

Mukut Das Vs. The Assam Power Generation Corporation Ltd. & Ors.

Civil Appeal No. 14559 of 2025 @ SLP (C) No. 22297 of 2024 · Supreme Court of India · 2025-12-04 · Ahsanuddin Amanullah · K. Vinod Chandran · F2J-C-1521

Full judgment text

Mukut Das Vs. The Assam Power Generation Corporation Ltd. & Ors.

[Civil Appeal No. 14559 of 2025 @ SLP (C) No. 22297 of 2024]

[Civil Appeal No. 14560 of 2025 @ SLP (C) No. 330 of 2025]

K. Vinod Chandran, J.

1. Leave granted.

2. The short controversy in the above appeals is as to whether the appellants, who retired on 31.03.2016 are entitled to the revision as brought in by the 'Assam State Electricity Board and its Successor Companies Revised Pay Rules, 2017'¹. Both the appellants were superannuated in March 2016, they having reached the age of superannuation, 60 years, before the last day in March 2016. By virtue of Fundamental Rule 56(a), their date of retirement from service is extended to the afternoon of the last day of the month in which the employee attains the age of 60 years; thus, both the appellants retired on 31.12.2016.

3. The learned Single Judge before whom the Writ Petition was filed, looking at the Rules of 2017 and FR 56(a) held that the Rules of 2017 applies to an employee who was in service on 31.03.2016, thus entitling both the appellants to the pay revision benefits. The Division Bench in Writ appeal reversed the finding, against which the appellants have approached this Court.

4. We heard Mr. K.N. Choudhury, learned Senior Counsel for the appellants, Mr. B.K. Sharma, learned Senior Counsel and Mr. Kaushik Choudhury learned counsel for the Respondents.

5. The learned Senior Counsel appearing for the appellants would contend that the Fundamental Rule specifically provided for retirement to be extended to the last day of the month in which an employee attains 60 years; in the present case to 31.03.2016 in which event, the appellants were in service as on 31.03.2016. The Rules of 2017 specifically provided that the revision applies to those in service as on 31.03.2016.

6. It is vehemently argued by the learned Senior Counsel for the respondents that the pay revision rules specifically enabled only those who were appointed and continued on or after 01.04.2016 to the revised pay structure. It is also pointed out that the revised pension shall not be applicable to the persons who had retired on or before 31.03.2016; as is clear from the rule permitting fitment benefits to pensioners.

7. The learned Senior Counsel appearing for the respondents specifically referred to the decision of this Court in K. J. George and Ors. v. Chief General Manager, Telecom, BSNL & Anr.², and a decision of the Delhi High Court in Union of India and Ors. v. G.C. Yadav³, the Special Leave Petition filed against which has been dismissed by an order dated 24.05.2024 in SLP (C) No.33558 of 2018.

8. We will first consider the decision placed before us in K. J. George². The Fifth Central Pay Commission by Clause 3.1 provided that revised pension will apply to Government servants who retired/died in harness on or after 01.01.1996. The respondents therein who attained the age of superannuation on 16.12.1995 and 03.12.1995 respectively, by virtue of the provision of FR 56 were made to retire only with effect from the afternoon of 31.12.1996. They claimed that they are entitled to the revised pay which came into effect from 01.01.1996 which claim stood declined by this Court.

9. The High Court of Delhi in G.C. Yadav³ was concerned with the Seventh Central Pay Commission implemented on 04.08.2016 in respect of pensioners, retiring on or after 01.01.2016; the date of effect. The respondents-employees therein attained the age of retirement on 31.12.2015. Hence, there is no applicability of FR 56 which provided extension of retirement to the last day of the month

only in cases where the date of retirement is on a day prior to 31st day of the very same month.

In G.C. Yadav³, the date of birth of the respondent was 01.01.1956 in which event he attained the age of retirement on 31.12.2015, on which date he superannuated. Since he retired on 31.12.2015, that disabled him from claiming the benefit of revision which was made effective from 01.01.2016. There is a clear distinction herein, insofar as the date of retirement of the appellants was the date on which the revision was made effective.

10. True, in K. J. George², this Court held that even if the benefit of FR 56(a) is conferred on an employee, legally he retires on the date when he attains the age of 60 years and the continuance after the last day of the month is only for the purpose of pay and allowances. We are unable to agree with the said finding, especially in the context of FR 56(a) not providing any such rigour of continuance only for the purpose of pay and allowance. FR 56(a) is extracted herein:-

"F.R. 56 (a) Except as otherwise provided in this rule, every Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years:

Provided that a Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years."

11. It is based on the proviso to the FR that G.C. Yadav³ declined the revision since therein the date of birth fell on the 1st day of the month and hence the employee retired on the last day of the preceding month.

12. Normally, we would have referred the matter to a Larger Bench since K. J. George² is a decision of a Coordinate Bench. But it is pertinent that the FR did not provide for a legal retirement and a severance on the last day, for purposes of pay and allowances alone. Moreover the decision failed to notice a three Judge Bench decision, which we shall refer to, a little later.

13. Both, K. J. George² and G.C. Yadav³ are cases where the respondent employees retired one day prior to the date of pay revision coming into effect. Insofar as the findings in K. J. George² regarding the extension being only for the purpose of pay and allowances, we are not referring the matter to a Larger Bench since we are supported by a Three Judge Bench decision in S. Benerjee v. Union of India and Others⁴, wherein a Deputy Registrar was allowed to retire from the Registry of this Court, on 01.01.1986.

The petitioner therein sought for the benefit of the Fourth Central Pay Commission which provided for treating the entire dearness allowance drawn by an employee up to 31.12.1985 as pay for pensionary benefits, in the case of employees who retired during the period 01.01.1986 to 30.09.1986. This Court reckoned Rule 5(2) of the Central Civil Services (Pension) Rules, 1972 providing for the date of retirement of a Government employee.

Reference was also made to the proviso to Rule 5(2) of the CCS (Pension) Rules, 1972, which deemed the date of retirement to be a non-working day in the case of a government servant who retires prematurely/voluntarily. Despite the proviso deeming the date of voluntary retirement to be not a working day, the three Judge Bench allowed the benefit that accrued on that date to all employees in service, to the appellant who retired voluntarily.

14. The proviso to Rule 5(2) is not applicable to the appellants herein since they had retired on attaining the age of superannuation, in the month of March 2016, extended to 31.03.2016 by virtue of FR 56(a). Rule 5(2) of the CCS (Pension) Rules is squarely applicable which provides as follows: -

5(2) The day on which a Government servant retires or is retired or is discharged or is allowed to resign from service, as the case may be, shall be treated as his last working day. The date of death shall also be treated as a working day. Hence the day on which the appellants retired they were in service.

15. In the present case, on the above principles we looked at the Rules of 2017, which is the subject matter of controversy, which is extracted hereunder:-

Application of the Revised Pay

(a) All employees who were in services on 31st March 2016 or who may have been appointed on or after 1st April 2016 shall draw pay in revised pay structure (Pay Band with Grade Pay) applicable to the posts/grades which they have been holding or to which they may have been appointed as the case

may be.

Fitment benefit/revision of pensioner/family pensioners.

(a) The revised basic pension/family pension on 01.04.2016 of the pensioners/ family pensioners who were drawing pension/ family pension on 31.03.2016 shall be fixed by multiplying the existing pension/ family pension by a factor of 2.48 and the amount so computed shall be rounded-off to the next multiple of Rs 10/-. The basic pension for all purposes will be w.e.f. 01.04.2016.

(b) The revised basic pension in no case shall be lower than 50% of the sum of minimum of the pay in the pay band and the grade pay thereon corresponding to the pre revised pay scale/pay band from which the pensioner had retired. This is applicable to those pensioners who retired on or before 31.03.2016 and after completing 25/33 years of qualifying service as the case may be.

16. Quite distinct from the Central Pay Commission recommendations, referred to in the cited decisions, the Rules of 2017 specifically provided for the benefit of pay revision to all employees who are in service on 31.03.2016 and those who have been appointed on or after 01.04.2016. The appellants by virtue of the FR 56(a), though attained the age of retirement prior to 31.03.2016, having attained the age only in March 2016 will have their date of superannuation extended to 31.03.2016. The FR does not provide for such extension to be merely for the purpose of pay and allowances nor can there be a deemed legal termination of employer-employee relationship be found on the date of attaining the age of 60 years.

The rule of superannuation is clear and unambiguous that any person who attained the age of superannuation in a month will retire only on the last day of that month. Further by virtue of Rule 5(2) of the CCS (Pension) Rules, on 31.03.2016 the appellants were in service, and they are entitled to the pay revision brought in by the Rules of 2017. Rule 5(2) of the CCS Pension Rules as extracted hereinabove ensures that the last day of retirement, in normal superannuation, as distinguished from a premature or voluntary retirement, is a working day for which the employee is entitled to salary.

17. The contentions based on Rule 32 of the Pay Revision Rules of 2017 is also fallacious. Sub-rule 1 specifically provides that the pension of any pensioner who retired prior to 01.04.2016 shall be revised w.e.f. 01.04.2016. Sub-rule 1(a) provides for computation of pension/family pension as on 31.03.2016 to those persons who were drawing the pension or family pension as on 31.03.2016; which is not applicable to the appellants since they were in service on 31.03.2016 and were not drawing pension or family pension as on that date. Insofar as sub-rule 1(b) is concerned, it only provides for a basic pension not lower than 50% of the sum of minimum of the pay in the pay band and the grade pay, for those pensioners who retired on or before 31.03.2016 and after completing 25/33 years of service.

This is only an enabling, provision to ensure a minimum pension to those who are not covered by the revision, which cannot alter the date of effect of the pay revision rules. It cannot be said that the appellants who were in service on 31.03.2016 would not be entitled to the revised pay scales as on 31.03.2016 by virtue of a provision enabling those who are not entitled to the revision to a minimum basic pension. As we noticed the Rules of 2017 are specific and those who are in service on 31.03.2016 are to be granted the revision.

18. We set aside the judgment of the Division Bench of the High Court and restore that of the learned Single Judge. The appellants shall be entitled to the pay revision as on 31.03.2016 and their pay for the month of March 2016 shall be determined in the revised scales and such revised pay shall be reckoned for computing the pension payable. The arrears of pay and pension shall be paid within a period of six months, and the revised pension shall commence from February 2026.

The arrears shall carry interest at the rate of 6 % for each passed year, if the above directions are not complied with and in the event of interest liability arising for non-payment of arrears within six months, as directed hereinabove, the respondent shall pay the interest and would be entitled to recover the same from the officers who caused the delay in such payment of arrears.

19. The appeals are allowed.

20. Pending application(s), if any, shall stand disposed of.

.....J. (Ahsanuddin Amanullah)

.....J. (K. Vinod Chandran)

New Delhi

December 04, 2025.

1 for short, 'the Rules of 2017'

2 (2008) 14 SCC 699

3 2018 SCC OnLine Del 12191

4 1989 Supp 2 SCC 486

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