

STATE OF RAJASTHAN AND ORS.

v.

NOOR BANO ETC. ETC.

APRIL 17, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Service Law :*

*Pension—State Government—Order—Grant of minimum and family pension to pre-1.9.1986 pensioners—Subsequent order granting additional relief to pensioners—Extent of entitlement under subsequent order—Held benefit of subsequent order was not available to pensioners whose consolidated pension was below Rs. 300.*

An order dated 20th October, 1987 issued by the State of Rajasthan regarding grant of a minimum and family pension to pre-1.9.1986 State Government pensioners provided that pension admissible to the pensioners would not be less than Rs. 300 pre month including original pension plus 'temporary increases in pension' and 'increases in pension'. A subsequent order dated December 2, 1989 granted additional relief which varied from Rs. 50 to 175, to the aforesaid class of pensioners stating that the additional relief should be admissible to pre-1.9.86 pensioners at such rate which would depend upon the date of their retirement. On the extent of entitlement of pre-1.9.86 pensioners under the order dated December 2, 1989 the High Court of Rajasthan held that all the pensioners would be entitled to additional relief. In State's appeal to this court on the question whether in case of those pre 1.9.86 pensioners, who were to receive as per the order of October 20, 1987 minimum of Rs. 300, a further sum of 75 visualised by the second order has to be paid in all cases:

Allowing the State's appeal and modifying the High Court's order, this Court

**HELD :** The additional relief visualised by the Government order of December 2, 1989 would not be available to those pre 1.9.86 pensioners whose consolidated pension is below Rs. 300. [311-D]

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5167 of 1995 Etc. Etc.

From the Judgment and Order dated 2.3.93 of the Rajasthan High Court in S.B.C. W.P. No. 1330 of 1993.

B Aruneshwar Gupta for the Appellants.

B.D. Sharma for the Respondents.

The Judgment of the Court was delivered by

C HANSARIA, J. Leave granted. Heard counsel on both sides. The short but important question which needs to be decided in these appeals is regarding the extent of entitlement of "pre-01.09.1986 pensioner" in the State of Rajasthan under Government Order of even number dated 02.12.1989.

D 2. To decide the aforesaid question we need first to note the Govern-  
E ment Order of October 20, 1987 on the subject of grant of minimum  
F pension and family pension to pre-01.09.1986 State Government's pen-  
G sioners. This order states that the pension admissible to the just mentioned  
class of pensioners "taken together" would not be less than Rs. 300 per  
month. This amount has been said in the order to include original pension  
plus 'temporary increases in pension' and 'increases in pension'. Then came  
the order of December 2, 1989 on the subject of grant of additional relief  
to the aforesaid class of pensioners. It states, *inter alia*, that the additional  
relief shall be admissible to the pre-01.09.1986 pensioners at such rate  
which would depend upon the date of their retirement. The amount of  
additional relief varies from Rs. 50 to Rs. 175. May we state that in the  
present appeals we are not concerned about the reasonableness of the  
classification based on the dates of retirement. All that we have been called  
upon to decide is whether in case of those pre-01-09-1986 pensioners, who  
were to receive as per the order of October 20, 1987 minimum of Rs. 300,  
a further sum of Rs. 75 visualised by the second order has to be paid in all  
cases.

H 3. The view taken by the High Court of Rajasthan in the impugned  
judgment is that all the above pensioners would be entitle to additional  
relief. The State has preferred this appeal by special leaves.

4. The learned State counsel has put on record, alongwith his written submission, not only the relevant orders issued from time to time by the State Government, but calculation charts also in the annexures. Annexure 'A' deals with those pre-01.09.1986 pensioners who retired prior to 01.09.1976. Of these retirees, the consolidated pension of the first four categories, even after including additional relief of 15% which was granted by the order of December 2,1989, varies from Rs. 254 to Rs.286.50. The pension to admissible to them by virtue of the Government Order of October 20, 1987 would, however, be Rs. 300. If these retirees have to be given a further sum of Rs.75, as is the contention on behalf of the respondents, the amount of consolidated pension they would get would exceed that which other categories of such retirees would get, inasmuch as the consolidated pension of the latter category varies from Rs. 301.50 to Rs. 1040. It is apparent that such a consequence was not desired by the order of December 2, 1989 nor can such a consequence be allowed to happen.

5. We, therefore, hold that the additional relief visualised by the Government Order of December 2, 1989 would not be available to those pre-01.09.1986 pensioners whose consolidated pension is below to Rs. 300, beyond that reflected Annexure 'A', or for that in Annexure 'B'. To put the matter beyond doubt, we observe that the first four categories of Government employees, about whom mention has been made in Annexure 'A' and first five mentioned in Annexure 'B' would not receive, even by the force of the Government Order of December 2, 1989, anything beyond Rs. 300.

6. The view taken by the High Court is modified as stated above and the appeals stand allowed accordingly. In the facts and circumstances of the case, we make no order as to costs.

T.N.A.

Appeal Allowed.