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WA-369-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 3rd OF AUGUST, 2026WRIT APPEAL No. 369 of 2024*SUDHIR KUMAR HUNDET**Versus**MP MADHYA KSHETRA VIDYUT VITRANA COMPANY LTD AND
OTHERS*

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Appearance:

*Shri Hemant Shrivastava - Senior Advocate assisted by Shri Rajiv
Mishra - Advocate for the appellant.*

Shri Harpreet Singh Gupta - Advocate for the respondents No.1 and 2.

*Shri Rajesh Tiwari - Government Advocate for the respondent
No.3/State.*

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ORDER

Per. Justice B. P. Sharma

With consent, heard finally.

This appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005 has been preferred by the appellant assailing the order dated 03.01.2024 passed by learned Single Judge in Writ Petition No.20198/2020 (*Sudhir Kumar Hundet Vs. MPMKVVC and Others*) whereby the writ petition challenging the order dated 15.10.2019 withholding the appellant's pension was dismissed.



2. The appellant, Sudhir Kumar Hundet, was employed as a Junior Engineer in Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Limited (MPMKVVCL). While in service, a criminal case was registered against him by *Lokayukta* Police vide Crime No.460/2014 alleging offences under Sections 7 and 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988. During pendency of criminal trial, he attained the age of superannuation and retired from service on 30.06.2017. Since the judicial proceedings were still pending, respondent-Company sanctioned provisional pension to him under Rules 9 and 64 of Madhya Pradesh Civil Services (Pension) Rules, 1976 (hereinafter referred as to 'Rules, 1976') by order dated 30.08.2017. Subsequently, by judgment dated 31.08.2019 passed by the Special Judge (PC Act), Bhopal in Special Case No.40/2015, the appellant was convicted for offences punishable under the aforesaid sections and was sentenced to undergo rigorous imprisonment with fine. The appellant challenged the conviction by filing Criminal Appeal No.7505/2019 before High Court, which is pending for adjudication.

3. Thereafter, relying upon the conviction, the respondent No.2 passed the order dated 15.10.2019 under Rule 8(2) of the Pension Rules, 1976 directing that the appellant's pension be withheld and consequently discontinued the provisional pension that had earlier been sanctioned. Aggrieved thereby, he filed W.P. No.20198/2020 seeking quashment of the order dated 15.10.2019, release of pension and gratuity together with interest. Learned Single Judge, however, dismissed the writ petition holding that the respondents were justified in invoking Rule 8(2) of the Pension



Rules after the appellant's conviction.

4. Learned Senior Counsel appearing for the appellant submitted that learned Single Judge committed an error in affirming the order dated 15.10.2019 by overlooking the true scope of Rules 8, 9 and 64 of the Rules, 1976. It is argued that the appellant had already retired during the pendency of criminal proceedings, therefore, his case was governed by Rule 9 read with Rule 64 and not Rule 8(2) of the Rules, 1976, under which provisional pension had rightly been sanctioned. Once provisional pension had been granted under Rule 64, the respondents could not subsequently invoke Rule 8(2) to withdraw the same merely because appellant was convicted in trial.

5. It is further contended that Rule 8(2) applies only to pension granted after retirement and contemplates future good conduct of a pensioner, whereas the appellant's case squarely fell within Rule 8(3) and Rule 9 governing judicial proceedings pending against a retired employee. The competent authority under Rule 9 is the Governor or the Full Board of the respondent-Company and not respondent No.2, who lacked jurisdiction to withhold the pension. It is argued that the criminal appeal against conviction is a continuation of the original proceedings and since Criminal Appeal No.7505/2019 has been admitted and the sentence has been suspended, the judicial proceedings cannot be said to have attained finality. Consequently, the appellant remained entitled to provisional pension until the criminal appeal is finally decided.

6. It is further submitted that the respondents illegally withheld not only the pension but also the gratuity without passing any independent order. It is



contended that under Rule 64, gratuity could at best remain deferred during the pendency of trial and, after conclusion of the trial; the appellant became entitled to its release together with interest. On these submissions, it is prayed that the order of learned Single Judge as well as the order withholding pension be set aside and the respondents be directed to restore pension and release gratuity with consequential benefits.

7. Learned counsel appearing for the respondents contended that the appellant stands convicted by the competent Court for serious offences under the PC Act, 1988 and such conviction constitutes sufficient ground for exercise of power under Rule 8(2) of the Rules, 1976. It was argued that Rule 8(2) specifically authorises the pension sanctioning authority to withhold or withdraw pension where a pensioner is convicted of a serious crime. Suspension of sentence by the appellate court does not obliterate the conviction and, therefore, pendency of the criminal appeal cannot confer any right upon the appellant to continue receiving pension.

8. The respondents further submitted that provisional pension sanctioned under Rule 64 was payable only till the stage when the criminal proceedings culminated in conviction. Once the appellant was convicted, the respondents were legally justified in discontinuing provisional pension and invoking Rule 8(2). It is also contended that the appellant had no enforceable right to claim gratuity during the pendency of criminal appeal and learned Single Judge rightly held that payment of gratuity was governed by the provisions of the Pension Rules; therefore, no ground for interference in appeal was made out.

9. Heard counsel for the parties and have carefully perused the record.



10. We have no hesitation in holding that the conviction of appellant under the PC Act, involving corruption, involves moral turpitude and constitutes grave misconduct. Such conduct strikes at the very foundation of public service and directly attracts the doctrine of "future good conduct" embodied in Rule 8 of the Pension Rules. Pension is undoubtedly a statutory right; nevertheless, it remains subject to the conditions prescribed by the statute itself. Rule 8(2) expressly authorises withholding or withdrawal of pension upon conviction for a serious crime and, therefore, the action of the respondents is firmly rooted in statutory authority.

11. Learned Single Judge has rightly held that Rules 8 and 9 of the Rules, 1976 operate in distinct fields. Rule 9 governs cases where departmental or judicial proceedings are pending against a retired employee and empowers grant of provisional pension during the pendency of such proceedings. However, once the judicial proceedings culminate in a judgment of conviction for a serious crime, the matter ceases to be governed by Rule 9 and squarely falls within the ambit of Rule 8(2), which specifically empowers the pension sanctioning authority to withhold or withdraw pension where the pensioner is convicted of a serious crime or found guilty of grave misconduct. Rule 8 further declares that future good conduct is an implied condition for grant and continuance of pension. Thus, the statutory scheme itself contemplates a distinction between a pending judicial proceeding and a concluded criminal trial resulting in conviction.

12. The appellant's submission that Rule 9 alone would continue to govern the matter till disposal of the criminal appeal cannot be accepted. Though, a



criminal appeal may be a continuation of criminal proceedings for certain purposes, the conviction recorded by the competent criminal court continues to operate unless it is stayed or set aside by appellate court. In the present case, admittedly only the sentence has been suspended by order dated 03.10.2019; the conviction itself has neither been stayed nor obliterated. Consequently, the statutory consequence flowing from Rule 8(2) became operative immediately upon conviction and the respondents were fully justified in exercising the power vested under the Rules.

13. The further submission that the respondents ought to have initiated separate proceedings or afforded a prior opportunity of hearing before withholding pension is equally devoid of merit. The issue is no longer *res integra*. Learned Single Judge has rightly relied upon Larger Bench decision of this Court in *Lal Saheb Bairagi Vs. State of M.P. & Others (Writ Petition No.16549/2016)* wherein it has been held that where action is taken under Rule 8(2) after conviction of a pensioner for a serious crime, the elaborate procedure contemplated under Rule 8(3) stands expressly excluded and no prior notice is required to be issued. The Larger Bench has held that Rule 8(2) and Rule 8(3) occupy different fields and the principles of natural justice cannot be read into Rule 8(2) in view of the express statutory exclusion.

14. Learned Single Judge has further noticed that while exercising powers under Rule 8(2), the competent authority is required to examine the judgment of conviction and determine whether the conduct leading to conviction warrants withholding or withdrawal of pension. Such consideration is to be



made on the basis of the criminal court judgment itself and not after conducting a fresh enquiry. This proposition has been accepted by the Larger Bench by placing reliance upon the Constitution Bench judgment of the Hon'ble Supreme Court in *Union of India vs. Tulsiram Patel (1985) 3 SCC 398*, wherein it has been held that in exceptional situations the principles of natural justice may stand excluded by statutory provision.

15. We also concur with the view taken by learned Single Judge that no direction for release of gratuity can be issued. Rule 64 itself contemplates that gratuity shall remain subject to the outcome of departmental or judicial proceedings. The appellant cannot claim release of gratuity contrary to the statutory scheme when the proceedings have culminated in his conviction and the consequences under Rule 8(2) have already come into operation.

16. In view of the foregoing discussion, we are of the considered opinion that learned Single Judge has rightly upheld the order dated 15.10.2019 withholding the appellant's pension consequent upon his conviction under the PC Act, 1988. The appellant has failed to demonstrate that Rule 8(2) of the Rules, 1976 was wrongly invoked or that the impugned action suffers from any legal infirmity.

17. Accordingly, finding no merit in the present writ appeal, the same deserves to be and is hereby *dismissed*.

(ANAND PATHAK)
JUDGE

(B. P. SHARMA)
JUDGE

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