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**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 4849 of 2012**

1. Umashankar Vaishya, S/o Lt. Kiliram Vaishya Aged about 64 years, R/o Ward No.7 Manendragarh, PS Manendragarh, District Korla (CG)
2. Radheshyam Agrawal, S/o Shri Ramgopal Aged about 64 years, resident of Ward No.7 Manendragarh, PS Manendragarh, District Korla (CG)
3. Gulabmal Khiyani S/o Lt. Chattomal Aged about 64 years resident of Ward No.18 Manendragarh, PS Manendragarh, District Korla (CG)
4. Bandhuram, S/o Lt. Manohar Lal, aged about 62 years, resident of Ward No.4 Manendragarh, PS Manendragarh, District Korla (CG)
5. Pamlal Pandey S/o Lt. Sadhuram Pandey, aged about 64 years, resident of Ward No.4 Manendragarh, PS Manendragarh, District Korla (CG)

**---- Petitioners****Versus**

1. State of Chhattisgarh, through the Secretary, Urban Administrative Department, DKS Building Raipur C.G.
2. Chief Municipal Officer, Municipal Council Manendragarh (CG)
3. Chief Municipal Officer Municipal Council Baikunthpur (CG)
4. Chief Municipal Officer, Nagar Municipal Council Jashpurnagar (CG)

**---- Respondents**


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|------------------------|---|----------------------|------------------------------------------------|
| For Petitioners        | : | Mr. U.R. Koshley,    | Advocate                                       |
| For Respondent No.1    | : | Mr. Vimlesh Bajpai,  | Govt. Advocate                                 |
| For Respondent No.2    | : | Mr. Arijit Tiwari,   | Advocate                                       |
| For Respondent No.3& 4 | : | Mr. Shailesh Tiwari, | Advocate on behalf of Mr. Saurabh Sharma, Adv. |

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**Hon'ble Mr. Justice Parth Prateem Sahu****Order On Board****22/9/2021**

1. Petitioners, who are retired employees of respondent Nos.2, 3 & 4 respectively, have preferred this petition seeking for following reliefs:-

“10.1. That, the Hon'ble Court may kindly be pleased to direct the respondent state to fix and grant proper pension as per rules at par with the pension and other retiral benefit of the employee of the State Government in the interest of justice.

10.2. That, any other writ, directions or relief which this Hon'ble Court may deem fit may kindly be passed in favour of the petitioner.”

2. Mr. U.R. Koshley, learned counsel for petitioners would submit that petitioners are not being granted pensionary benefits at par with employees of the State Government. Benefit of 6<sup>th</sup> Pay Commission is also not extended to the petitioners. In support of his submission with regard to non-grant of pensionary benefits at par with State Government's employees, he relied upon the Circular dated 22.9.1976 issued by the Deputy Director, Local Services, Bhopal (MP).
3. Learned State Counsel would submit that petitioners were employees of respective Municipal Councils and their services were governed by separate rules. The State Government has framed the rules known as Chhattisgarh Municipal Services (Pension) Rules, 1980 (for brevity 'the Rules of 1980'). Pension, gratuity and family pension to all Municipal Councils' employees are admissible as provided in the Rules of 1980. After attaining age of superannuation by the petitioners, the pension payable to petitioners has been computed vide Annexure R-3 as per provisions of the Rules of 1980 and the same is being paid to them. He submits that as petitioners are governed by the Rules of 1980 for the purpose of retiral

benefits, therefore, the relief claimed by them in this petition is not tenable.

4. Mr. Arjit Tiwari, learned counsel for respondent No.2 and Mr. Shailesh Tiwari, learned counsel for respondent Nos.3 & 4, jointly submit that the petitioners stood retired on attaining age of superannuation. It is for the State Government to compute amount of pension and to make payment of the same to retired employees of Municipal Councils. The State Government vide Annexure R-3, which is annexed along with reply filed on behalf of the State, sanctioned pension to the petitioners and accordingly the pension is being paid to the petitioners. As the petitioners were employees of different Municipal Councils, the calculation and payment of pension to them shall be governed by the Rules of 1980, hence, the relief, as claimed by the petitioners in this petition, cannot be granted to them.
5. At this stage, Mr. Koshley, learned counsel for petitioners would submit that specific relief with regard to grant of benefit of 6<sup>th</sup> Pay Commission to petitioners has not been claimed, therefore, they may be permitted to file representation before Competent Authority raising their grievance with regard to non-grant of benefits of 6<sup>th</sup> Pay Commission to them and Competent Authority may be directed to decide such representation within a time frame. However, he does not dispute that petitioners are getting pension as per Annexure R-3.
6. I have heard learned counsel for parties and perused record.

7. The Circular (Annexure P-2) relied upon by the petitioners would not be applicable in the given facts of case for the reason that subsequent to issuance of Annexure P-2 Circular, specific statutory rules i.e. Rules of 1980, have been framed by the State Government in exercise of powers conferred by sub-clause (b) of clause (iv) of sub-section (2) of Section 355 read with sub-section (2) of Section 8 and Section 95 of the Madhya Pradesh Municipalities Act, 1961 (No.37 of 1961). After coming into force of the Rules of 1980, claim of retiral benefits like pension, gratuity, family pension etc. of the employees of Municipal Councils are governed by these rules. The Rules of 1980 are not under challenge in this writ petition, hence relief sought for by petitioners that respondent State be directed to fix pension of petitioners at par with employees of State Government cannot be granted. Consequently, writ petition being sans merit is liable to be and is hereby dismissed.

8. As regards the prayer of learned counsel for petitioners that the petitioners may be permitted to make representation before the competent authority for grant of benefits of 6<sup>th</sup> Pay Commission. Petitioners may file representation before the authority concerned claiming benefits of 6<sup>th</sup> Pay Commission to them. In case such a representation is filed within a period of three weeks from today, then the authority concerned shall consider and decide the same expeditiously in accordance with law.

Sd/-  
(Parth Prateem Sahu)  
Judge

roshan/-