

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 10<sup>th</sup> OF OCTOBER, 2025

WRIT PETITION No. 34400 of 2024

*RATIRAM MEHRA*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

.....  
Appearance:

*Ms. Anchan Pandey - Advocate for the petitioner.*

*Shri Ved Prakash Tiwari - Government Advocate for the respondent -*

*State.*  
.....

ORDER

The petitioner was trapped while accepting bribe while in service and FIR at Crime No.76 of 2018 has been registered against the petitioner by Special Police Establishment Lokayukt, Bhopal. Thereafter, challan has been presented before the Special Court and trial is going on. The said trial has not yet been decided till date.

2. The respondents have opposed the petition on the ground that the petitioner since is facing judicial proceedings, therefore, he can get retiral benefits only as per Rule 64 of M.P. Civil Services Pension Rules and nothing more than what has been laid down in the said rules can be paid to the petitioner.

3. Upon hearing the rival parties, it is seen that surprisingly the State Government has filed the reply 28.02.2025 and has quoted such provision of

Rule 64, which has since been amended on 19.05.2023. The action of the State Government in quoting an overrule rule position, which has been substituted by the State Government on 19.05.2023 w.e.f. 12.12.1990 is nothing, but an attempt to mislead the Court. It is not expected of the State to quote such rule, which has been substituted by the State itself and for that reason heavy costs need to be imposed on the State so that in future such type of misleading reply containing overrules are not filed. It cannot be believed by this Court that the OIC did not know the rule position and if that be the situation that OIC do not know the rule position, then the State has to bear for the incompetence of its OICs. Therefore, a cost of Rs.10,000/- is imposed on the State for having filed reply containing overruled provision as quoted in para 6 of the reply. The cost of Rs.10,000/- be deposited with State Legal Services Authority.

4. So far as the claim of the petitioner on merits is concerned, as per amended Rule 64 vide Amendment Notification dated 19.05.2023 effective with retrospective effect from 12.12.1990 the following has been provided:-

***"64. Provisional pension, where departmental or judicial proceedings may be pending:-***

*(1) (a) In respect of a Government servant referred to in sub-rule (4) of rule 9, the Head of office shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant, or if he was under suspension on the date of retirement upto the date immediately preceding the date on which he was placed under suspension;*

*(b) The provisional pension shall be drawn on establishment pay bill and paid to the retired Government servant by the Head of office during the period commencing from the date of retirement upto and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority,*

*(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings*

*and issue of final orders thereon:*

*provided that where departmental proceedings have been instituted under rule 16 of the Madhya Pradesh Civil Services (Classification Control and Appeal) Rules, 1966, for imposing any of the penalties specified in clause (i), (ii) and (iv) of rule 10 of the said rules, the payment of provisional gratuity to the extent of 90% of the gratuities admissible under the rules shall also be authorized to be paid to the Government servant.*

*(2) Provisional gratuity shall be drawn on establishment pay bill and paid to the retired Government servant by the Head of office after adjusting dues mentioned in sub-rule (2) of rule 60 under intimation to audit office. Payment of provisional pension/gratuity made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings, but recovery shall not be made where the pension/gratuity finally sanctioned is less than the provisional pension/gratuity or the pension/gratuity is reduced or withheld either permanently or for a specified period.*

*Note: Grant of provisional pension under rule 64 is mandatory even if departmental or judicial proceedings is continued."*

*2. This amendment shall be deemed to have been come into force from 12th December, 1990."*

5. As per the amended provision, once the judicial proceedings or disciplinary proceedings in contemplation of major penalty are pending, then gratuity is not to be paid, but provision pension equal to maximum pension has to be paid. So far as GPF and GIS are concerned, they are the own assets of the employee and cannot be withheld despite during pendency of criminal cases. So far as the claim of the financial upgradation is concerned, if the petitioner was entitled for financial upgradation prior to the date of registration of FIR, then the said financial upgradation is also required to be released in favour of the petitioner and he is entitled to draw the provisional pension as per the salary as a consequence of grant of financial upgradation.

6 . Resultantly, the petition is disposed of with the following directions:-

- (i) The respondent shall release the GPF amount of the petitioner within 60 days.
- (ii) GIS amount of the petitioner be also released within 60 days.
- (iii) The provisional pension to the petitioner equal to maximum pension, if not already sanctioned, be also sanctioned and released within 45 days.
- (iv) The case of the petitioner be considered for financial upgradation and if he is found entitled at any date prior to 22.03.2018, which is the date of FIR, then the financial upgradation be granted to the petitioner with all consequential benefits in the matter of payment of salary, subsistence allowance and provisional pension.
- (v) Gratuity shall stand withheld till criminal trial is over. However, final settlement of pension and payment of gratuity and payment of full salary for suspension period will remain subject matter of the final outcome of criminal trial and the petitioner would be at liberty to claim such dues upon conclusion of criminal trial based upon the result thereof.
- (vi) No order as to costs.

**(VIVEK JAIN)**  
**JUDGE**