



W.A(MD) No.1021 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 10.12.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**W.A(MD) No.1021 of 2023
&
C.M.P.(MD)No.7814 of 2023**

- 1.The State of Tamil Nadu
Rep., by its Additional Chief Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai-600 009.
- 2.The Under Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai-600 009.
- 3.The Assistant Treasury Officer,
Sub Treasury, Thiruverumbur,
Trichy District.

(3rd Appellant / 4th Respondent has been suo motu
impleaded by the Court, by order dated 22.07.2022,
in W.P.(MD)No.13264 of 2022)

... Appellants /
1st, 2nd & 4th Respondents



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Vs.

1.K.Arumugam

... Respondent /
Writ Petitioner

2.The Principal Accountant General (A & E),
No.361, Anna Salai,
Teynampet,
Chennai-600 018.

... Respondent /
3rd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to allow the writ appeal and to set aside the order dated 22.07.2022 made in W.P.(MD)No.13264 of 2022 passed by this Court.

For Appellants : Mr.S.Shaji Bino
Special Government Pleader

For Respondents : Mr.T.Sakthikumaran for R1
: Mr.P.Gunasekaran for R2

JUDGMENT

(By G.R.SWAMINATHAN, J.)

The State is on appeal questioning the order dated 22.07.2022 made in WP(MD)No.13264 of 2022 filed by the first respondent herein/writ petitioner. The first respondent herein served as Labour



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Officer in the Labour Department, Government of Tamil Nadu. He retired on 30.04.2000. He is getting his pension. He was born on 09.04.1942. He completed 79 years of age on 08.04.2021 and he entered the 80th year on 09.04.2021. He demanded that his pension should be revised upwards by 25% since he had reached the age of 80 years. Since his request was rejected by the Principal Accountant General, he filed W.P.(MD)No.13264 of 2022. The learned single Judge allowed the writ petition vide order dated 22.07.2022 in the following terms:-

“2.The petitioner's claim for enhanced additional pension of 20% on reaching the age of 80 years came to be rejected by the Government stating that such enhanced additional pension is the policy decision of the Government and therefore, not feasible to compliance.

3.The reasoning adopted by the Government may not be correct in view of their own order in G.O.Ms.No.313, Finance (Pay Cell) Department, dated 25.10.2017, which provides for 20% of additional pension / family pension for the pensioners, who attained the age from 80 years to 84 years. When the Government order itself facilitates the additional quantum of pension at the rate of 20% for the pensioners, who have reached the age of 80 years, the



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reason that such a decision is a policy decision of the Government may not be correct. As such the petitioner would be entitled for additional pension of 20% from the date on which he has reached the age of 80 years.

4.At this juncture, the learned Standing Counsel for third respondent submits that the appropriate Authority to sanction the additional pension would be the Assistant Treasury Officer, Sub Treasury, Thiruverumbur of Trichy District. Accordingly, the Assistant Treasury Officer, Sub Treasury, Thiruverumbur, Trichy District, is suo motu impleaded as party respondent in this case.

5.In the light of the above findings, the petitioner is granted liberty to make an appropriate application to the Assistant Treasury Officer, Sub Treasury, Thiruverumbur, Trichy District, seeking for additional pension at the rate of 20% and on receipt of such an application, the Assistant Treasury Officer, Sub Treasury, Thiruverumbur, Trichy District, shall pass orders, granting additional pension in terms of G.O.Ms.No.313, Finance (Pay Cell) Department, dated 25.10.2017, within a period of two weeks from the date of receipt of the application from the petitioner."

Aggrieved by the same, the State has filed this appeal.



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3.The learned Special Government Pleader for the appellant submitted that the learned single Judge had misconstrued the relevant statutory provisions and erroneously granted relief. He called upon us to set aside the said order and allow the writ appeal as prayed for.

4.Per contra, the learned counsel appearing for the petitioner submitted that the approach of the learned single Judge is sound and in consonance with the settled rules of interpretation. He drew our attention to the decision of the Hon'ble Division Bench of the Gauhati High Court rendered in W.P.(C)No.4224 of 2016. He pointed out that when a similar provision came up for interpretation, the Hon'ble Division Bench held that the moment one stepped into the 80th year, revision has to be effected. He also pointed out that the Hon'ble Supreme Court dismissed S.L.P.(Civil) Diary No.18133 of 2019 filed against the said order. He called upon us to adopt the very same reasoning in this case also and confirm the order of the learned single Judge.



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5.We carefully considered the rival contentions and went through the materials on record.

6.The issue on hand has to be decided with reference to G.O. (Ms)No.313, Finance (Pay Cell) Department, dated 25.10.2017. Clause 20(3) of the said G.O reads as follows:-

"20(3) The additional pension / family pension on **attaining** the age of 80 years and above shall be admissible from the first day of the month in which his date of birth falls.

Illustration:- If a pensioner / family pensioner **completes** age of 80 years on any date in the month of July 2016, he shall become entitled to additional pension / family pension with effect from the 1st July, 2016"

7.The right of the writ petitioner to demand enhanced pension derives only from the aforesaid GO which states that pension has to be revised on the pensioner "attaining" the age of 80 years. In the illustration, the words used are "completes the age of 80 years". Let us



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first examine how an illustration appended to a provision has to be interpreted. According to ***P.Ramanatha Aiyar's Advanced Law Lexicon*** 5th Edition, an illustration is one which illustrates, an example. An illustration is defined as a pictorial or other representation placed in a book or other publication to elucidate the text. Illustrations to sections of an Act are examples of the application of the principle of the sections to concrete cases. The Privy Council in ***Mahomed Syedol Ariffin v. Yeoh Ooi Gark, (1916 SCC OnLine PC 52)*** held as follows:

"...it is the duty of a Court of law to accept, if that can be done, the illustrations given as being both of relevance and value in the construction of the text... And it would require a very special case to warrant their rejection on the ground of their assumed repugnancy to the sections themselves. It would be the very last resort of construction to make any such assumption. The great usefulness of the illustrations, which have, although not part of the sections, been expressly furnished by the Legislature as helpful in the working and application of the statute, should not be thus impaired."



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In ***Muralidhar Chatterjee v. International Film Co., Ltd., 1942***

SCC OnLine PC 35, it was held that an illustration cannot be ignored or brushed aside because it is not part of the body of the section. Contrary to what the Privy Council and other courts have been consistently holding, in ***Dr Mahesh Chand Sharma v. Raj Kumari Sharma (Smt), (1996) 8 SCC 128***, it was noted that illustrations help to elucidate the principle of the section. In ***Kaushal Kishore v. State of U.P (2023) 4 SCC 1***, it was observed that an illustration under the Section forms part of the statute. This is the view taken by the acclaimed author G.P.Singh. He categorically opines that illustrations appended to a section form part of the statute and although forming no part of the section, are of relevance and value in the construction of the text of the section and they should not be readily rejected as repugnant to the section (Page 192, Chapter III, Principles of Statutory Interpretation, 14th Edition). In the footnote 11, a number of citations have been given. Interestingly, they also include ***Dr Mahesh Chand Sharma (1996) 8 SCC 128*** in which it was observed that illustrations to the section are parts of the section. May be in the next edition, the footnote can be revised. The Hon'ble Full Bench of the



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Punjab and Haryana High Court in ***Amar Singh v. Chhaju Singh***,

1972 SCC OnLine P&H 46 noted that a cue or guidance can be had from the scheme of arrangements or headings of parts and chapters in the Act only if the language of the section to be interpreted is not clear enough but where the legislature has itself tried to make its meaning clear by providing illustrations under the section, then those illustrations may appear to furnish a better clue to the meaning sought to be conveyed by the language of the section than the setting in which the section appears in the Act or the headings that the sections, parts or chapters carry.

8. According to the writ petitioner, he had attained the age of eighty years on completion of his 79th year. The stand of the appellant Government is that the writ petitioner can be said to have attained eighty years only on completion of 80 years of age. The expression "attain" has been defined in Oxford Advanced Learner's Dictionary as reaching the particular age. Words can have a different meaning in law and need not necessarily be what they are in common parlance. Every statute contains what is known as definitional clause. The words



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defined in the Section concerned would have the meaning ascribed to it unless there is anything repugnant in the subject or context. Illustrations can play the role of a definitional clause at times. If the word in the main provision is not all that clear and there is a cloud of ambiguity, courts will be justified in ascertaining their meaning from the manner they have been employed in the illustration. Illustrations indicate the manner in which the provision is to be applied. In other words, they contain the key to understand the intention of the author of the provision concerned. Looked at from this angle, in the illustration, it has been clearly mentioned that only on completing the age of eighty years, the pension of the pensioner can be revised.

9.The Hon'ble Supreme Court in **Prabhu Dayal Sesma v. State of Rajasthan, (1986) 4 SCC 59** observed that there is a popular misconception that a person does not attain a particular age unless and until he has completed a given number of years. In the absence of any express provision, it is well settled that any specified age in law is to be computed as having been attained on the day preceding the anniversary of the birthday. Read in the abstract, the above



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observation might appear to favor the writ petitioner. Let us therefore examine the facts of that case. The appellant was born on 02.01.1956. The question was whether he had attained the age of 28 years on 01.01.1984 and hence disqualified from being considered for direct recruitment to the Rajasthan Administrative Service. The relevant rule read that the candidate must not have attained the age of 28 years on the 1st day of January next following the last date fixed for receipt of application. The Hon'ble Supreme Court held that in calculating the person's age, the day of his birth must be counted as a whole day and he attains the specified age on the day preceding the anniversary of his birthday. In Halsbury's Laws of England, it had been mentioned that one attains a specified age on the day next before the anniversary of his birthday. The Hon'ble Supreme Court held that the candidate who was born on 02.01.1956 attained the age of 28 years on 01.01.1984. The writ petitioner herein who was born on 09.04.1942 would attain the age of 80 years on 08.04.2022. The writ petitioner's claim that he attained the age of 80 on 09.04.2021 is incorrect and runs counter to the settled precedents.



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10.The G.O does not say "on touching the age of 80 years". It envisages attaining the age of 80 years and that, in our view, makes all the difference. The learned Single Judge had proceeded on the premise that this GO will apply if the pensioner reaches the age of 80 years. That is not what is contemplated by the GO.

11.Reliance placed by the writ petitioner on the order passed by the Hon'ble Division Bench of Gauhati High Court in WP (Civil) No.4224 of 2016 is misplaced because it was not dealing with any pari materia provision. Section 17B of High Court Judges (Salaries and Conditions of Service) Act, 1954 reads as follows:-

"17-B. Additional quantum of pension or family pension-Every retired Judge or after his death, the family, as the case may be, shall be entitled to an additional quantum of pension or family pension in accordance with the following scale:-

<u>Age of Pensioner of Family Pensioner</u>	<u>Additional quantum of pension or family pension</u>
From eighty years to less than eighty five years	Twenty percent of basis pension or family pension
From eighty five years to less than ninety years	Thirty percent of basic pension or family pension



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From ninety years to less than ninety five years	Forty percent of basic pension or family pension
From ninety five years to less than hundred years	Fifty percent of basic pension or family pension
From hundred years or more	Hundred percent of basis pension or family pension"

The expression employed in the Section was "From 80 years to less than 85 years". It obviously denotes the running year. There are two ways of looking at one's age: running age and completed age. While as per Section 17B of High Court Judges Act, 1954, the determining factor is running age, in the case of Tamil Nadu Pension Rules, it is one's completed age.

12.In this view of the matter, the order of the learned single Judge is set aside. The writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) & (R.K.M., J.)
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Index : Yes / No
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