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IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE  
HON'BLE SHRI JUSTICE MANINDER S BHATTI  
ON THE 5<sup>th</sup> OF JULY, 2022

**WRIT PETITION No. 20032 of 2020**

**Between:-**

KANHAIYALAL DAMDE S/O SHRI KALIRAM  
DAMDE , AGED ABOUT 61 YEARS,  
OCCUPATION: RETIRED EMPLOYE R/O SILARI  
AWAAS COLONY, SIRWAD ROAD ITARSI  
TEHSIL ITARSI (MADHYA PRADESH)

.....PETITIONER

*(BY SMT. ANCHAN PANDEY, ADVOCATE)*

**AND**

1. STATE OF MADHYA PRADESH THR. THE  
PRINCIPAL SECRETARY VALLABH  
BHAWAN, BHOPAL (MADHYA PRADESH)
2. COLLECTOR HOSHANGBAD HOSHANGABAD  
(MADHYA PRADESH)
3. SUB-DIVISIONAL OFFICER REVENUE  
DEPARTMENT HOSHANGABAD (MADHYA  
PRADESH)
4. TEHSILDAR HOSHANGBAD HOSHANGABAD  
(MADHYA PRADESH)
5. DISTRICT PENSION OFFICER HOSHANGABAD  
HOSHANGABAD (MADHYA PRADESH)

.....RESPONDENTS

*(BY SHRI GIRISH KEKRE, GOVT. ADVOCATE)*

.....  
*This petition coming on for admission this day, the court passed the  
following:*

**ORDER**

This petition has been filed while praying for the following reliefs:

"7.1 That the Hon'ble Court may kindly be pleased to direct the respondents to make the payment of provisional pension to submitted by the petitioner within stipulated time, otherwise petitioner is in trouble to survive because he is old and sick whereas criminal appeal would take time for final disposal.

7.2 That any other relief deemed fit may also be granted."

2. The petitioner herein, who was working against the post of Patwari, was placed under suspension vide order dated 2-4-2016 pursuant to a trap case.

3. The machinery of law which was set in motion by the said trap case, was ultimately ensued in conviction of the petitioner vide judgment dated 31-10-2019 delivered in Special Case No.300006/2016 by the learned Special Judge (Prevention of Corruption Act, 1988) Hoshangabad.

4. Contention of learned counsel for petitioner is that he was placed under suspension vide order dated 02-4-2016, whereas upon attaining the age of 60 years, the petitioner was superannuated with effect from 30-4-2016. Therefore, he was entitled for the benefit of provisional pension in accordance with Rule 64 of the M.P. Civil Services (Pension Rules) 1976 [hereinafter referred to as "the Pension Rules"].

5. Learned counsel for petitioner while referring to Annexure-P/3, dated 21-11-2016 submits that, in earlier round of litigation, this Court in W.P. No.15487/2016 directed respondents to consider petitioner's representation. Thereafter, in terms of order passed by this Court the representation of the petitioner was considered and decided vide order dated 21-11-2016 which is contained in Annexure-P/3 and it was concluded in an unequivocal term, that

petitioner was entitled for the benefit of provisional pension in accordance with Rule 64 of the Pension Rules.

It was further observed in the order that the petitioner shall also be entitled for GPF/DPF/GIS, however, he would not be entitled for leave encashment and gratuity.

6. Learned counsel for petitioner contends that relief in the present petition is only confined as regards grant of provisional pension in terms of Rule 64 of the Pension Rules. The learned counsel submits that the issue having been conclusively decided vide communication dated 21-11-2016, the benefit of provisional pension has not been extended to the petitioner, despite lapse of approximately 5 1/2 years from the date of his superannuation.

7. Per contra, learned counsel for respondents/State submits that the trap case was ensued in filing of charge-sheet and the same resulted in a full-fledged trial and upon conclusion of which, petitioner has been convicted vide judgment dated 31-10-2019. Therefore, learned counsel for respondents submits that by virtue of Rule 8 of the Pension Rules, petitioner is not entitled for the benefit of pension.

8. Heard learned counsel for parties and perused the records.

9. The petitioner in this case just prior to his date of superannuation was placed under suspension vide order dated 2-4-2016 and eventually was superannuated vide order dated 30-4-2016. It is also not in dispute that after trap case, trial was initiated which remained pending till 2019 when the petitioner herein ultimately was convicted.

10. Therefore, the authorities in due compliance of the order passed by this Court in W.P. No.15487/2016 rightly concluded that the petitioner was entitled for benefit of provisional pension in accordance with Rule 64 of the

Pension Rules. However, despite the aforesaid decision the benefit was not extended to the petitioner. Moreover, there is no order under Rule 8 of the Pension Rules as on date on record, even after conviction of the petitioner.

11. Therefore, in considered view of this Court, the petitioner is entitled for grant of provisional pension in terms of Rule 64 of the Pension Rules. Thus, upon registration of criminal case the petitioner was entitled to provisional pension as per Rule 64 of the Pension Rules.

12. Accordingly, respondents are directed to pay provisional pension to the petitioner from the date of his superannuation i.e. 30-4-2016 in accordance with Rule 64 of the Pension Rules. It is further directed that arrears of pension shall be paid to the petitioner within a period of 90 days from the date of production of certified copy of the order passed today.

13. It is made clear that this order will not come in way of respondents in passing an order under Rule 8 of the Pension Rules, 1976, if already not passed.

14. Accordingly, the writ petition is allowed to the extent indicated hereinabove.

**MANINDER S BHATTI)**  
**JUDGE**