IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.249 of 2024
In
Civil Writ Jurisdiction Case No.5003 of 2022

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Department of Finance, Government of Bihar, Old Secretariat, Patna.
3. The Secretary (Finance), Department of Finance, Government of Bihar, Old Secretariat, Patna.
4. The Treasury Officer, Begusarai, District-Begusarai.

... ... Appellant/s

Versus

1. Nand Kishor Singh S/o Kishundev Dev Singh, resident of Ward No. 10, Village and P.O.-Bikrampur, Via-Siripur, Block-Cheria Bariarpur, District-Begusarai.
2. The Accountant General (A and E) Bihar, Veerchand Patel Path, Patna.
3. The State Bank of India through the General Manager, State Bank of India, Centralised Pension Processing Center, 4th Floor, Administrative Office, Judges Court Road, Patna.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sarvesh Kumar Singh, AAG-13
		Mr. Tej Pratap Singh, AC to AAG-13
		Mr. Ravi Kumar, AC to AAG-13
For the Respondent/s	:	Mr. Binod Kumar Labh, Advocate
		Mr. Shyama Kant Singh, Advocate
		Mr. Sunil Kumar Sing, Advocate
For SBI	:	Mr. Amish Kumar, Advocate
		Mr. K. C. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date: 31-08-2026

Introduction

1. This Letters Patent Appeal preferred under Clause 10 of the Letters Patent of the Patna High Court is directed against the judgment and order dated 22.12.2023 passed by a

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learned Single Judge of this Court in CWJC No. 5003 of 2022 (Nand Kishor Singh v. The State of Bihar & Ors.), and the connected CWJC No. 7400 of 2023 (Mukhlal Ojha & Ors. V. The State of Jharkhand & Ors.), whereby both the writ petitions were allowed and the concerned respondents were directed to grant the additional quantum of pension at the rate of 20% of the basic pension with effect from the beginning of the 80th year of age and at the rate of 30% with effect from the beginning of the 85th year of age, together with all consequential benefits.

2. The short but significant question that arises for consideration in the present appeal is one of pure interpretation: whether the additional quantum of pension admissible to an old-age pensioner under the relevant resolution of the State of Bihar (and the corresponding Central Office Memorandum) becomes payable upon *completion* of the specified age of 80 years, 85 years, etc., or from the date on which the pensioner *enters* the 80th year, 85th year, and so on.

3. The learned Single Judge disposed of both the writ petitions by a common judgment, recording that the issue involved in the two cases were identical. The present Letters

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Patent Appeal has been preferred by the State of Bihar and its officials against the said common judgment insofar as it relates to CWJC No. 5003 of 2022.

4. The respondent-writ petitioner, a retired employee of the Bihar Education Service, was born on 01.01.1937 and superannuated on 31.12.1994 on attaining the age of 58 years. He has been drawing pension ever since. The department granted him the additional quantum of 20% of basic pension with effect from 01.01.2017 upon his completing 80 years of age, and the additional quantum of 30% with effect from 01.01.2022 upon his completing 85 years of age. Contending that he became entitled to the said benefits one year earlier, namely, from 01.01.2016 and 01.01.2021 respectively, the writ petitioner approached this Court.

5. We have heard learned counsel appearing for the appellants-State, learned counsel for the respondent-writ petitioner, and learned counsel for the State Bank of India (Centralised Pension Processing Centre), which is the pension disbursing agency. We have also perused the pleadings, the impugned judgment, and the relevant resolutions, office memoranda, and judicial pronouncements placed before us.

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Facts

6. The material facts, which are not in dispute, may be stated briefly.

(i) The respondent-writ petitioner, Nand Kishor Singh, was born on 01.01.1937. He was a member of the Bihar Education Service and superannuated from the post of Area Education Officer, Cheriabariarpur, Begusarai, on 31.12.1994 upon completion of 58 years of age. Since the date of his superannuation, he has been drawing pension.

(ii) In terms of the applicable rules and the resolution of the State Government, the respondent-writ petitioner was granted the benefit of additional quantum of pension at the rate of 20% of the basic pension with effect from 01.01.2017 (the date on which he completed 80 years of age). Subsequently, upon his completing 85 years of age, the additional quantum was enhanced to 30% of the basic pension with effect from 01.01.2022.

(iii) Contending that he became entitled to the additional quantum of 20% with effect from 01.01.2016 (the date on which he completed 79 years and entered the 80th year of his age) and to the additional quantum of 30% with effect from 01.01.2021 (the date on which he completed 84

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years and entered the 85th year of his age), the respondent-writ petitioner filed CWJC No. 5003 of 2022 before this Court.

(iv) An identical claim was raised by Mukhlal Ojha (and others) in CWJC No. 7400 of 2023. The said petitioner had superannuated from the office of District Co-operative Officer, Deoghar, Jharkhand, on 31.08.1995 and sought a direction for grant of the enhanced rate of pension from the beginning of the 80th year and 85th year of age instead of from the date of completion of those ages.

(v) Both the writ petitions were founded on an interpretation of the expression "80 वर्ष एवं अधिक किन्तु 85 वर्ष से कम" (and the corresponding subsequent slabs) appearing in the relevant State Resolutions and the Central Office Memorandum dated 01.09.2008. Strong reliance was placed on the decision of the Gauhati High Court in ***Virendra Dutt Gyani v. Union of India, 2018 SCC OnLine Gau 1501***.

(vi) The learned Single Judge, by the common judgment and order dated 22.12.2023, accepted the interpretation canvassed by the writ petitioners. The learned Single Judge held that the enhanced pension (additional 20%) is payable from the beginning of the 80th year till completion

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of the 84th year, and likewise the additional 30% is payable from the beginning of the 85th year onwards in the next slab.

(vii) The respondents were accordingly directed to ensure payment of all consequential benefits within a period of eight weeks.

(viii) Aggrieved by the said common judgment and order insofar as it relates to CWJC No. 5003 of 2022, the State of Bihar and its officials have preferred the present Letters Patent Appeal. During the pendency of the appeal, the pension disbursing bank has continued to release the additional quantum strictly on the basis of the pre-existing authorisations issued by the Treasury, and has been instructed by the Finance Department to await the outcome of the present appeal.

(ix) The essential facts necessary for the decision of the pure question of law arising in this appeal are thus not in controversy. The dispute centres solely on the correct interpretation of the age-related slabs prescribed for the grant of additional quantum of pension.

7. **Rival Submissions**

(A) Submissions on behalf of the Appellants (State of Bihar)

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(i) Learned counsel appearing for the appellants-State submitted that the impugned judgment dated 22.12.2023 is unsustainable in law and deserves to be set aside. It was contended that the learned Single Judge has fallen into a clear error in interpreting the expression "80 वर्ष एवं अधिक किन्तु 85 वर्ष से कम" (and the corresponding subsequent entries in the slab) appearing in paragraph 2(viii) of Resolution No. 820 dated 23.09.2009 of the State of Bihar, as also the analogous provision contained in the Office Memorandum dated 01.09.2008 of the Central Government.

(ii) It was argued that the plain, ordinary and grammatical meaning of the said phrase is that the additional quantum of 20% becomes admissible only when the pensioner has completed 80 years of age and remains so entitled till he attains the age of 85 years. The expression does not admit of an interpretation that the benefit would commence from the first day of the 80th year (i.e., upon completion of 79 years). The same reasoning applies with equal force to the subsequent slabs of 85 years, 90 years, and so on.

(iii) Learned counsel for the appellants further placed reliance on the decision of the Hon'ble Supreme Court in ***Prabhu Dayal Sesma v. State of Rajasthan, (1986) 4 SCC***

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59, to contend that a person attains a specified age on the day preceding the anniversary of his birthday. Applying the said principle, it was submitted that the respondent-writ petitioner (born on 01.01.1937) completed 80 years of age only on 31.12.2016 and therefore became entitled to the additional quantum only with effect from 01.01.2017.

(iv) Learned counsel placed strong reliance on the illustration appended to the relevant provision of the Central Civil Services (Pension) Rules, 2021, which clarifies that a pensioner born on 20th August 1942 (or even on 1st August 1942) becomes eligible for the additional pension at the rate of 20% only with effect from 1st August 2022, i.e., upon completion of 80 years of age, and not upon entering the 80th year. It was submitted that this statutory illustration leaves no manner of doubt as to the legislative intent.

(v) Attention was further invited to the Report of the National Judicial Pay Commission (January 2020, Volume II), wherein it has been expressly clarified that the expression "years" shall mean *completed years*. The relevant recommendation reads that the additional quantum shall be made available "on completion of age" at the rates specified, and the note appended thereto removes any ambiguity by

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stating that "years" means completed years.

(vi) Support was also drawn from G.O.Ms. No. 57 dated 11.06.2021 issued by the Government of Telangana, which clarifies that the additional pension is admissible only after the pensioner *completes* the qualifying age. Reference was likewise made to Circular No. 28/2016 dated 27.07.2016 of the Central Board of Direct Taxes, which holds that a person is to be treated as a senior citizen or super-senior citizen only after completing 60 or 80 years of age, and not upon merely entering the 60th or 80th year.

(vii) Learned counsel heavily relied upon the decision of the Rajasthan High Court in ***B.L. Sharma v. Union of India, Civil Writ Petition No. 16575/2023***, wherein it has been held that the intention of the rule-making authority is to confer the benefit on *completion* of the 80th year of life and not from the date of entering into the 80th year. The Rajasthan High Court has, in the said decision, distinguished the judgment of the Gauhati High Court in ***Gyani (Supra)***, which formed the principal foundation of the impugned judgment.

(viii) It was next contended that in all spheres of law dealing with age-related entitlements, whether it is

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superannuation, attainment of majority, or status as a senior citizen, the decisive factor is the completion of the prescribed age and not the mere entry into that year of age. A government servant superannuates on completing the age of superannuation, not on the day he enters the year of superannuation. The same principle, it was urged, must govern the present case.

(ix) Learned counsel submitted that the language of the resolution is clear, unambiguous and admits of only one meaning. In such a situation, there is no scope for invoking the principle of purposive interpretation or for supplying any supposed casus omissus. The learned Single Judge, it was argued, has rewritten the provision by judicial interpretation, which is impermissible.

(x) As regards the decision of the Gauhati High Court in ***Gyani (Supra)*** and the subsequent dismissal of the special leave petition by the Hon'ble Supreme Court, it was submitted that the said decision was rendered in the context of Section 17B of the High Court Judges (Salaries and Conditions of Service) Act, 1954, applicable to retired Judges, and cannot be mechanically imported to the interpretation of the Bihar Resolution or the Central Office Memorandum

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governing ordinary civil pensioners.

(xi) On the strength of the above submissions, it was prayed that the impugned judgment be set aside and the writ petition be dismissed, thereby restoring the position that the additional quantum is payable only upon completion of the specified age.

(B) Submissions on behalf of the Respondent-Writ Petitioner (Nand Kishor Singh)

(i) Learned counsel appearing for the respondent-writ petitioner supported the impugned common judgment and submitted that the learned Single Judge has correctly interpreted the relevant provisions. It was contended that the expression "80 वर्ष एवं अधिक किन्तु 85 वर्ष से कम" (and the parallel slabs) must be read purposively so as to advance the object of providing additional financial support to aged pensioners in the twilight of their lives.

(ii) It was argued that the phrase "from 80 years" or "80 वर्ष एवं अधिक" indicates the commencement of the 80th year of age, i.e., the day after the pensioner completes 79 years. Any other interpretation would leave a gap of one full year during which the benefit intended by the rule-making authority would be denied. Such a result, it was submitted,

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would be anomalous and contrary to the benevolent purpose of the provision.

(iii) Strong reliance was placed on the decision of the Gauhati High Court in ***Gyani (Supra)***, which held that the additional quantum under Section 17B of the High Court Judges (Salaries and Conditions of Service) Act, 1954, becomes payable from the first day of the 80th year. Learned counsel submitted that the special leave petition preferred by the Union of India against the said judgment was dismissed by the Hon'ble Supreme Court on 08.07.2019, and the principle laid down therein therefore deserves to be followed.

(iv) It was further contended that several other High Courts and Tribunals have taken a similar view, recognising that the benefit is intended to commence when the pensioner enters the relevant year of advanced age. The learned Single Judge, it was urged, has correctly applied the principle of purposive interpretation in favour of a class of senior citizens who are in the evening of their lives.

(v) Learned counsel submitted that pension is not a bounty but a hard-earned right, and provisions relating to pension must receive a liberal construction. Technical or hyper-literal readings that postpone the benefit by a full year

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should be avoided when the language is capable of bearing a meaning that advances the welfare object of the scheme.

(vi) As regards the illustration in the CCS (Pension) Rules, 2021, and the clarifications relied upon by the State, it was submitted that those materials cannot override the plain intent of the original resolution/OM of 2008-2009, nor can they retrospectively alter the interpretation that has been judicially accepted in *Gyani (Supra)*.

(vii) On the strength of the above submissions, it was prayed that the Letters Patent Appeal be dismissed and the impugned common judgment, insofar as it relates to the respondent-writ petitioner, be affirmed.

(C) Stand of the Bank (Respondent No. 3 - State Bank of India / CPPC)

(i) Learned counsel appearing for the State Bank of India (Centralised Pension Processing Centre) submitted that the Bank is merely the pension disbursing agency and functions strictly in accordance with the authorisations and instructions issued by the Pension Sanctioning Authority, namely the State Government / Treasury / Accountant General.

(ii) It was stated that the Bank has been releasing

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the additional quantum of pension to the respondent-writ petitioner strictly as per the existing sanctions, i.e., 20% with effect from 01.10.2017 and 30% with effect from 01.01.2022, on the basis of the letter issued by the District Treasury Officer, Begusarai. After the common judgment of the learned Single Judge, the Bank promptly addressed communications to the concerned Treasury seeking necessary revised orders, but was thereafter instructed by the Finance Department, Government of Bihar, to await the outcome of the present appeal.

(iii) Learned counsel submitted that the Bank neither supports nor opposes the rival interpretations advanced by the State and the writ petitioner. Its limited role is to disburse pension strictly in conformity with the orders of the Pension Sanctioning Authority. Consequently, even if the impugned judgment is affirmed, the Bank would require a fresh sanction / revised pension payment order from the competent authority before any arrears or revised quantum can be released.

(iv) The Bank, therefore, prayed that appropriate directions may be issued to the Pension Sanctioning Authority, and that no coercive action or liability be fastened upon the

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Bank for having acted in accordance with the existing sanctions and the interim instructions of the State Government.

8. **Points for Determination**

(i) On the basis of the pleadings and the rival submissions, the following points arise for determination in the present Letters Patent Appeal:

(a) What is the correct interpretation of the expression "80 वर्ष एवं अधिक किन्तु 85 वर्ष से कम" (and the corresponding subsequent slabs for higher ages) appearing in Resolution No. 820 dated 23.09.2009 of the State of Bihar and the analogous Central Office Memorandum dated 01.09.2008 / 02.09.2008?

(b) Does the additional quantum of pension become payable only upon *completion* of 80 years, 85 years, etc., or does it become payable from the date on which the pensioner *enters* the 80th year, 85th year, and so on (i.e., after completion of 79 years, 84 years, respectively)?

(c) Whether the learned Single Judge was justified in holding that the petitioners are entitled to the enhanced pension from the beginning of the relevant year of age, and in issuing the consequential directions contained in the common

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judgment and order dated 22.12.2023?

(d) What relief, if any, is the respondent-writ petitioner entitled to in the facts and circumstances of the present case?

9. **Analysis and Reasoning**

(i) We have given our anxious consideration to the rival submissions, the language of the governing provisions, the illustrative and clarificatory materials placed on record, and the conflicting judicial pronouncements.

(ii) The controversy turns on the interpretation of the expression "80 वर्ष एवं अधिक किन्तु 85 वर्ष से कम" (and the parallel slabs) contained in Resolution No. 820 dated 23.09.2009 of the State of Bihar and the corresponding Central Office Memorandum of 2008. The identical language appears in the table prescribing the rates of additional quantum of pension.

(iii) The first and foremost principle of interpretation is that when the language of a provision is clear and unambiguous, it must be given its plain and ordinary meaning. The Court cannot rewrite the provision or supply words under the guise of purposive interpretation unless the language is capable of more than one meaning or leads to an

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absurdity. Reference in this regard may be made to the Hon'ble Supreme Court's decision in ***Nathi Devi v. Radha Devi Gupta, (2005) 2 SCC 271***, wherein the Court was pleased to observe:

> ***"13.*** *The interpretative function of the court is to discover the true legislative intent. It is trite that in interpreting a statute the court must, if the words are clear, plain, unambiguous and reasonably susceptible to only one meaning, give to the words that meaning, irrespective of the consequences. Those words must be expounded in their natural and ordinary sense. When the language is plain and unambiguous and admits of only one meaning, no question of construction of statute arises, for the Act speaks for itself. Courts are not concerned with the policy involved or that the results are injurious or otherwise, which may follow from giving effect to the language used. If the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In considering whether*

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> *there is ambiguity, the court must look at the statute as a whole and consider the appropriateness of the meaning in a particular context avoiding absurdity and inconsistencies or unreasonableness which may render the statute unconstitutional."*

(iv) The expression "80 वर्ष एवं अधिक" in its ordinary grammatical sense means a person who has attained or completed the age of 80 years and is 80 years or more. The further qualifying words "किन्तु 85 वर्ष से कम" delimit the upper end of the slab. The phrase does not naturally convey that the benefit begins the moment a person completes 79 years and steps into the 80th year. In common as well as legal parlance, a person is said to be "80 years of age" only upon completing 80 years.

(v) This understanding is reinforced by the decision of the Hon'ble Supreme Court in ***Sesma (Supra)*** on which strong reliance was placed by the learned counsel for the appellants. The Court held that, in calculating a person's age, the day of birth is counted as a whole day and the person attains a specified age on the day preceding the anniversary of his birthday. Fractions of a day are ignored. The relevant paragraphs of the said judgment are reproduced below:

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9. *It is plain upon the language of Rule 11-B that a candidate must have attained the age of 21 years and must not have attained the age of 28 years on the first day of January next following the last date fixed for receipt of application. Last day fixed for receipt of application in this case, was January 1, 1983. First day of January next following that day would be January 1, 1984. The object and intent in making Rule 11-B was to prescribe the age limits upon which the eligibility of a candidate for direct recruitment to the Rajasthan Administrative Service and other allied services is governed. At first impression, it may seem that a person born on January 2, 1956 would attain 28 years of age only on January 2, 1984 and not on January 1, 1984. But this is not quite accurate. In calculating a 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. We have to apply well accepted rules for computation of time. One such rule is that fractions of a day will be omitted in computing a period of time in years or months in the sense that a fraction of a day will be treated as a full day. A legal day*

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commences at 12 o'clock midnight and continues until the same hour the following night. There is a popular misconception that a person does (sic 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.

14. *It is in recognition of the difference between how a person's age is legally construed and how it is understood in common parlance. The legislature has expressly provided in Section 4 of the Indian Majority Act, 1875 that how the age of majority is to be computed. It reads:*

"4. Age of majority how computed.—In computing the age of any person, the day on which he was born is to be included as a whole day, and he shall be deemed to have attained majority, if he falls within the first paragraph of Section 3, at the beginning of the twenty-first anniversary of that day, and if he falls within the second paragraph of Section 3, at the beginning of the eighteenth anniversary of that

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day."

The section embodies that in computing the age of any person, the day on which he was born is to be included as a whole day and he must be deemed to have attained majority at the beginning of the eighteenth anniversary of that day. As already stated, a legal day commences at 12 o'clock midnight and continues until the same hour the following night. It would therefore appear that the appellant having been born on January 2, 1956, he had not only attained the age of 28 years but also completed the same at 12 o'clock on the midnight of January 1, 1984. On the next day i.e. on January 2, 1984, the appellant would be one day more than 28 years. The learned Judges were therefore right in holding that the appellant was disqualified for direct recruitment to the Rajasthan Administrative Service and as such was not entitled to appear at the examination held by the Rajasthan Public Service Commission in 1983. We affirm the view taken by the learned Judges as also the decision in G. Vatsala Rani case [AIR 1967 Mys 135 : (1966) 2 Mys LJ 606] .

(vi) Applying this principle, a person born on 1

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January 1937 attains/completes 80 years of age on 31 December 2016 (the day preceding the 80th anniversary of the birthday) and is therefore “80 years and above” with effect from 1 January 2017. The same logic applies to the subsequent slabs of 85 years, 90 years, etc. We interpret the holding literally, observing very exactly from ordinary reading herein every rule. The decision in ***Sesma (Supra)*** thus supports the view that the additional quantum becomes payable only upon completion of the prescribed age and not upon merely entering the relevant year of age.

(vii) The above position is further fortified by the statutory illustration contained in the Central Civil Services (Pension) Rules, 2021. The illustration expressly provides that a pensioner born on 20th August 1942 (or even on 1st August 1942) becomes eligible for the additional 20% pension only with effect from 1st August 2022, i.e., on completion of 80 years. The illustration leaves little room for the interpretation that the benefit commences one year earlier.

(viii) We may also notice the position before the Hon’ble Supreme Court. The special leave petition preferred by the Union of India against the judgment of the Gauhati High Court in ***Gyani (Supra)*** was dismissed by a non-

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speaking order dated 08.07.2019 (***Union of India v. Virendra Dutt Gyani*, 2019 SCC OnLine SC 2108**). The said order is reproduced below:

> ***"1.*** *Delay condoned.*
>
> ***2.*** *Having heard learned counsel for the petitioners and on perusing the relevant material, we are not inclined to interfere. The special leave petition is accordingly dismissed.*
>
> ***3.*** *Pending interlocutory applications, if any, shall stand disposed of."*

(ix) It is well settled that a non-speaking dismissal of a special leave petition does not amount to a declaration of law under Article 141 of the Constitution and does not constitute a binding precedent. Reference in this regrd may be made to the Hon'ble Supreme Court's direction in ***Kunhayammed v. State of Kerala, (2000) 6 SCC 359***. The relevant paragraph of the said judgment is reproduced below:

> ***"27.*** *A petition for leave to appeal to this Court may be dismissed by a non-speaking order or by a speaking order. Whatever be the phraseology employed in the order of dismissal, if it is a non-speaking order, i.e., it does not assign reasons for dismissing the special*

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leave petition, it would neither attract the doctrine of merger so as to stand substituted in place of the order put in issue before it nor would it be a declaration of law by the Supreme Court under Article 141 of the Constitution for there is no law which has been declared. If the order of dismissal be supported by reasons then also the doctrine of merger would not be attracted because the jurisdiction exercised was not an appellate jurisdiction but merely a discretionary jurisdiction refusing to grant leave to appeal. We have already dealt with this aspect earlier. Still the reasons stated by the Court would attract applicability of Article 141 of the Constitution if there is a law declared by the Supreme Court which obviously would be binding on all the courts and tribunals in India and certainly the parties thereto. The statement contained in the order other than on points of law would be binding on the parties and the court or tribunal, whose order was under challenge on the principle of judicial discipline, this Court being the Apex Court of the country. No court or tribunal or parties would have the liberty of taking or canvassing any view contrary to the

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> *one expressed by this Court. The order of Supreme Court would mean that it has declared the law and in that light the case was considered not fit for grant of leave. The declaration of law will be governed by Article 141 but still, the case not being one where leave was granted, the doctrine of merger does not apply. The Court sometimes leaves the question of law open. Or it sometimes briefly lays down the principle, may be, contrary to the one laid down by the High Court and yet would dismiss the special leave petition. The reasons given are intended for purposes of Article 141. This is so done because in the event of merely dismissing the special leave petition, it is likely that an argument could be advanced in the High Court that the Supreme Court has to be understood as not to have differed in law with the High Court."*

(x) Subsequently, an Explanation has been added to Section 17B of the High Court Judges (Salaries and Conditions of Service) Act, 1954, clarifying that the entitlement to additional quantum is from the first day of the month in which the pensioner *completes* the specified age. More recently, while granting stay in ***Union of India v.***

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Bishnu Deo Ojha (Retd.), (Civil Diary No. 1612 / 2024, C.A. No. 2136/2024) (order dated 09.02.2024), the Hon'ble Supreme Court observed that the stay was subject to the condition that the respondents would be entitled to receive additional pension "from the date on which they reach the age of 80 years." The contents of the order are reproduced below:

"Application for exemption from filing a certified copy of the impugned judgment is allowed.

Application for leave to appeal is allowed.

Delay condoned.

Issue notice.

To be heard along with Civil Appeal Nos.5789-5790 of 2023.

There will be stay of the impugned judgment.

However, we make it clear that the stay is granted subject to condition that the respondents will be entitled to receive additional pension from the date on which they reach the age of 80 years."

(xi) These developments, taken together, do not support the view that the additional quantum becomes payable upon merely entering the 80th year.

(xii) The National Judicial Pay Commission (2020)

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has clarified in categorical terms that the expression "years" shall mean *completed years*. The Government of Telangana in its G.O.Ms. No. 57 dated 11.06.2021 has adopted the same position. The Central Board of Direct Taxes Circular No. 28/2016 [which itself relies on ***Sesma (Supra)***] likewise treats a person as a super-senior citizen only after completing 80 years, and not upon entering the 80th year. These materials, though not binding statutes, are contemporaneous and consistent indicators of how the age slabs are understood by the rule-making and implementing authorities.

(xiii) The decision of the Rajasthan High Court in ***B.L. Sharma (Supra)*** has examined the identical issue and has held that the legislative intent is to grant the additional quantum on *completion* of the prescribed age. The Rajasthan High Court has distinguished the Gauhati High Court decision in ***Gyani (Supra)*** as the same was based on the provisions of High Court Judges (Salaries & Condition of Service) Act, 1954, and therefore did not find any application in the facts of the case.

(xiv) The Gauhati High Court in ***Gyani (Supra)*** was concerned with Section 17B of the High Court Judges (Salaries and Conditions of Service) Act, 1954. The non-

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speaking dismissal of the special leave petition against that judgment does not constitute a declaration of law under Article 141 of the Constitution. Moreover, an Explanation has since been added to Section 17B clarifying that the entitlement is from the first day of the month in which the pensioner *completes* the specified age. The subsequent legislative clarification further weakens the persuasive value of the earlier Gauhati view for the present purpose.

(xv) It is also relevant that in virtually every other age-based entitlement under service law, whether it is superannuation, grant of senior scale, eligibility for certain allowances, or status as a senior citizen, the decisive date is the date of *completion* of the prescribed age. Consistency of approach is a relevant consideration, and the principle laid down in ***Sesma (Supra)*** reinforces that consistency.

(xvi) We are conscious that pensionary provisions are to be construed liberally and that the additional quantum is a beneficial measure intended to provide greater financial support in advanced age. However, liberal construction cannot be stretched to the point of rewriting a clear provision or advancing the date of entitlement by a full year when the language and the accompanying illustrations point in the

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opposite direction. There is no casus omissus or ambiguity that requires judicial supplementation.

(xvii) The learned Single Judge placed primary reliance on the Gauhati High Court decision and on a purposive reading that the benefit should cover the entire period from the beginning of the 80th year. With respect, we are unable to agree. The plain language of the Resolution, the statutory illustration of 2021, the clarification that “years” means completed years, and the consistent administrative understanding all support the view that the additional quantum becomes payable only upon completion of 80 years, 85 years, and so on.

(xviii) Consequently, the respondent-writ petitioner (born on 01.01.1937) became entitled to the additional 20% quantum only upon completing 80 years of age (i.e., with effect from 01.01.2017) and to the additional 30% quantum only upon completing 85 years of age (i.e., with effect from 01.01.2022). The dates already applied by the department are in conformity with the correct interpretation of the governing provision.

(xix) The same reasoning applies to the claim raised by Mukhlal Ojha in the connected writ petition that was

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disposed of by the common judgment. However, since the present appeal is confined to the Bihar case, we confine our operative directions accordingly.

10. In view of the foregoing discussion, we answer the points for determination as under:

(i) Point (i) & (ii): The additional quantum is payable only on *completion* of the specified age.

(ii) Point (iii): The learned Single Judge was not justified in holding otherwise.

(iii) Point (iv): The respondent-writ petitioner is not entitled to the advanced dates claimed by him.

11. **Operative Order**

(i) In view of the analysis and reasoning recorded above, we hold that the additional quantum of pension under the relevant Resolution of the State of Bihar and the corresponding Central Office Memorandum becomes payable only upon *completion* of the specified age of 80 years, 85 years, and so on, and not from the beginning of the 80th year or 85th year of age.

(ii) The common judgment and order, dated 22.12.2023, passed by the learned Single Judge in CWJC No. 5003 of 2022 (and the connected CWJC No. 7400 of 2023),

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insofar as it relates to the respondent-writ petitioner Nand Kishor Singh, is set aside.

(iii) The writ petition (CWJC No. 5003 of 2022) is dismissed.

(iv) It is declared that the respondent-writ petitioner is entitled to the additional quantum of 20% of basic pension only with effect from 01.01.2017 (upon completion of 80 years of age) and to the additional quantum of 30% of basic pension only with effect from 01.01.2022 (upon completion of 85 years of age). The payments already made by the appellants on the said basis are in accordance with law.

(v) The Pension Sanctioning Authority and the disbursing bank shall continue to release the pension and the additional quantum strictly in accordance with the above declaration.

(vi) The Letters Patent Appeal is allowed in the above terms.

(vii) Let a copy of this judgment be communicated to the Principal Secretary, Finance Department, Government of Bihar; the Accountant General (A&E), Bihar; and the Centralised Pension Processing Centre, State Bank of India, Patna, for necessary compliance and information.

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(Bibek Chaudhuri, J)

Rana Vikram Singh, J: I agree.

(Rana Vikram Singh, J)

skm/-

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