

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 20.3.2018

Judgment pronounced on: 02.08.2018

+ **W.P. (C) 9391/2017**

SMT. CHAND KAUR

..... Petitioner

Through: Mr. Ranbir Yadav, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Dev. P. Bhardwaj, CGSC for
UOI with Mr. Jitendra Kr. Tripathi,
Govt. Pleader and Mr. Vipul
Agrawal, Advocate.

Ms. Akshara Chauhan, proxy for Mr.
Arun Bhardwaj, Addl. Advocate
General for the State of Haryana.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J.

Prefatory Facts:

1. This is a writ petition whereby, challenge is laid to the order dated 17.9.2010, passed by respondent No.1 & 2. In effect, by this order, the petitioner's plea for grant of pension under the "Swatantrata Sainik Samman Pension Scheme, 1980" (hereafter referred to as the '1980 Scheme') has been rejected, *inter alia*, on the ground that the petitioner's husband, Late Sultan Singh neither met the eligibility criteria nor the evidentiary requirements stipulated under the said Scheme.

1.1 The petitioner, who is, approximately, 90 years of age, in the evening of her life, seeks closure, perhaps, to establish that her husband was in the right than to secure the paltry sum offered as pension.

2 Briefly, the institution of the writ petition has taken place in the backdrop of the following facts and circumstances:

2.1 In and about September, 1980, the petitioner's husband, one, Late Sultan Singh, s/o Sh. Khialy Ram, had applied for pension under the 1980 Scheme. Mr. Sultan Singh's application seeking pension received the support of ex-Chief Minister of the, then, PEPSU State, one, Mr. Brish Bhan and, one, Mr. Sardar Piara Singh, MLA and ex-President, Freedom Committee, Government of Haryana.

2.2 A certificate and communication were dispatched by these two gentlemen in that behalf to respondent No.1. The certificate issued by Brish Bhan is dated 13.10.1982. Both, the certificate issued by Mr. Brish Bhan and the communication of Sardar Piara Singh sent to respondent No.1 bore out the fact that Mr. Sultan Singh along with Dharminder Singh, s/o Sh. Bhoru Ram and Jaipal Singh s/o Sh. Bal Mukand had suffered during the freedom struggle. It was emphasized that these persons were known to them and that they belonged to PEPSU State and that they were imprisoned in Nabha and Faridkot Jails.

3 It appears that a writ petition was filed before this Court by seventeen (17), similarly, circumstanced persons; though the petitioner's husband was not a party to this writ petition. This writ petition was numbered as: CWP No.3090/1991. The said writ petition was disposed of vide judgment dated 22.4.1996. Since, the present case turns on the effect

of the judgment dated 22.4.1996, the same is extracted hereafter for the sake of convenience:

“.....Rule D.B.

Petitioners claim payment of freedom fighters pension. There are seventeen petitioners. Their cases were referred to Haryana Freedom Fighters Association. The report of the said Association is placed on record. The association has recommended grant of pension to Shiv Lal S/o Deeg Ram, Sultan Singh, S/o Yad Ram, Amar Singh, S/o Mukh Ram, Janaki, widow of Bhohat Ram and Mishri Devi, widow of Badlu Ram, petitioners No.6, 7, 12, 16 and 17 respectively. Nothing has been shown to us by Respondents why these five petitioners shall not be granted pension under the Scheme.

We, therefore, direct respondents to grant pension to these five pensioners from the date of their respective applications in terms of decision of Supreme Court in the case of Mukand Lal Bhandari Vs. UOI & Ors. AIR 1993 SC 2127.

In respect of the remaining twelve petitioners, the aforesaid Association has not recommended grant of pension on the ground that the actual sentence undergone by the petitioners 1 to 5, 8, 10, 11 and 13 and husbands of petitioners No.9, 14 and 15 is less than six months. It was, however, held by the Supreme Court in the case of Surja Vs. UOI & Ors., 1991 (4) SCC 365 that if the applicant were let off even before undergoing six months imprisonment without their praying for any remission as a result of general amnesty they would be entitled to the benefit of pension. Affidavits have been filed on record by the respective petitioners, inter alia, stating that neither apology was tendered for remission nor remission was claimed and while undergoing sentence they were let off. In the report of the Association, referred to above, it has not been stated that the aforesaid persons were let off on their seeking remission.

Mr. S.K. Jain, under Secretary, Ministry of Home Affairs, in his affidavit dated 20th July, 1995 states that according to the report, the petitioners were released perhaps because they had tendered their apology to the authorities. We do not know wherefrom the averment has been made that perhaps they had tendered apology. Learned counsel for the respondents has not been able to show from the report that any apology was tendered.

In this view these petitioners will also be entitled to pension provided they fulfil other requirements.

Under the aforesaid circumstances we direct respondents to consider the cases of the aforesaid twelve petitioners afresh for grant of freedom fighters pension within a period of eight weeks without taking into consideration that they were let off before the expiry of six months on seeking remission.

The petitioner is disposed of accordingly.....”

(emphasis is mine)

4 The important thing to be borne in mind is that though, the petitioner’s husband, late Sultan Singh, as adverted to above, was not a party to CWP No.3090/1991, two other persons i.e., Mr. Dharminder Singh s/o Sh. Bhoru Ram and Mr. Murli s/o Sh. Sadi Ram, who hailed from the same village, were arrayed as petitioner No.4 and 13 in the said petition.

4.1 As to why I have made a reference to Mr. Dharminder Singh and Mr. Murli, in the context of the petitioner’s husband, will emerge as discussion proceeds further in the matter.

5 Continuing with the narrative, since no action was taken by respondent No.1 and 2, despite the petitioner’s representation dated

1.8.1992, the petitioner, in the interregnum, had also decided to approach this Court by way of a separate writ petition, being CWP No.2717/1992.

5.1 While, Mr. Sultan Singh's writ petition (i.e. CWP No.2717/1992) was pending adjudication, respondent No.1 on 10.9.1996, recommended grant of pension to Mr. Dharminder Singh in compliance with the judgment of this Court dated 22.4.1996, passed in CWP No.3090/1991.

5.2 Similarly, insofar as Mr. Murli s/o Sh. Sadi Ram is concerned, vide communication dated 27.11.1996, respondent No.1 directed payment of pension to him as well. As indicated above, Mr. Murli was also part of CWP No.3090/1991.

5.3 The record shows that the petitioner's husband, Sultan Singh, had in the meanwhile, died on 29.9.1995. The petitioner herein, who, is the wife of late Sultan Singh, was brought on record in CWP 2717/1992, in her capacity as the legal representative of her husband.

6 The said writ petition being CWP No.2717/1992, was finally disposed of by this Court vide order dated 18.5.2010. In its judgment, the Court noted the stand of the respondents taken in the supplementary affidavit dated 16.12.2009, wherein it was averred that the State of Haryana had not recommended the case of the petitioner for grant of pension by the Central Government. The letter dated 3.12.2009, addressed in that behalf by the State of Haryana to respondent No.1, which was enclosed with the said affidavit, was also noticed by the Court. The reason given by the State of Haryana for not recommending the petitioner's case for grant of pension

was that her husband, late Sultan Singh had “remained in jail only for two months three days, whereas six months’ jail condition was required for Central Samman Pension”.

7 Having noticed the aforesaid stand, the Court directed reconsideration of the petitioner’s case for grant of pension and while doing so, to examine as to whether late Sultan Singh’s case was different from that of the twelve (12) petitioners, who, were referred to in the earlier judgment of the Division Bench dated 22.4.1996, passed in CWP No.3090/1991. Furthermore, the Court indicated, in no uncertain terms, that the State of Haryana would ensure that the petitioner was not treated differently from the twelve (12) petitioners whose cases were asked to be reconsidered by the Division Bench vide its judgment dated 22.4.1996. In addition thereto, liberty was granted to the petitioner to take recourse to an appropriate remedy, if, after reconsideration of the case, she was still aggrieved by the outcome.

8 It appears that while the record does not include the recommendation of the State of Haryana made, pursuant to the judgment dated 18.5.2010, passed in CWP No.2717/1992, the decision taken by respondent No.1 on 17.9.2010, which is impugned in the instant writ petition is on record. In the impugned communication dated 17.9.2010, which is addressed to the Chief Secretary, Government of Haryana, Chandigarh, after noticing the fact that as per the report of the State of Haryana, the petitioner’s husband, late Sultan Singh, was incarcerated for two months and three days, the

petitioner's plea for grant of pension was rejected on the sole ground that his imprisonment was for a period which was less than six months.

8.1 This conclusion, as noticed at the outset, is impugned in the instant petition.

9 Notice in this writ petition was issued on 27.10.2017, whereupon, the respondents filed their counter affidavits. Insofar as respondent No.1 and 2 are concerned (which, in effect, represent the Central Government), a common counter affidavit has been filed. Respondent No.3/State of Haryana has filed a separate counter affidavit.

Submissions of Counsel

10 Arguments on behalf of the petitioner were advanced by Mr. Ranbir Yadav, while on behalf of respondent No.1 and 2, submissions were made by Mr. Dev P. Bhardwaj. Respondent No.3 was represented by Ms. Akshara Chauhan.

11 Insofar as the petitioner is concerned, the submissions made were in line with the stand taken in the writ petition. It was, in particular, submitted that the case of the petitioner's husband was similar to the twelve (12) writ petitioners' whose matters had been directed by this Court vide judgment dated 22.4.1996 to be reconsidered. It was sought to be highlighted that the Court, while remanding the matter with regard to twelve (12) writ petitioners, in that matter, had specifically directed that the fact that they were let off before the expiry of the period of six months on

seeking remission, would not be a factor, which would be taken into account in reaching a conclusion qua their cases.

11.1 Furthermore, it was pointed out that, as a matter of fact, out of twelve (12) such petitioners, two (2) petitioners i.e., Mr. Dharminder Singh and Mr. Murli Ram, had already been recommended for the grant of pension by respondent No.1 in consonance with the directions contain in the judgment dated 22.4.1996.

11.2 The main thrust of the argument was that the case of the petitioner's husband was, in the very least, at par with the twelve (12) petitioners whose matters had been remanded for fresh consideration sans remission of sentence and their consequent release prior to the period of six (6) months. This submission was made *dehors* the contention that late Mr. Sultan Singh had been incarcerated for a period of more than 6 months, if the period he served in jail as an undertrial is taken into account. In this behalf, learned counsel for the petitioner also relied upon the judgment dated 18.5.2010, passed in the writ petition, filed by the petitioner's husband, late Mr. Sultan Singh.

12. Mr. Bhardwaj, who, appears for respondent No.1 and 2 resisted the writ petition, broadly, on the following grounds:

- (i) Firstly, that the directions contained in the judgment dated 22.4.1996 was based on the judgment of the Supreme Court rendered in *Surja vs. UOI & Ors.*, (1991) 4 SCC 366, which was not good law in view of the subsequent judgment of the

Supreme Court in the matter of *Union of India and Others vs. Manohar Lal Azad and Another*, (2002) 10 SCC 568.

- (ii) Secondly, no relief could be granted to the petitioner's late husband, as her husband had been incarcerated for less than six months, which was the minimum period for which the applicant had to remain in prison to be eligible for the grant of pension. In effect, the contention was that this Court could not grant relief contrary to the provisions of the 1980 Scheme. Reliance qua this submission was placed on the following judgments: *Mukund Lal Bhandari and Others vs. Union of India and Others*, 1993 Supp (3) SCC 2; and the judgment dated 20.4.2017, passed by the Punjab and Haryana High Court, in CWP No.18803/2011, titled: *Chanan Kaur vs. Union of India & Ors.*
- (iii) Thirdly, as per the Revised Policy Guidelines for Disbursement of Central Samman Pension (in short 'Guidelines') issued by respondent No.1 on 6.8.2014, no pension could be granted to the legal heirs of the freedom fighter after his death. In this behalf, reliance has been placed on Paragraph 1.5 of the said Guidelines.

13 Insofar as learned counsel for respondent No.3 is concerned, she mainly relied upon the counter affidavit filed in the matter. It was sought to be highlighted that insofar as the State of Haryana was concerned, it had already sanctioned pension *qua* the petitioner's husband. According to the

learned counsel, the eligibility period for grant of pension by the State Government was only two months. In other words, for a freedom fighter to obtain pension from the State of Haryana, he had to be incarcerated only for a period of two months, which is a criterion that late Mr. Sultan Singh met.

13.1 As far as the instant petition was concerned, the learned counsel contended that the State of Haryana was not a necessary party.

Reasons

14. I have heard the learned counsel for the parties and perused the record, what emerges from the record is as follows: -

14.1 The petitioner was tried and accorded a rigorous imprisonment for a period of 3 years and 3 months. This apart, fine in the sum of Rs.500/- was imposed with a condition that if there was default in payment of fine, the petitioner would suffer rigorous imprisonment for a further period of six months.

14.2 Late Sultan Singh, however, was in judicial custody between 10.08.1946 (Vikram Samvat 28.10.2003) and 17.02.1947. This fact is evidenced by the certificate issued by the Superintendent, District Jail, Nabha.

14.3 The petitioner's husband, Late Sultan Singh, claimed that he had also remained in Jail as an undertrial and if that period was included he had served imprisonment for more than six (6) months.

14.5 The record shows that similarly placed persons, had approached this Court by way of a writ petition being C.W.P. No.3090/1991, which was disposed of via judgment dated 22.04.1996. Via this judgment, the Division Bench granted relief to five (5) writ petitioners and remanded the cases pertaining to the remaining twelve (12) petitioners to the official respondents for reconsideration.

14.6 The remand direction issued by the Division Bench, clearly, indicated the fact that the twelve (12) petitioners had sought remission and that they had been released before completion of the sentence of six months accorded to them would not be taken into account in reaching a conclusion, one way or the other. This direction of the Division Bench was based on the judgment of the Supreme Court in *Surja's* case.

14.7 The record also shows that the petitioner's husband i.e. Late Sultan Singh, had filed a separate writ petition, being C.W.P. No.2717/1992, for identical relief.

14.8 During the pendency of Late Sultan Singh's writ petition (being C.W.P. No.2717/1992), the official respondents' recommended the grant of pension qua two persons i.e. Mr. Dharindra Singh and Mr. Murli vide orders dated 10.09.1996 and 27.11.1996 respectively. Both Mr. Dharindra Singh and Mr. Murli who were arrayed as petitioner no.4 and 13 respectively in C.W.P. No.3090/1991 were amongst the twelve (12) persons whose cases, the Division Bench of this Court, vide its judgment dated 22.04.1996, had remanded for fresh consideration.

14.9 Mr. Dharmindra Singh and Mr. Murli hailed from the same village as that of the petitioner's husband i.e., Late Sultan Singh. Like Late Sultan Singh, both, Mr. Dharmindra Singh and Mr. Murli were also recipients of pension from the State of Haryana, besides being beneficiaries of the pension given by the Central Government. Affidavits in that behalf filed by Mr. Murli and Mr. Dharmendra Singh are on Court record.

15. These affidavits bear out the stand taken by Late Sultan Singh that he was employed as a Teacher and that he had left his service to join the freedom movement. The averments made in the affidavit also support the case made out by Late Mr. Sultan Singh that he was tried and accorded rigorous imprisonment of three years and three months with a fine of Rs.500/- by Additional District Magistrate, Nabha with the default clause in tow, which stipulated that if he failed to pay fine he would have to undergo further rigorous imprisonment of six (6) months.

15.1 Pertinently, the affidavit also adverts to the fact that the fine of Rs.500/- was recovered from Late Mr. Sultan Singh by auctioning his cattle and his agricultural implements.

15.2 The fact that Late Sultan Singh was part of the '*Jatha*' which participated in the freedom movement and that all persons who were part of the Jatha were being paid pension by the Government of India and State of Haryana is also alluded to in the said affidavit.

15.3 Undoubtedly, Late Mr. Sultan Singh's writ petition being C.W.P. No.2717/1992 was disposed of via learned Single Judge of this Court vide

judgment dated 18.05.2010 based on the judgment of the Division Bench dated 22.04.1996. Via this judgment the Court, in no uncertain terms, directed respondent no.1 to write to the State of Haryana to reconsider the petitioner's case in the light of the judgment of the Division Bench dated 22.04.1996. A further direction was also issued by the Court, which is, that the State of Haryana should not treat the petitioner's case any different from those, whose, cases were asked to be reconsidered vide judgment dated 22.04.1996.

Issues:

16. Given the aforesaid facts and circumstances, to my mind, the following issues arise for consideration: -

Issue No.1: Whether the direction of remand contained in the judgment dated 18.05.2010, passed in C.W.P. No.2717/1992, was binding on the respondents in view of the fact that no appeal had been preferred against the same?

Issue No.2: Whether in taking a decision in the matter concerning Late Sultan Singh's eligibility for pension, respondent No.1 and 2 could rely upon the judgment of the Supreme Court in *Union of India vs. Manohar Lal Azad* which, even though delivered on 02.11.2000, was not relied upon, when, this Court rendered its judgment dated 18.05.2010?

Issue No.3: Whether the Guidelines relied upon by respondent No.1 and 2 would apply to the petitioner's case, in particular, paragraph 1.5 of the said Guidelines?

Issues No.1 & 2

17. In so far as the aforementioned issues are concerned, the same are interlinked. The Division Bench of this Court while passing the judgment dated 22.04.1996, in C.W.P. No.3090/1991 had directed that while reconsidering the case of twelve (12) out of seventeen (17) petitioners (who, are incidently, similarly circumstanced as Late Sultan Singh) the fact that they were released on remission, before completion of the sentence of six (6) months of imprisonment accorded to them, was a factor which was to be eschewed.

18. The respondents, as a matter of fact, implemented the remand direction as is evident from the affidavits of Mr. Dharindra Singh and Mr. Murli in their cases. What is incontestable is that the Division Bench of this Court issued the said direction vis-à-vis the twelve (12) writ petitioners based on the dicta of the Supreme Court in *Surja's* case.

19. Given this position, in my view, the respondents ought to have granted relief to late Sultan Singh as his application for grant of pension was pending with respondent no.1 and 2 since September, 1980. It is because there was no movement in the matter for nearly twelve (12) years

that Late Sultan Singh was propelled to file a separate petition being C.W.P. No.2717/1992 for grant of pension by the Central Government.

20. However, before the judgment could be delivered in C.W.P. No.3090/1991, Late Sultan Singh died on 29.09.1995. It appears that, thereafter, there was slackness in C.W.P. No.2717/1992 being prosecuted by his legal heirs, and thus, the said writ petition came to be disposed of by a Single Judge of this Court only on 18.05.2010.

20.1 The Court after noticing the stand taken by the State of Haryana that Late Sultan Singh had only suffered incarceration for a period of two months and three days directed the petitioner's case to be reconsidered in the light of the Division Bench judgment dated 22.04.1996, as he was part of the group (i.e. *Jatha*) to which persons, who, were writ petitioners in C.W.P. No.3090/1991, belonged.

21. The respondents, admittedly, did not carry the matter in appeal. The respondents were, thus, to my mind, governed by the remand direction contained in that order which, in sum, called upon them not to treat the petitioner's case in a manner different from those twelve (12) writ petitioners who were part of C.W.P. No.3090/1991.

22. The argument, therefore, advanced by Mr. Bhardwaj, on behalf of respondent no.1 and 2, that because there was a subsequent judgment of the Supreme Court rendered in *Manohar Lal Azad's* case which took a position different from that which was taken in *Surja's* case, in my view, is untenable insofar as the petitioner's case is concerned.

22.1 The reason for the same is three fold.

(i) First, issues which are ruled upon and, therefore, closed by Court, inter parties, cannot be reopened merely based on a subsequent judgment of the Supreme Court. In the instant case, this is especially so, as neither a review petition was filed to re-open the judgment dated 18.05.2010 nor was the matter carried in appeal to the Appellate Court.

(i)(a) On this aspect of the matter, I may note the judgment rendered by the Supreme Court in *M/s Tilokchand and Motichand and Others Vs. H.B. Munshi and Another*, 1969 (1) SCC 110. In that case, the Court was called upon to adjudicate a petition filed under Section 32 of the Constitution. The petitioner had moved the Court to quash the order of forfeiture passed by the Sales Tax Officer, in exercise of powers conferred under Section 21 (4) of the Bombay Sales Tax Act (iii) of 1953. The petitioner, challenged the order of forfeiture by filing a writ petition before the Bombay High Court, which was dismissed by an order dated 28.11.1958. The appeal, preferred by the petitioner to the Division Bench, suffered the same fate. Consequently, the petitioner paid the amount demanded by the Sales Tax Officer.

(i) (b) The Supreme Court, in another case, (i.e. *Kantilal Babulal Vs. H.C. Patel* (1968) 21 STC 174), struck down the provisions of Section 12-A (4) of the Bombay Sales Tax Act on the ground that it infringed Section 19 (1)(f) of the Constitution. This matter had reached the Supreme Court via the Gujarat High Court, which had in fact sustained the challenge to the said Section. The petitioner, having become aware of the judgment of the

Supreme Court which was rendered on 23.09.1967, approached the Court under Article 32 of the Constitution for quashing the order of forfeiture passed by the Sales Tax Officer. The Supreme Court via majority judgment dismissed the writ petition and while doing so, made the following observations, which to my mind, would apply to the respondents in this case:

“The question is: can the petitioner in this case take advantage, after a lapse of a number of years, of the decision of this Court ? He moved the High Court but did not come up in appeal to this Court. His contention is that the ground on which his petition was dismissed was different and the ground on which the statute was struck down was not within his knowledge and therefore he did not know of it and pursue it in this Court. To that I answer that law will presume that he knew the exact ground of unconstitutionality. Everybody is presumed to know the law. It was his duty to have brought the matter before this Court for consideration. In any event, having set the machinery of law in motion he cannot abandon it to resume it after a number of years, because another person more advantageous than he in his turn got the statute declared unconstitutional, and got a favorable decision. If I were to hold otherwise, then the decision of the High Court in any case once adjudicated upon and acquiesced it may be questioned in a fresh litigation revived only with the 'argument, that the correct position was not known to the petitioner at the time when he abandoned his own litigation. ”

(emphasis is mine)

(ii) Second, the Supreme Court, while rendering its judgment in *Manohar Lal Azad*'s case, did not expressly disagree with the ratio of the judgment

in *Surja's* case; both of which were rendered by a Bench comprising two Judges.

(ii)(a) As a matter of fact, another Division Bench of the Supreme Court in *Mukund Lal Bhandari* case noticed the dicta enunciated in *Surja's* case, though, the Court in that case was, amongst others, grappling with the issues as to when the pension if accorded to an application would get triggered. In *Mukund Lal Bhandari*, the Supreme Court ruled that the payment of pension will be triggered from the date of the application.

(ii)(b) Therefore, having regard to the aforesaid principle, I am of the view that the argument advanced by Mr. Bhardwaj that this Court could not trigger payment of pension to the petitioner, contrary to the eligibility condition is unsustainable for the reason that this Court, prior to the institution of the instant writ, has already given its view *qua* the subject eligibility condition. The Division Bench of this Court vide its judgment dated 22.4.1996, had already ruled based on the view taken by the Supreme Court in *Surja's* case that merely because there was a remission in the sentence, which entailed that the applicant would ultimately, in effect, suffer imprisonment of less than six months was a factor, which would not be taken in considering the applicant's case for grant of pension.

(ii)(c) To my mind, there was an issue estoppel between the parties on this aspect of the matter as alluded to above, since, the respondent chose not to carry the matter in appeal or seek review of the judgment, which includes the judgment in Late Sultan Singh's own case dated 18.5.2010. This aspect, in my opinion, cannot be reopened by the respondent at this stage.

(iii) Third and, more importantly, the record shows that respondent no.1 and 2, in fact, complied with the directions contained in the judgment of the Division Bench dated 22.04.1996 as is evident from the affidavits of Mr. Dharmindra Singh and Mr. Murli.

(iii)(a) It is, perhaps, for this reason that respondent no.1 and 2 did not take recourse to *Manohar Lal Azad's* judgment which was rendered on 02.11.2000 when C.W.P. No.2717/1992 was being disposed of by the learned Single Judge on 18.05.2010. To my mind, both these issues have to be decided in favour of the petitioner and against the respondents.

Issue No.3

23. As to whether paragraph 1.5 of the Guidelines could be used by the respondents to deny pension to the petitioner. According to me, the subject Guidelines cannot be relied upon by respondent no.1 and 2 to deny the petitioner's claim for grant of pension. The reason for the same is that the said Guidelines, sought to be relied upon by the respondents, cannot have retrospective effect. The petitioner's husband, as indicated above, had made an application to respondent nos.1 and 2 for grant of pension as early as September, 1980. This was followed by preferring a writ petition (i.e. C.W.P. No.2717/1992), which was disposed of with specific remand directions on 18.05.2010.

23.1 Therefore, the submission made by Mr. Bhardwaj that irrespective of the view that the Court may take with regard to the binding force of the earlier judgments of this Court, no pension can be granted in favour of the

petitioner due to intercession of the subject Guidelines is, in my view, untenable. The submission made in that behalf, is accordingly, rejected.

24. Thus, for the foregoing reasons, I am inclined to allow the writ petition. It is ordered accordingly. Consequently, order No.52/CC/36/H/2009-FF (NZ) dated 17.09.2010 is quashed. Respondent nos.1 and 2 will grant pension to the petitioner under the 1980 Scheme from the date of the application, in accordance with the dicta of the Supreme Court in *Mukund Lal Bhandari's* case.

25. Furthermore, interest at the rate of 9% per annum is also awarded to the petitioner. The interest will, however, run from 17.09.2010 till the date of payment. Respondent nos.1 and 2 will pay the arrears with interest, as indicated above, within a period of six (6) weeks from today.

RAJIV SHAKDHER
(JUDGE)

AUGUST 02, 2018

pmc