appreciation for the able and fair assistance rendered by all learned counsel who appeared in the case for various parties. No costs.

B.P. Das, J.

19. I agree.