IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 4th OF AUGUST, 2023

WRIT PETITION No. 18699 of 2023

BETWEEN:-

1. **FARUKH MOHAMMAD S/O SHRI GAFUR MOHAMMAD, AGED ABOUT 65 YEARS, OCCUPATION: RETIRED EMPLOYEE ON THE POST OF TEACHER NEAR R/O CHAMBAL NAHAR SALAPURA PALI ROAS SHEOPUR DISTRICT SHEOPUR (MADHYA PRADESH)**

2. **MOHAN LAL RATHOR S/O SHRI RAJMAL RATHOR, AGED ABOUT 64 YEARS, OCCUPATION: RET. EMP. ON THE POST OF TEACHER R/O WARD NO. 10 PALI ROAD SHEOPUR, DISTRICT SHEOPUR (MADHYA PRADESH)**

3. **KUNJ BIHARI SINGH S/O LATE SHRI RAGHUNATH SINGH, AGED ABOUT 68 YEARS, OCCUPATION: RET. EMP, ON THE POST OF ASSISTANT TEACHER, R/O CHAMBAL COLONY PALI ROAD SHEOPUR , DISTRICT SHEOPUR (MADHYA PRADESH)**

4. **KHALIL MOHAMMAD QURESHI S/O LATE SHRI HABIB MOHAMMAD, AGED ABOUT 63 YEARS, OCCUPATION: RET. EMPL, ON THE POST OF HEAD MASTER, R/O. NEAR P.W.D. OFFICE WARD NO. 15 BADODA DISTRICT SHEOPUR (MADHYA PRADESH)**

5. **RAMESH SINGH DADORIA W/O LATE SHRI ADARAM DADORIA, AGED ABOUT 63 YEARS, OCCUPATION: RET. EMP. ON THE POST OF TEACHER R/O CHAMBAL COLONY NO. 14 BADODA, DISTRICT SHEOPUR (MADHYA PRADESH)**

.....PETITIONERS

(BY SHRI S.S. RAWAT- ADVOCATE)

AND

Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 8/5/2023 10:57:53 AM

1. **THE STATE OF MADHYA PRADESH THROUGH THE PRINCIPAL SECRETARY, DEPARTMENT OF SCHOOL EDUCATION, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **COMMISSIOINER PUBLIC INSTRUCTION GOUTAM NAGAR SECTOR B BHOPAL (MADHYA PRADESH)**

3. **THE DISTRICT EDUCATION OFFICER SHEOPUR, DISTRICT SHEOPUR (MADHYA PRADESH)**

4. **THE JOINT DIRECTOR TREASURY AUDIT AND PENSION MOTI MAHAL, GWALIOR (MADHYA PRADESH)**

5. **DISTRICT PENSION OFFICER FISHERIES DEPARTMENT DISTRICT SHEPOUR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI MAN SINGH JADON- GOVERNMENT ADVOCATE)

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

ORDER

The instant petition has been preferred by petitioners, under Article 226 of the Constitution of India, being aggrieved by the inaction of the respondents for not extending the benefit of increment. The petitioners Farukh Mohammad, Teacher retired on 30.06.2020, Mohan Lal Rathor, Teacher, retired on 30.06.2021, Kunj Bihari, Assistant Teacher, retired on 30.06.2014, Khalil Mohammad, Head Master, retired on 30.06.2021 and Ramesh Singh, Teacher, retired on 30.06.2022 were denied increment on the pretext that he is not entitled.

2. Learned counsel for petitioners submits that whether a government employee retiring on 30th June of a year is entitled to avail the benefit of increment as fixed on 1st of July is being decided by the Supreme Court

Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 8/5/2023 10:57:53 AM

recently in the case of the **Director (Admn. and HR) KPTCL & Ors. vs. C.P. Mundinamani & Ors., Civil Appeal No.2471/2023 dated 11.04.2023**, wherein after considering the judgments of different High Courts including the Madhya Pradesh High Court it has been held that benefit of annual increment which is to be added on 1st of July every year shall be paid to the employee who is going to be retired on 30th June of the said year. It is further submitted that controversy is now no longer *res integra*. The present petitioners stood retired on 30th June, 2020, 30th June, 2021, 30th June, 2014 and 30.06.2022, therefore, they are entitled to avail the benefit of annual increment which was to be added on 01.07.2014 01.07.2020, 01.07.2021 and 01.07.2022 respectively as per their dates of retirement.

3. Learned counsel for respondent/State could not dispute the passing of said order. However, he submits that it appears that SLP arising out of judgment of Division Bench of this Court is still pending consideration before the Supreme Court.

4. Heard.

5. After going through the judgment delivered by the Apex Court in the case of **C.P. Mundinamani (supra)**, in para 6.3 and 6.7 it appears that the view of M.P. High Court in the case of **Yogendra Singh Bhadauria and Ors. vs. State of Madhya Pradesh** has been considered in favour of employee who is retiring on 30th June of that year. Once the Apex Court has decided the controversy and found the employee entitled for the benefit of approval of entitlement to receive increment while rendering the services over a year with good behaviour and efficiency then it appears that petitioner has made out his case.

6. Resultantly, respondents are directed to grant the benefit of annual

Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 8/5/2023 10:57:53 AM

increment which was to be added w.e.f. 01.07.2014 01.07.2020, 01.07.2021 and 01.07.2022 respectively as per their dates of retirement, and recalculate the benefit of retiral dues and pension etc. and issue fresh pension payment order in favour of the petitioners, if not already issued, that too within a period of three months from the date of submission of certified copy of this order.

7. Petition **stands allowed and disposed of** in above terms.

(ANAND PATHAK)
JUDGE

Vishal



Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 8/5/2023 10:57:53 AM