

(2016) 12 GUJ CK 0024

In the Gujarat High Court

Case No : Special Civil Application No. 12877 of 2009

Hasumatiben Devendrabhai Patel

APPELLANT

Vs

Joint Registrar Co-Operative Societies (Audit)

RESPONDENT

Date of Decision : 19-12-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 16, Article 226
Gujarat Civil Services (Pension) Rules, 2002 — Rule 80(3)

Citation : (2017) 1 GujLH 438

Hon'ble Judges : Mr. S.G. Shah, J.

Bench : Single Bench

Advocate : Mr. Harshad K. Patel, Advocate, for the Petitioner No. 1; Mr. Krutik Parikh, AGP, for the Respondent Nos. 3 - 4; Rule Served, for the Respondent Nos. 1 - 4

Final Decision : Dismissed

Judgement

Mr. S.G. Shah, J. (Oral)—Heard learned advocate Mr. Harshad K. Patel for the petitioner and learned AGP Mr. Krutik Parikh for the respondent - State. Perused the record, the petitioner herein is seeking indulgence of this Court in its jurisdiction under Articles 14, 16 and 226 of the Constitution of India in the matter of non-granting of pension to her with a prayer that respondents may be directed to pay pension forthwith and other pensionary benefits from the date of her retirement i.e. 31.05.2007 till the date of actual payment with interest @ 18%. As interim relief, petitioner has prayed for a direction to the respondents to start paying the pension due to her forthwith. While issuing the notice on 8.12.2009, this Court has passed following order :-

"Notice as to admission and interim relief returnable on 21st December, 2009. Learned AGP, Ms. Thakkar waives service for respondent nos.3 and 4. Direct service for respondent nos.1 and 2. A copy of the petition is right now delivered to learned AGP and she is requested to see that either full instructions from the respondents are taken by the returnable date or responsible officer in the office

of respondent nos.3 and 4 remains personally present with relevant record for final disposal of the petition, if possible."

The above order specifically shows that matter was requiring immediate consideration since respondents have failed to pay pensionary benefits to the petitioner. However by order dated 12.03.2010, while issuing rule, the Coordinate Bench has relied upon the submission by the respondents, since the respondents had submitted that they relied on the decision of Hon"ble Supreme Court of India reported in the case of Union of India v. Bashirbhai R. Khiliji reported in (2007) 6 SCC 16.

2. Therefore, though the issue is quite simple and common and since the matter is squarely covered as per provision of sub-rule (3) of Rule 80 of the Gujarat Civil Services (Pensionary) Rules, 2002, one has to scrutinize the entire record and rival submissions.

3. It is undisputed fact that the petitioner was appointed on the post of Peon, Class-IV by the respondent No.1 on 16.08.1997 and she continued to work with different departments of the respondents till she attained the age of superannuation, considering her date of birth as 01.05.1947. Therefore, on 31.05.2007, on attaining the age of superannuation, petitioner has retired.

4. On being retired from the service, when petitioner claimed for retirement benefits including pension, and for the purpose though respondent No.4 has on 12.07.2007 forwarded requisite information to the concerned department of the State, unfortunately by their letter dated 10/13.12.2007, the respondent No.1 has conveyed the petitioner that pursuant to Gujarat Civil Services (Pensionary) Rules, 2002, she is not entitled to pension. For such decision, the respondent No.1 has quoted the explanation (1) attached with rule 38(2). Therefore, it would be appropriate to refer Rules 37 and 38 which reads as under :-

37. Addition to qualifying service for Superannuation pension :

(1) Government employees whole pensionable service has been rendered on one or the other of the posts or service mentioned below and whose qualifying service for pension is not less than ten years, may add to their services qualifying for Superannuation Pension, the number of years by which their age on appointment exceeded twenty five years subject to maximum addition of ten years :-

(i) Assistant Judges.

(ii) Metropolitan Magistrates for the city of Ahmedabad (including the Chief Metropolitan Magistrates.)

(iii) Judges of small Causes Court, Ahmedabad (including the Chief Judge.)

(iv) District and Sessions Judges.

(v) Civil Judges, Senior and Junior Division, and the Resident Magistrates directly

recruited from the Bar.

(vi) President and Members of the Industrial Courts.

(vii) Adjudicators and Members of Industrial Tribunals.

(viii) Administrator General and Official Trustee.

(ix) Judges of the Ahmedabad City Civil Court, including the Principal Judge, appointed directly from Bar.

(2) Government employees whose whole pensionable service has been rendered on one or the other of the posts or service mentioned in sub-rule (1) above and who are appointed directly from the Bar after attaining such an age which does not enable them to complete requisite number of years of qualifying service to receive recurring pension, may add to their service qualifying for superannuation pension, number of years as mentioned below :-

38. Condonation of deficiency and addition in service : Government may, for reasons to be recorded in writing :-

(1) condone a deficiency, which may not ordinarily exceed one year, in the period of service qualifying for pension performed by a Government employee in order to qualify him to receive a Retiring Pension or to receive a pension as distinct from a gratuity; or

(2) make an addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government employee which under the provisions of these rules may be counted for pension.

Explanation-1 : The power under sub-rule (2) shall be exercised only in respect of Class-IV Government employees retiring on Invalid or Compensation Pension.

Explanation-2 : The power of Government under this rule may be exercised by the pension sanctioning authority provided that the period of deficiency to be condoned or addition to be made does not exceed three months.

5. The perusal of above rules makes it clear that practically it is for the Government employees who are joining Government Services after their professional activities in the field and more particularly, it is concerned with the Judges and officers who are otherwise selected and posted to carry out quasi-judicial activity as a President and Member of Industrial Courts and Tribunals or officers of Administrator General and official trustee as listed in Rule 37. The period to be extended for considering qualifying service is also mentioned in Rule 37 and therefore, Rule 38 is not applicable to the present petitioner in any manner whatsoever and to that extent reference of such rule in such communication 10/13.12.2007 is unwarranted.

However, it cannot be ignored that practically Rules 37 and 38 empowers the Government for addition to qualifying service for superannuation pension even if some of the officers from Government employees has not completed the

minimum qualifying service of 10 years and therefore, it is quite clear and obvious that it is not a new concept or out of box facility offered to anyone or prayed by the petitioner when he is seeking pensionary benefit when he has completed almost 10 years of service which is 9 years, 9 months, precisely petitioner has served for 9 years, 9 months and 15 days.

6. Therefore, petitioner has by her letter dated 19.04.2008 requested the respondent to consider her case of pension. However, by order dated 28.06.2008, the respondent No.2 has now conveyed the petitioner that since her services were for less than 10 years, and Rule 80(2) is applicable only if Government employee has completed 10 years, she is not entitled to pensionary benefits. Therefore now Rule 80 is also relevant to be referred, which reads as under :

"80. Amount of Service Gratuity/Pension : (1) In the case of a Government employee retiring on Superannuation, Retiring, Invalid, Wound and Injury or Compensation Pension before completing qualifying service of ten years, the amount of service gratuity shall be one month's "pay" for each completed year of service.

(2)(a) In the case of a Government employee retiring on Superannuation, Retiring, Invalid or Compensation Pension in accordance with the provisions of these rules after completing qualifying service of not less than thirty-three years, the amount of pension shall be fifty per cent of the pensionable pay subject to (minimum amount of Rs. 1913 and maximum amount of Rs. 19,500). * Sub-section vide notification dated 19.10.2006.

Provided that the full pension in no case shall be less than 50 percent of the minimum of the revised scale of pay introduced with effect from 1st January, 1996 for the post held by the employee at the time of retirement.

(b) In the case of a Government employee retiring on Superannuation, Retiring, Invalid or Compensation Pension in accordance with the provisions of these rules before completing qualifying service of thirty-three years, but after completing qualifying service of the ten years, the amount of pension shall be proportionate to the amount of pension under clause (a) and in no case the amount shall be less than minimum.

(3) In calculating the length of qualifying service, fraction of a year equal to six months and above shall be treated as a complete year and reckoned as qualifying service.

(4) The amount of pension finally determined under clause (a) or clause (b) of sub-rule (2), shall be expressed in whole rupees and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee.

Note : The pay for the purpose of service gratuity admissible under sub-rule (1) shall be the last drawn pay plus dearness allowance admissible on the date of actual retirement."

The bare reading of Rule 80 makes it clear that it is part of job VIII of the rules which is regarding Regulation of Amount of Pension and Gratuity, wherein Rule 80 is providing for amount of service, gratuity/pension. It is true that sub rule 1 in Rule 80 fixes qualifying service for pension as 10 years when it is stated that in case of a government employee retiring on superannuation, retire, invalid, wound and injury or compensatory pension before completing qualifying service of 10 years, the amount of service, gratuity shall be 1 months pay for each completed year of service. However sub-rule 3 of Rule 80 specifically provides that in calculating the length of qualifying service, fraction of a year equal to 6 months and above shall be treated as a complete year and reckoned as qualifying service. Therefore this rule is quite clear and it specifically provides that while calculating the length of qualifying service, fraction of a year equal to 6 years and above shall be treated as a complete year and thereby those total number of years shall be reckoned as qualifying service.

7. Since the entire dispute is now raised, with reference to interpretation of what is "qualifying service" and whether this rule is extending the benefit of qualifying service for the consideration of total length of service for pension and gratuity or not; let us refer the definition of "qualifying service" as provided in Rule 9 (68) which is part of chapter 2 regarding service under the rule, the definition of "qualifying service" under Rule 9(68) reads as under :

(68) "Qualifying Service" means service rendered while on duty or otherwise which may be taken in account for the purpose of pension and gratuity admissible under Gujarat Civil Services (Pension) Rules.

The bare reading of such definition also clarifies that qualifying service counts service rendered while on duty or otherwise which may be taken into account for the purpose of pension and gratuity admissible under the rules. Therefore, there are two type of period which are considered for qualifying service (1) Actual Service rendered while on duty and (2) when the definition extends such meaning by the words "or otherwise which may be taken in account for the purpose of pension". Period which otherwise can be considered as a period for which though person was not in service as such, permits the employer to consider that employee has worked and rendered duties for such period. This second part is taken care of for some employee in Rules 37 and 38 and in general in Rule 80(3) wherein it is categorically stated that the length of qualifying service shall include the fraction of a year equal to 6 months and above which shall be treated as a complete year.

8. Therefore, when there is no limitation that whether this period of 6 months and above is to be taken into consideration only if employee has worked minimum for 10 years so as to award pension or gratuity only it cannot be said as contemplated and taken as a ground to deny the pension to the petitioner that such relaxation is only for "calculating the pension" and not for considering the length of qualifying services. Therefore when the sub-rule (3) of Rule 80 is simple and clear that it is not providing for "calculating the amount of pension"

but it is provided for "calculating the length of qualifying service", the act of the respondent in denying the pension by interpreting the rule as if this rule is providing a benefit in favour of the employee only in case of "calculation of pension" and not for "calculating the qualifying service" is certainly arbitrary in nature and deserves to be quashed and set aside being unconstitutional and against the provision of rules. I fail to realize that why and how Government officials are interpreting their own rules in such manner which is otherwise not approved by any other authority and more particularly at least when there is one Judgment of this High Court which is endorsing above view.

9. Unfortunately, even after such judgment, the respondents are trying to interpret the rule in their own way in different terms which would be considered herein after. But, at this stage, let it be made clear on record that when petitioner has served for 9 years, 9 months and 15 days, she is entitled to benefit of sub-rule 3 of Rule 80 which provides for calculating the length of qualifying service and not for calculating the amount of pension to be paid to any Government employee. Therefore when service rendered for 9 years, 9 months and 15 days is to be treated and considered as a complete year to reckon the total service of petitioner for qualifying service, now it is clear that when petitioner has served for 9 years, 9 months and 15 days while considering the case of the petitioner for retirement and pensionary benefit, it is to be considered that she has worked for 10 years. Unfortunately, at such a stage respondents are trying to deprecate the fact in the petition and some judgment, when petitioner has said that she has worked almost for 10 years, the terminology used by the employee is not much material for the employer like State Government. They have to simply follow the statutory rules and when rules do provide that in calculating the "length of qualifying service", fraction of a year equal to 6 months and above shall be treated as a complete year to reckon as qualifying service, respondents have no reason or authority to take shelter of single word either in any representations or in such petitions to deny the pensionary benefit to such employee.

10. Therefore, by her letter dated 18.8.2008, the petitioner has again requested the respondents to consider the provision of Rule 80(3) of the Rules, but unfortunately, by letter dated 20.2.2009, the respondents have conveyed her that Rule 80(3) is applicable only if petitioner has completed total length of service of 10 years. If such interpretation is to be accepted, then, there is no reason or scope for the maker of such rules to draft such rule and to approve it as a statutory rule, which specifically confirms that it is for calculating the length of qualifying service and not for calculating the amount of pension only. To that extent, the letter dated 20.2.2009 is also against the rules.

11. Such issue is practically decided by this Court as back as in the year 2005 in the case between Dursinh Jugsinh Rathod v. State of Gujarat and Anr. reported in 2006 (4) G.L.R. 3353; wherein paragraph 5 reads as under :-

"5. Plain reading of Rule 80 of the Gujarat Civil Services (Pension) Rules, 2002

would show that sub-rule (1) applies to the cases where service gratuity is required to be paid on account of the employee retiring before completing qualifying service of ten years. The subject of pension is covered by the provisions of clauses (a) and (b) of sub-rule(2) of Rule 80 and it is added by way of explanation in sub-rule (3) that in calculating the length of qualifying service, fraction of a year equal to six months and above shall be treated as a complete year and reckoned as qualifying service. Applying that extended definition, the petitioner would have completed the period of ten years of qualifying service even after acquisition of lien and absorption in the service of the District Education Committee. Therefore, the denial of even provisional pension is based apparently on complete misreading of Rule 80 and, therefore, the petitioner was entitled to be paid at least provisional pension immediately after his retirement since July, 2002."

12. However, considering the practise being followed since couple of years, it seems that while disposing of Special Civil Application No.13250 of 2004, when the Court has directed the respondent-State to pay pension to the petitioner before it, as if he has completed 10 years of service though his actual length of service was just above 9 years and six months, and thereby, though the Court has directed the respondent to take decision on their own within three months, when copy of such judgment is annexed with the petition itself, and thereby, when respondents are aware about such directions, respondents have not come forward to disclose that whether they have challenged such judgment and got it reversed or that whether they have not followed such judgment or at least whether they have complied with such direction and granted pension to such petitioner in such cited case. To that extent, in such matters, when reasonable time is generally extended to the respondents to deal with all the issues, non-disclosure of any particular information and for not answering any particular fact by the petitioner, would certainly result into taking adverse inference against the respondents. The fact of such cited case is very well discussed in paragraph 3.7 of the petition and while filing the reply, when respondents have failed to respond to such paragraph or its contents, then, it is to be believed that they have no answer to such pleading and the judgment.

13. Surprisingly, even thereafter, when petitioner has represented on several occasions to the respondents by letter dated 24.7.2009, initially, respondents have tossed the petitioner from one office to another and ultimately, by letter dated 10.9.2009, now, the respondents have conveyed the petitioner that she is not entitled to pension, quoting Rule 80(1) of the Rules. Such reply is pursuant to notice/representation made by the petitioner through her advocate wherein Rule 80(3) is quoted in paragraph 5 of the notice/representation. Therefore, now, record shows that respondents have denied the benefit of pension to the petitioner on three different occasions quoting three different rules i.e. initially Rule 38(2), then, sub-rule (3) of Rule 80 and ultimately, sub-rule (1) of Rule 80. Therefore, there is reason to believe that even respondents are not clear about their stand, but they are certain that they do not want to pay pension to the

petitioner for any reason whatsoever.

14. Whereas, by letter dated 29.11.2007, now, they have conveyed to each other that provision of Rule 38(2) is with reference to the invalid and compensatory pension only though the facts are altogether different as discussed herein above.

15. Though facts and circumstances are quite clear as discussed herein above, respondents have now resisted this petition by filing affidavit in reply dated 18.12.2009 contending that pursuant to the order of this Court dated 17.6.1995 in Special Civil Application No.12167 of 1994, so also G.R. dated 13.4.2009, the petitioner is not entitled to pensionary benefit as claimed by her. It seems that respondents have failed to realise that the G.R. under reference is dated 13.4.2009, whereas their denial to pay pension to the petitioner is in the year 2007 and 20.6.2008. Therefore, by all means, respondents have wrongly taken the shelter of this G.R. in their affidavit-in-reply. However, it has been submitted during argument that this G.R. is made effective from 1.1.2006 and therefore, now, this G.R. is applicable to the case of the petitioner. Surprisingly, the perusal of G.R. makes it clear that it is issued for the purpose of revision of provisions regulating pension/gratuity/commutation of pension etc. of post 1.1.2006 pensioners/family pensioners with reference to recommendation of Sixth Central Pay Commission wherein paragraph 3.1 under the heading of 3 in Pension reads as under :-

"3.1. A Government servant retiring in accordance with the provisions of the Gujarat Civil Services (Pension) Rules, 2002, before completing qualifying service of ten years shall not be entitled to pension but he shall continue to be entitled to service Gratuity in terms of Rule 80 of the Gujarat Civil Services (Pension) Rules, 2002. The benefit of rounding of years does not apply to minimum of length of service for entitlement of the pension."

Thereby, the bare reading of the provision of the G.R. makes it clear that by adding such paragraph 3.1, practically, the respondents have nullified and negated the statutory rules in the form of Rule 80 under the Rules of 2002, which is providing for calculating the length of qualifying service confirming that fraction of a year equal to six months and above shall be treated as a complete year and reckoned as qualifying service. Therefore, respondents have come forward and interpreted Rule 80(3) in a manner so as to consider that such fraction of an year is to be added only for considering the "calculation of pension" and that too only when such employee has completed the qualifying service of 10 years or more i.e. only for the amount of pension and not for length of services for pension. If it is so, they have no reason to draft paragraph 3.1 in such G.R., whereby, now, they are coming forward with a specific wording that before completing the qualifying service of 10 years, employees shall not be entitled to pension and that benefit of rounding off years does not apply to minimum length of service for entitlement of the pension. In any case, paragraph 3.1 of G.R. dated 13.4.2009 is against the provisions of statutory rules and it is quite clear

and obvious that interpretation of rule and statute cannot be changed by any such G.R. and to that extent, paragraph 3.1 in G.R. dated 13.4.2009 is against the provision of rules and therefore, it is not to be followed. In fact, for drafting such paragraph in G.R., the concerned officer of the respondents should be taken to task.

16. So far as the order dated 17.6.1995 in the case of Laljibhai Karsanbhai Vasensa v. The State of Gujarat in Special Civil Application No. 12167 of 1994 is concerned, it is quite clear from the record that it is not a judgment, but a summary order of the Court and in that case, though the petitioner has served for 9 years, 9 months and 29 days, if particular Court has in the year 1994 not extended the benefit of pension to him, what is relevant at this stage is the Rules of 2002, which are after such order dated 17.6.1995 and if such order is in favour of the respondents, then, respondents should have certainly referred such order in the case of Dursinh Jugsinh Rathod (supra) to negative the stand and interpretation of the Court, which is reproduced herein above. The judgment of Dursinh Jugsinh Rathod (supra) nowhere discloses reference of such order dated 17.6.1995 and more particularly, when statutory rules are framed thereafter, as Pension Rules in the year 2002. In the case of the petitioner, who retired in the year 2007, now, based upon such summary order alone, it cannot be held that the petitioner is not entitled to pension only because respondents are interpreting the resolution in their favour.

17. So far as the case of Bashirbhai R. Khiliji (supra) is concerned, it is quite clear and obvious that the rules under reference before this Court so also before the Hon"ble Supreme Court of India in such cited case are altogether different. In such cited case, the relevant rules of 1972 being Central Civil Services (Pension) Rules, 1972 and as aforesaid when there are specific rules being Gujarat Civil Services (Pension) Rules, 2002, which are applicable to the present petitioner and when such rules specifically provides in form of Rule 80(3) that in calculating the length of qualifying service, fraction of an year equal to six months and above shall be treated as a complete year and reckoned as qualifying service, irrespective of facts and circumstances or even determination in such cited case, it would not confirm that petitioner is not entitled to pension, for the simple reason that in the case of the petitioner, the concerned rules of 2002 is applicable and which specifically extends such benefits to the petitioner, which probably is not the case or the issue before the Hon"ble Supreme Court of India in such cited case. Even though, if we peruse such cited case, the fact is quite clear that, practically, petitioner before the Hon"ble Supreme Court was suffering from some serious ailment. He was posted on duty in Srinagar and due to heavy snowfall and ultimately, he suffered 100% invalidity and was unable to serve on active duty on account of impairment of both his ears and therefore, relying upon the prevalent rules 38 and 49 of the Rules of 1972, the Hon"ble Supreme Court of India has held that petitioner is not entitled to compensatory invalid pension. However, the judgment shows that the petitioner in such cited case was paid some other monthly benefits so also ex-gratia payment because of

his impairment and therefore, relying upon the provisions of particular rules, Hon''ble Supreme Court of India has held that petitioner before it, is not entitled to invalid pension.

Therefore, there is no clarity on record of the cited case that whether he was refused regular pension also or not because at least it is stated in the judgment that in fact by order dated 28.2.1996, the High Court directed the department for separate pension in accordance with rules. Therefore, it was a case of invalid pension and not regular pension and based upon particular rules of 1972, whereas at present, we are concerned with the provision of said Rules of 2002, which specifically provides as discussed herein above for treating fraction of year above six months as an equal year. Such cited case would not help the respondents to get rid of their liability to pay pension to the petitioner.

18. Petitioner has filed rejoinder affidavit on 10.3.2010, reiterating her case, which is discussed herein above, now annexing the text of Rule 80 of said rules of the year 2002, which confirms that she is entitled to pension because the period of 9 years, 9 months and 15 days is to be considered as a complete year so as to reckon as qualifying service. Therefore, considering the total service of the petitioner being 9 years, 9 months and 15 days, which is to be reckoned as 10 years and when employees are entitled to pension after completing qualifying service of 10 years, now, it becomes clear that the petitioner is entitled to pensionary benefit. Therefore, the petition deserves to be allowed.

19. The petitioner is also relying upon the following decisions in the case of Mahendrakumar Atmaram Patel v. Office of the Director of Pension and Provident Fund dated 16.9.2016 in Special Civil Application No.11070 of 2003 wherein relying upon the case of Dursinh Jugsinh Rathod (supra) so also some other decisions on the issue, the Co-ordinate Bench has considered the interpretation of "qualifying service" and ultimately held that though the petitioner before it has put in total services of 9 years and 10 months, his qualifying service for the pension is to be considered as 10 years and he is entitled to pension. The other judgments on the subject are well discussed in such judgment and therefore, I do not want to reproduce the same in detail.

19.1. Learned advocate for the petitioner is also relying upon following judgments, which are as under :-

(a) (2014) 13 SCC 474 between State Bank of Patiala v. Pritam Singh Bedi and Ors.;

(b) (2015) 3 SCC 404 between Union of India & Anr. v. Surender Singh Parmar;

(c) AIR 2007 SC 3159 between Indian Bank and Anr. v. N. Venkatramani; and

(d) A.A. Gopalakrishnan v. Cochin Devaswom Board and Ors.

20. The petitioner is relying upon the decision in the case of Vijay L. Mehrotra v. State of U.P. reported in AIR 2000 SC 3513 (2), wherein, Hon''ble Supreme Court

has awarded 18% interest on delayed payment. The petitioner is also relying upon S.K. Dua v. State of Haryana reported in AIR 2008 SC 1077, wherein, Hon"ble Supreme Court has remanded the matter back to the High Court for considering issue of interest to be paid for such delayed payment because the High Court has dismissed such petition even without issuing notice to the respondent authorities.

21. It would be appropriate to recollect the decision in the following cases:

(1) AIR 2003 SC 3966 between KSRTC v. K.O. Varghese;

(2) AIR 2001 SC 2433 between Gorakhpur University v. Shitla Prasad Nagendra;

(3) AIR 2000 SC 1918 between R.Veerabhadram v. Government of AP;

(4) State of Kerala v. M. Padmanabhan Nair between 1985 (1) SCC 429.

wherein Hon"ble Supreme Court has reiterated its earlier view holding that the pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement, but, have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be dealt with the penalty of payment of interest at the current market rate till actual payment to the employees. The said legal principle laid down by Hon"ble Supreme Court still holds good in so far as awarding the interest on the delayed payments to the appellant is concerned.

22. Thereby, orders denying the pension to the petitioner being dated 10-13.12.2007, 3.5.2008 and 20.2.2009 are hereby quashed and set-aside. Thereby, respondents are now directed to start paying the pension to the petitioner forthwith. They must complete the necessary exercise of calculating pension within four months from the date of receipt of writ of this judgment and shall pay arrears of pension within four months without fail with 6% interest thereon from the actual date of entitlement till the actual date of payment.

23. If the arrears of pension is not paid within the stipulated period of four months, then respondents are liable to pay interest @ 9%.

24. Rule is made absolute. Direct service is permitted.