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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

903 WRIT PETITION NO.8171 OF 2020
WITH CA/2018/2021 IN WP/8171/2020

SHAMBHUSINGH ANARSINGH DIXIT
VERSUS
THE REGIONAL PROVIDENT FUND COMMISSIONER AND
ANOTHER

AND
904 WRIT PETITION NO.8176 OF 2020
WITH CA/2019/2021 IN WP/8176/2020

SAHEBRAO BABURAO AMBHORE
VERSUS
THE REGIONAL PROVIDENT FUND COMMISSIONER AND
ANOTHER

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Mr N. D. Sonavane, Advocate for petitioners;
Mr N. K. Chaudhari, Advocate for respondent No.1
Mr Ravi Gite, Advocate h/f Mr A. V. Rakh, Advocate for
respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 2nd February, 2023

PER COURT:

1. Both these petitioners are identically placed. Both have been protected by the orders of this Court as regards reduction of their pensionary benefits. Consequentially, the payment of their pension has been in terms of the old calculations.

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2. On 13/01/2023, we had passed the following order :-

“1. The request put forth by the applicant, original petitioner, is that the writ petition may be taken up for final hearing. Considering that the view taken by the Hon’ble Apex Court in R.C. Gupta and others vs. Regional Provident Fund Commissioner, Employees Provident Fund Organization and others, (2018) 14 SCC 809, was referred to the Larger Bench vide order dated 24.8.2021, passed in Special Leave Petition No. 8658-8659 of 2019, the Hon’ble Supreme court has now delivered the judgment on 04.11.2022. According to the petitioner, the law laid down in R.C. Gupta and others (supra) has been affirmed.

2. In view of the above, this civil application is disposed off.

3. List the writ petition for passing orders, on 02.02.2023 alongwith the civil applications.”

3. The basic grievance of both these petitioners is, that the reduction in their monthly pension, bringing it down to a meager amount of Rs.1,780/- and Rs.2431/-, respectively, with retrospective effect from 01/04/2009 and 01/01/2014, respectively, is without granting any opportunity of hearing to the petitioners. Based on such a decision, recoveries have been initiated. We would not go into this controversy today in the light of subsequent developments pointed out by the learned Advocate for the Provident Fund Department. He submits on the basis of

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instructions that, certain Circulars have been issued by the Provident Fund Authorities in the light of the communication received from the Additional Central Provident Fund Commissioner (Pension), dated 29/12/2022 and which is followed by a communication dated 25/01/2023, issued by the Regional Provident Fund Commissioner-I (Pension). The learned Advocate submits that the petitioners would be heard by issuing specific notices and only after concluding the hearing, a fresh order would be passed.

4. Considering the above, both these petitions are disposed off, by continuing the interim protection granted by this Court to the petitioners. The Provident Fund Authorities would issue appropriate notices to each of these petitioners for affording reasonable opportunity of hearing, to them. The Mobile Numbers of both these petitioners are '9049317340' and '9284338411', respectively. Taking into account the age of the petitioners, we are permitting them to be assisted by an Advocate or a Consultant during the hearing before the concerned authorities. The impugned orders would remain in abeyance in the light of the continuance of the interim protection and would merge in the final order, that would be passed by the concerned authorities

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after hearing the petitioners. We expect reasoned orders to be passed after granting appropriate opportunity of hearing to the petitioners.

5. All contentions of the litigating parties are kept open.

6. Pending civil applications would not survive and stand disposed off.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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