

# **Sudhir Kumar Agarwal vs Union Of India And 2 Others on 1 April, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:44806

RESERVED

Court No. - 49

A.F.R.

Case :- WRIT - A No. - 12596 of 2024

Petitioner :- Sudhir Kumar Agarwal

Respondent :- Union of India and others

Counsel for Petitioner :- Manish Gupta, Sarita Singh, Sr. Advocate

Counsel for Respondent :- A.S.G.I., Ishan Shishu, Maneesh Mehrotra

with

(2) Case :- WRIT - A No. - 13420 of 2024

Petitioner :- Sushil Kumar Vig and others

Respondent :- Union Bank of India and another

Counsel for Petitioner :- Manoj Kumar Tewari

Counsel for Respondent :- Vivek Ratan Agrawal

with

(3) Case :- WRIT - A No. - 16537 of 2024

Petitioner :- Bikash Chandra Goswami and others

Respondent :- Union Bank of India and another

Counsel for Petitioner :- Manoj Kumar Tewari

Counsel for Respondent :- Vivek Ratan Agrawal

with

(4) Case :- WRIT - A No. - 16846 of 2024

Petitioner :- Hridyesh Kumar Agarwal and others

Respondent :- Union Bank of India and another

Counsel for Petitioner :- Manoj Kumar Tewari

Counsel for Respondent :- Vivek Ratan Agrawal

with

(5) Case :- WRIT - A No. - 18065 of 2024

Petitioner :- Ramapati Ram and others

Respondent :- Union Bank of India and another

Counsel for Petitioner :- Manoj Kumar Tewari

Counsel for Respondent :- Vivek Ratan Agrawal

with

(6) Case :- WRIT - A No. - 19138 of 2024

Petitioner :- Surya Narayan Mandal and others

Respondent :- Union Bank of India and another

Counsel for Petitioner :- Manoj Kumar Tewari

Counsel for Respondent :- Vivek Ratan Agrawal

with

(7) Case :- WRIT - A No. - 14979 of 2024

Petitioner :- Rakesh Kumar Kulshrestha and another

Respondent :- Union of India and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- Prem Shanker Prasad, A.S.G.I., Vivek Ratan Agrawal

with

(8) Case :- WRIT - A No. - 14984 of 2024

Petitioner :- Naveen Kumar Pandey And 24 Others

Respondent :- Union of India and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I., Vivek Ratan Agrawal

with

(9) Case :- WRIT - A No. - 16273 of 2024

Petitioner :- Shri Bhagwan Agarwal and others

Respondent :- Union of India and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I.,Vivek Ratan Agrawal

with

(10) Case :- WRIT - A No. - 18469 of 2024

Petitioner :- Jagdish Pal Sagar and others

Respondent :- Union Bank of India and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I.,Pankaj Kumar,Vivek Ratan Agrawal

with

(11) Case :- WRIT - A No. - 16374 of 2024

Petitioner :- Man Mohan Mishra and others

Respondent :- Union of India and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I.,Pashupati Nath Tripathi, Ravi Prakash Singh

with

(12) Case :- WRIT - A No. - 17614 of 2024

Petitioner :- Prem Prakash and others

Respondent :- UCO Bank and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I., Ajay Shankar, Anupama Parashar

with

(13) Case :- WRIT - A No. - 17707 of 2024

Petitioner :- Suresh Chandra Rastogi and another

Respondent :- Bank of Baroda and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I., Anadi Krishna Narayana, Ashish Tripathi

with

(14) Case :- WRIT - A No. - 17741 of 2024

Petitioner :- Rakesh Kumar Sinha and others

Respondent :- Union of India and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I.,Abhishek Ahuja

with

(15) Case :- WRIT - A No. - 18817 of 2024

Petitioner :- Braj Bhushan Sharma and others

Respondent :- Central Bank of India and another

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I.,Ashok Kumar Singh

with

(16) Case :- WRIT - A No. - 16467 of 2024

Petitioner :- Mohammad Iftekar Ansari

Respondent :- Union of India and others

Counsel for Petitioner :- Pradeep Verma

Counsel for Respondent :- A.S.G.I.,Anadi Krishna Narayana, Ravi Prakash Singh

with

(17) Case :- WRIT - A No. - 17294 of 2024

Petitioner :- Krishna Kumar Srivastava

Respondent :- Union of India and others

Counsel for Petitioner :- Pradeep Verma

Counsel for Respondent :- A.S.G.I.,Anadi Krishna Narayana, Ashok Kumar Lal,Vijay Raj Pal

with

(18) Case :- WRIT - A No. - 18819 of 2024

Petitioner :- Ravindra Kumar Sharma and others

Respondent :- Union of India and another

Counsel for Petitioner :- Chandra Dutt,Pradeep Verma

Counsel for Respondent :- A.S.G.I.,Ashok Shankar Bhatnagar

with

(19) Case :- WRIT - A No. - 19675 of 2024

Petitioner :- Ramesh Kumar

Respondent :- Union of India and others

Counsel for Petitioner :- Aman Kesarwani,Pradeep Verma

Counsel for Respondent :- A.S.G.I.,Anadi Krishna Narayana, Dhurva Kant Chaturvedi

with

(20) Case :- WRIT - A No. - 14346 of 2024

Petitioner :- Kishan Swarup Sharma

Respondent :- Indian Bank through its Managing Director & Chief Executive Officer and ano

Counsel for Petitioner :- Gunjan Sharma,Namit Kumar Sharma

Counsel for Respondent :- Pashupati Nath Tripathi

with

(21) Case :- WRIT - A No. - 15833 of 2024

Petitioner :- Adhir Kapoor and others

Respondent :- Indian Bank and another

Counsel for Petitioner :- Gunjan Sharma,Namit Kumar Sharma

Counsel for Respondent :- Pashupati Nath Tripathi

with

(22) Case :- WRIT - A No. - 16750 of 2024

Petitioner :- Ram Nihor Saroj and others

Respondent :- Union of India and others

Counsel for Petitioner :- Rama Kant Misra,Uma Kant Misra

Counsel for Respondent :- A.S.G.I.,Krit Raj Singh,Vivek Ratan Agrawal

with

(23) Case :- WRIT - A No. - 14826 of 2024

Petitioner :- Pramod Kumar Agrawal

Respondent :- Union of India and others



Counsel for Petitioner :- In Person

Counsel for Respondent :- A.S.G.I.,Anadi Krishna Narayana, Ashok Kumar Lal, Pankaj Kumar

with

(24) Case :- WRIT - A No. - 14864 of 2024

Petitioner :- Vinod Kumar Gupta and others

Respondent :- Union of India and another

Counsel for Petitioner :- Vinod Kumar Srivastava

Counsel for Respondent :- A.S.G.I.,Abhishek Ahuja, Rajshekhar Srivastava

with

(25) Case :- WRIT - A No. - 16945 of 2024

Petitioner :- Bansh Narain Raiaged

Respondent :- Union of India and others

Counsel for Petitioner :- Rishi Kant Rai

Counsel for Respondent :- Ashok Shankar Bhatnagar, A.S.G.I., Rajesh Kumar Singh, Sanjai S

with

(26) Case :- WRIT - A No. - 19104 of 2024

Petitioner :- Ghanshyam Pandey and others

Respondent :- Union of India and others

Counsel for Petitioner :- Mohd Mohiuddin Siddiqui

Counsel for Respondent :- A.S.G.I., Mehul Khare

with

(27) Case :- WRIT - A No. - 19172 of 2024

Petitioner :- Kailash Nath Kushwaha and others

Respondent :- Union of India and others

Counsel for Petitioner :- Mohd Mohiuddin Siddiqui

Counsel for Respondent :- A.S.G.I., Ashok Kumar Singh

with

(28) Case :- WRIT - A No. - 14974 of 2024

Petitioner :- Ram Gopal Sarawat and others

Respondent :- State of U.P. and others

Counsel for Petitioner :- Ashish Kumar, Rahul Mishra

Counsel for Respondent :- C.S.C., Shishir Prakash

with

(29) Case :- WRIT - A No. - 15822 of 2024

Petitioner :- Satya Prakash Chauhan and others

Respondent :- State of U.P. and others

Counsel for Petitioner :- Ashish Kumar,Rahul Mishra

Counsel for Respondent :- C.S.C.,Shad Khan,Shishir Prakash

with

(30) Case :- WRIT - A No. - 18714 of 2024

Petitioner :- Ashok Kumar Sharma and others

Respondent :- State of Uttar Pradesh and others

Counsel for Petitioner :- Ashish Kumar,Rahul Mishra

Counsel for Respondent :- C.S.C.,Shad Khan,Shishir Prakash

with

(31) Case :- WRIT - A No. - 15805 of 2024

Petitioner :- Shiv Dutt Sharma

Respondent :- State of U.P. and others

Counsel for Petitioner :- Anshul Kumar Singhal

Counsel for Respondent :- Alok Mishra,C.S.C.,Manu Ghildyal

with

(32) Case :- WRIT - A No. - 17132 of 2024

Petitioner :- Ramji Lal

Respondent :- State of U.P. and others

Counsel for Petitioner :- Anshul Kumar Singhal

Counsel for Respondent :- Alok Mishra,C.S.C.

with

(33) Case :- WRIT - A No. - 18634 of 2024

Petitioner :- Karunendra Pratap Singh

Respondent :- State of U.P. and others

Counsel for Petitioner :- Satish Chaturvedi

Counsel for Respondent :- C.S.C.

with

(34) Case :- WRIT - A No. - 15317 of 2024

Petitioner :- Surya Narain Bajpai

Respondent :- U.P. Power Corporation Limited and others

Counsel for Petitioner :- J.P. Singh

Counsel for Respondent :- Usha Kiran,Abhishek Srivastava, C.S.C.

with

(35) Case :- WRIT - A No. - 17776 of 2024

Petitioner :- Anand Kumar Pandey and others

Respondent :- State of U.P. and others

Counsel for Petitioner :- Surya Prakash Dubey

Counsel for Respondent :- Abhishek Srivastava, C.S.C., Shrawan Kumar Tripathi

with

(36) Case :- WRIT - A No. - 18497 of 2024

Petitioner :- Kuldip Kumar Verma and others

Respondent :- U.P. Power Corporation Ltd. and others

Counsel for Petitioner :- Navin Kumar Srivastava

Counsel for Respondent :- Abhishek Srivastava,C.S.C.

with

(37) Case :- WRIT - A No. - 14145 of 2024

Petitioner :- Laxman Ji Mishra

Respondent :- State of U.P. and others

Counsel for Petitioner :- Ajay Tripathi,Surya Prakash Pandey

Counsel for Respondent :- C.S.C.

Hon'ble J.J. Munir,J.

1. The question of law involved in this batch of writ petitions is, if the commutation value of pension for an employee, who retires upon attaining the age of superannuation, invariably 60 years,

deducted in monthly installments from his retirement pension, made good in the time period of 10 years and 8 months or 11 years, or at the most 12 years, can be recovered for the agreed or the stipulated period of 15 years provided under the relevant service regulations, leading the respondents to realize from the employee more than the commutation value paid?

2. Writ-A No.12596 of 2024 has been heard as the leading writ petition. The learned Counsel for the petitioners, apart from highlighting facts and figures individual to their cases, have mostly confined their submissions to the aforesaid question of law. As such, facts would be noticed from the leading petition.

3. The petitioner, Sudhir Kumar Agarwal, was a Senior Manager with the Indian Overseas Bank, Station Road Branch, Moradabad and retired from service upon attaining the age of superannuation on 31.01.2012. The Indian Overseas Bank (for short, 'the Bank') is a nationalized Bank..

4. Eschewing unnecessary detail, all that need be noticed is that the petitioner's pension fell due w.e.f. 01.02.2012. The basic average pay at the time of his retirement was Rs.36,400/-. Accordingly, 50% of the said sum of money, to wit, Rs.18,200/- was fixed as the basic pension + dearness allowance. The petitioner requested commutation of his pension to the extent of 1/3rd, which worked out to a figure Rs.6,066/- per month. The aforesaid commutation was sanctioned and he was paid in lieu thereof a lump sum of Rs.7,14,090/-. It is the petitioner's case that the time period for recovery of the commutation value of pension paid to him was fixed at 15 years, when the petitioner retired. Recovery of the commutation value of Rs.7,14,090/- is made by a monthly deduction from the petitioner's pension in the sum of Rs.6,066/- + dearness allowance applicable. The petitioner is receiving a monthly pension of Rs.12,134/- + dearness allowance, that works to a figure of Rs.52,183/-, the dearness allowance being Rs.40,049/- per month. The case of the petitioner, like all others in this batch of petitions, is that upon deduction of the specified sum from his monthly pension, the commutation value would have been made good in the time period of 10 years and 8 months. Instead of settling the commutation account and releasing the petitioner's full pension at the end of 10 years and 8 months, the respondents insist that they would recover for the period of 15 years, agreed and settled at the time of commutation. The petitioner has appended a chart to the writ petition, marked Annexure No. 2-A, which shows that from 01.02.2012 to 31.07.2024, the Bank would have recovered from the petitioner at the rate of Rs.6,066/-, a sum of Rs.90,09,900/-. They would have recovered beyond the commutation value as on 31.07.2024, a sum of Rs.1,95,810/-. The submission, therefore, is that the sum of Rs.7,14,060/- paid to the petitioner as commutation value of his 1/3rd pension, was to be recovered at the specified rate in 118 installments; 150 have already been recovered, falling back on the clause that says that recovery would go on for realization of the commutation value for a period of 15 years. The petitioner, therefore, prays that a mandamus be issued to the respondents not to recover or deduct any sum of money after completion of 10 years of his retirement and restore the petitioner's full pension.

5. When this petition came up, considering the submission on its face value that the respondents cannot recover from the petitioner more than what has been paid in commutation value, interim stay of recovery from the petitioner's pension towards the commutation value was granted. A similar order was passed in many of the writ petitions in this batch. It was on 11.12.2024 when Writ-A

No.16945 of 2024 came up after the grant of an interim order earlier in the aforesaid writ petition that Mr. Ashok Bhatnagar, learned Counsel for the respondents in that case pointed out that this issue is no longer res intergra and stands answered against the employees by the Supreme Court in "Common Cause", a registered Society and others v. Union of India, (1987) 1 SCC 142 and R. Gandhi v. Union of India and another, (1999) 8 SCC 106. He further drew the Court's attention to the authority of the Delhi High Court in Forum of Retired IPS Officers (FORIPSO) v. Union of India and another, 2019 SCC OnLine Del 6610. He also apprised the Court of the fact that SLP (Civil) No.8852 of 2019, Forum of Retired IPS Officers (FORIPSO) v. Union of India and another, carried from the judgment of the Delhi High Court in Forum of Retired IPS Officers (supra) was summarily dismissed by the Supreme Court on 15.04.2019. He also drew the Court's attention to a Bench decision of the Punjab and Haryana High Court in Shila Devi and others v. State of Punjab and others, 2024:PHHC:157352-DB, deciding a batch of matters, involving the same controversy, answering it against the employees. We would presently allude to those decisions. What is not in dispute is that the question here has received judicial attention in the past, in the not-so long-past, in recent years and almost the other day as well.

6. It must be recorded here that in some of the petitions, pleadings have not been exchanged whereas in others, they have been elaborately put in. But, as already remarked, the question being a pure question of law, the individual facts and even regulations, governing the time period, during which full pension would stand redeemed, would not matter much. It would, therefore, be of no profit to examine facts of individual cases and the pleadings there.

7. Heard Mr. Arun Kumar Gupta, learned Senior Advocate assisted by Mr. Manish Gupta, learned Counsel for the petitioner in Writ-A No.12596 of 2024; Mr. Manoj Kumar Tewari, learned Counsel for the petitioners in Writ-A Nos.13420 of 2024, 16537 of 2024, 16846 of 2024, 18065 of 2024, 19138 of 2024; Mr. Harsh Vardhan Gupta with Mr. Sachin Singh, learned Counsel for the petitioners in Writ-A Nos.14979 of 2024, 14984 of 2024, 16273 of 2024, 18469 of 2024, 16374 of 2024, 17614 of 2024, 17707 of 2024, 17741 of 2024, 18817 of 2024; Mr. Pradeep Verma, learned Counsel for the petitioners in Writ-A Nos.16467 of 2024, 17294 of 2024, 18819 of 2024, 19675 of 2024; Mr. Namit Kumar Sharma, learned Counsel for the petitioners in Writ-A Nos.14346 of 2024, 15833 of 2024; Pramod Kumar Agrawal in person in Writ-A No.14826 of 2024; Mr. Vinod Kumar Srivastava, learned Counsel for the petitioners in Writ-A No.14864 of 2024; Mr. Rahul Mishra, learned Counsel for the petitioners in Writ-A Nos.14974 of 2024, 15822 of 2024, 18714 of 2024; Mr. Anshul Kumar Singhal, learned Counsel for the petitioners in Writ-A Nos.15805 of 2024, 17132 of 2024; Mr. Rama Kant Misra, learned Counsel for the petitioners in Writ-A No.16750 of 2024; Mr. Rishi Kant Rai, learned Counsel for the petitioner in Writ-A No.16945 of 2024; Mr. Satish Chaturvedi, learned Counsel for the petitioner in Writ-A No.18634 of 2024; Mr. S.N. Sinha with Mr. Mohd. Mohiuddin Siddiqui, learned Counsel for the petitioners in Writ-A Nos.19104 of 2024, 19172 of 2024; Mr. J.P. Singh, learned Counsel for the petitioner in Writ-A No.15317 of 2024; Mr. Surya Prakash Dubey, learned Counsel for the petitioners in Writ-A No.17776 of 2024; Mr. Navin Kumar Srivastava, learned Counsel for the petitioners in Writ-A No.18497 of 2024 and Mr. Ajay Tripathi, learned Counsel for the petitioner in Writ-A No.14145 of 2024; Mr. Ashok Shankar Bhatnagar, learned Counsel for the respondent-Punjab National Bank, Mr. Piyush Bhargav, Advocate holding brief of Mr. Vivek Ratan Agrawal, learned Counsel for the respondent-Union Bank of India, Mr. Ajay

Shankar, learned Counsel for the respondent-UCO Bank, Mr. Ashok Kumar Lal with Mr. Anadi Krishna Narayana, learned Counsel for the respondent-Bank of Baroda, Mr. Abhishek Ahuja, learned Counsel for the respondent-Indian Bank, Mr. Ashok Kumar Singh, learned Counsel for the respondent-Central Bank of India, Mr. Pashupati Nath Tripathil, learned Counsel for the respondent-Indian Bank, Mr. Mehul Khare, learned Counsel for the respondent-Canara Bank, Ms. Monika Arya, learned Counsel for the State-respondents, Mr. Abhishek Srivastava with Mr. Ujwal Srivastava, learned Counsel for the respondent-U.P. Power Corporation Limited, Mr. Shrawan Kumar Tripathi, learned Counsel for the respondent-Purvanchal Vidyut Vitran Nigam Ltd., Mr. Ishan Mishra, Advocate holding brief of Mr. Manu Ghildyal, learned Counsel for the respondent-Dakshinanchal Vidyut Vitran Nigam Limited, Mr. Bipin Bihari Pandey, learned Counsel for the respondent-Nagar Nigam, Varanasi.

8. Mr. Pradeep Verma, learned Counsel, who appears for the petitioners in a number of writ petitions in this batch, submits that there is no interest chargeable on the commutation value or the commutation amount paid in lump sum under the Regulations applicable to each of the respondents concerned in the various writ petitions. It is argued that the petitioners have paid up the entire commuted portion or value of their pensions within the span of 9-10 years of their retirement, going by the regular deductions made from their monthly retirement pension. It is argued that the recovery period of 15 years leads to an irrationality, because double the amount of money, that is paid towards commutation, would be recovered in 15 years. He submits that we are a welfare State and the scheme for provision of commuted value, for this reason, does not envisage levy of interest. The commutation amount paid is not taxable under the Income Tax Act. It is emphasized that under the Pension Regulations applicable, there is no mention of recovery of more than the commuted value. The respondents have recovered more than the commutation value up to 31.08.2024. Since the mortality rate between 70-75 years has reduced and life span increased, it would call for restoration of pension immediately after the commutation value paid is recovered.

9. It is emphasized also that the commutation value/ commutation factor in the commutation table appended to the Regulations involved in Writ-A No.16467 of 2024, is based on four parameters i.e. interest rate, life expectancy, mortality rate and the period of recovery. The mortality rate, as published by the Institute of Actualities of India, has been utilized in the LIC (94-96 ultimate tables). An ultimate mortality table lists the percentage of life insurance purchasers expected to be still alive at each given age, beginning with age '0' (zero), which corresponds to or represents 100% of the population of the assured being alive up to the age of 120 years. Typically, the data is based on a population of life insurance policy bearers, either from a particular Insurance Company or a group of them, rather than the country's population. When the amount of monthly deduction made from an employee's pension in lieu of the lump sum paid to him on account of commutation is multiplied with the restoration period i.e. 180 months (15 years), the sum of money approximates to twice of what is paid towards commutation in lump sum. It is argued that the 15 years for restoration of commuted pension has been fixed by the State when life expectancy in India was comparatively much lower. The life expectancy was 57 years only, whereas the retirement age was higher than that. The learned Counsel submits that as per official data released by the Union Ministry of Health and Family Welfare for the year 2011-15, the average life expectancy in India has increased to 68.5 years. At present, he submits that the average life expectancy in the country is about 70.42 years, which is



much more than the age of retirement upon superannuation.

10. It is interestingly argued that the life expectancy of government employees is higher than the average life expectancy of the population in general. As such, this has reduced the risk of non-recovery of the commutation amount due to premature mortality of pensioners to almost a zero. It is, therefore, urged that the period of recovery/ restoration has to be rationalized on these changed data about the life span and other matters. The laws and rules have to accord with these changed things. It is next submitted by Mr. Pradeep Verma that the State has failed to consider these relevant facts and circumstances. The rule, restoring commuted pension after 15 years, has turned arbitrary and unreasonable. It constitutes excess recovery by the respondents at the expense of the senior citizens in violation of Article 14 of the Constitution. The period of recovery for the commutation value is emphasized again to be ultimately dependent upon three factors, to wit, the interest rate, the life expectancy of the pensioners and the mortality rates. When the commutation tables currently in force in different establishments were drawn up, the interest rate was high, life expectancy low and mortality high. It is emphasized by the learned Counsel for the petitioners at this juncture that this is a case of unjust enrichment of the exchequer at the cost of senior citizens. The excess amount recovered by the respondents constitutes unjust enrichment, which is illegal and unconstitutional too. Restoration of full pension after 15 years, instead of 10, lacks an arithmetical basis and the same is per se and ex facie arbitrary and irrational. The State is a model employer and cannot enrich itself by its whim at the cost of citizens in the twilight years of life.

11. Mr. Mohd. Mohiuddin Siddiqui, learned Counsel for the petitioner in Writ-A Nos. 19104 of 2024 and 19172 of 2024 has submitted along similar lines to assail the long period of deduction as Pramod Kumar Agarwal, appearing in person in Writ-A No.14826 of 2024.

12. Mr. Manoj Kumar Tiwari, learned Counsel for the petitioners has submitted that the decision of the Supreme Court in Common Cause (supra) was not based upon any records, factors, formulae or data forwarded by the Central Government in support of fixing the period of 15 years, as time during which commuted pension would be released. The Supreme Court proceeded on a principle that it was necessary for the Central Government to fix the period of 15 years in order to recover losses on account of early deaths of pensioners. Common Cause was decided in the year 1986. He submits that there is no basis to insist on the period of 15 years as necessary to recoup losses for the employer or the Government on account of early deaths of many pensioners, who have commuted their pension, 38 years after the Supreme Court decided Common Cause. There is no such data or formula or factors forwarded by the Government, including the respondents to show that the period of 15 years is calculated on some scientific or reasonable basis to determine the period of recovery of the commuted pension. Mr. Tiwari has particularly pointed out that with the increase in life expectancy, the Kerala High Court in Central Government Pensioners Association v. Union of India, 2008 SCC OnLine Ker 291 recommended consideration to the Central Government that the period of recovery of commutation value may now cause unjust enrichment to the employer at the cost of senior citizens, and that the period of time for the commutation value to be squared off may be reduced to 12 years. The Government were directed to decide the petitioners' representation in that case, taking note of the remarks in the judgment. Mr. Tiwari submits that Central Government Pensioners Association (supra) was decided about 16 years ago, and till date neither the Central Government

nor the Corporations of the Government, like the respondent establishments, have thought of bringing down the period of commutation value to be settled, given the average longevity.

13. Mr. Harsh Vardhan Gupta, learned Counsel for the petitioners in nine of the writ petitions, urges that the decision of the Supreme Court in Common Cause clearly supports the period of recovery to be 12 years. So far as the case of R. Gandhi (supra) is concerned, Mr. Gupta says that the issue decided in the said case is whether the period of restoration is to be counted from the date of retirement or the date of commutation. The issue there is different and the respondents cannot make any capital out of it.

14. Mr. Ashok Bhatnagar, learned Counsel, appearing for the respondents in Writ-A No.16945 of 2024, submits that the period of 15 years is prescribed by Regulations 41(4) and 41(5) of the Punjab National Bank (Employees') Pension Regulations, 1995 (for short, 'the Regulations of 1995') and the petitioners are seeking curtailment of the period of commutation from 15 years to 11. This cannot be done dehors the rules, involved in all causes against the Punjab National Bank. This writ petition, which does not challenge the vires of the Regulations of 1995, is not maintainable. It is argued that the benefit of pension, as a retiral benefit in lieu of the Bank's contribution to the provident fund, has been introduced by all nationalized Banks, including the Punjab National Bank, pursuant to the bipartite settlement dated 29.10.1993, so far as it relates to employees, who are workmen, and on the basis of a joint note dated 29.10.1993, so far as officers of the Bank are concerned. The note aforesaid has been signed by the Management of various Banks and Officers' Associations at the Industry level. The benefit of pension is not compulsory, but elective. Those employees, who opt for the benefit of pension in lieu of the respondents' contribution to the provident fund, are governed by the Pension Regulations.

15. The aforesaid bipartite settlement dated 29.10.1993 and the joint note dated 29.10.1993 have culminated in the Regulations of 1995, with these Regulations being framed by the Board of Directors of the Respondent in exercise of powers conferred under Section 19 of the Banking Companies (A&T Undertakings) Act, 1970 after consultation with the Reserve Bank of India and the previous sanction of the Central Government. He emphasizes that the commutation of 1/3rd pension payable in future to the pensioners is also not compulsory, but absolutely elective. It is for the employee to decide to seek commutation or not, but if he seeks commutation, the entitlement to restoration of the commuted portion comes about under the Regulations after 15 years from the date, it is made. In support of his contention that the period of 15 years cannot be reduced, Mr. Bhatnagar has relied upon four authorities that have already been noticed in the earlier part of this judgment, and to which necessary allusion would be made later on.

16. During the course of his submissions, Mr. Bhatnagar said that in one of the cases in the bunch, the submission raised was that the 15 year period led to unjust enrichment of the respondents at the cost of senior citizens. The submission proceeds on the foot of the reasoning that in the pension fund, the total receipts of deduction of installments from the monthly pension to make good for the commutation value, far exceed what is paid to the petitioners in lump sum. This happens because the recovery continues for a period of 15 years. It was said for the petitioners, according to Mr. Bhatnagar, that the pension fund has swelled at their cost. Mr. Bhatnagar points out that there is

also a submission on behalf of the petitioners that the average age since the year 1987 has gone up from 57 years to 69-70 years, and on the other hand, the rate of interest on the corpus has also gone up since the scheme of commutation of pension was implemented. He submits that no such issue has been raised either in the writ petition or the counter affidavit. He argues that the prevalent rate of interest has gone up from 7-8% per annum in 1987 to 12-13% in the year 1994-95. However, since then the rate of interest has plummeted considerably to hover around 6% per annum. As such, the claim of the petitioners on this score is factually misconceived. So far as the increase in the average age is concerned, though it has gone up to 69-70 years, but a balance chart of the pension fund for the Punjab National Bank provides a different picture. It shows that the Bank had to infuse funds to keep the balance of payment in viable figures, causing loss to the Bank. Mr. Bhatnagar has attempted to introduce during arguments a chart to show for the financial years 2020-21, 2021-22, 2022-23 and 2023-24, the shortfall in the pension fund despite receipts of contribution from the commuted pension holders, which the Bank had to make good from its own resources. The risk factor on account of early deaths of pensioners is there, and that is what is responsible for the shortfalls, because lump sum payment once made, cannot be recovered after the pensioners' death.

17. Mr. Ajay Shankar, learned Counsel has added to Mr. Ashok Bhatnagar's argument about the risk factor on account of many early deaths of pensioners. The fact is that payment of lump sum, in order to provide the commuted value of pension, leads to depleted fund with the respondents and loss of interest thereon. This can be made good by paying a reduced pension to the petitioners for extended period of time. In addition, it is argued that the petitioners have opted for commutation of their free will, fully aware that they would get a reduced pension, in case they elect commutation for the time period of 15 years. Mr. Ajay Shankar says that an estoppel clearly applies to the petitioners, who have accepted the benefit of commutation, which comes as a complete package, including reduced pension for a period of 15 years. He points out that the petitioners seek to reopen the point, which this Court has already decided in *Ram Narayan Gupta v. State of U.P. and others*, 1994 (24) ALR 151. Mr. Ajay Shankar speaks about Rule 10A of the Central Civil Services (Commutation of Pension) Rules, 1981 (for short, 'the Rules of 1981') and says that these are *pari materia* to Regulation 41(5) of the UCO (Employees) Pension Regulations, 1995. Mr. Ajay Shankar represents the respondents in a case, where they are the UCO Bank. He emphasizes that the pension funds are used for payment of pensionary benefits alone and not utilized for any other purpose. It is maintained to pay monthly pensions and also to plan for contingencies, like the Covid-19 pandemic. These are not a source of unjust enrichment to the respondents, as they cannot be utilized elsewhere.

18. Mr. Vivek Ratan Agarwal, learned Counsel has argued on behalf of the respondents, adopting the same line of arguments as those advanced by Mr. Ashok Bhatnagar.

19. Upon hearing learned Counsel for the parties, what we find is that the point involved here, indeed, engaged the attention of the Supreme Court squarely in *Common Cause*. The facts in *Common Cause* can best be recapitulated in the words of their Lordships, which read:

"1. By these applications under Article 32 of the Constitution *Common Cause*, a registered society and three retired government servants have asked for striking down certain provisions of the Commutation of Pension Rules applicable to civilian

and defence pensioners as they permit the Union of India to recover more than what is paid to the pensioners upon commutation and for a direction that an appropriate scheme rationalising the provisions relating to commutation be brought into force. The respondent has filed a counter-affidavit challenging the maintainability of the petition as also the claim of the petitioners and the matter has been heard at considerable length from time to time. Parties have filed written submissions supplementing their oral arguments.

2. The Central Civil Services (Commutation of Pension) Rules, 1981 are the appropriate rules in force so far as civilian employees under the Government of India are concerned. A set of regulations is in force in regard to defence personnel.

3. It is not disputed that in the case of civilians the total amount of pension which can be commuted is up to one-third while in the case of defence personnel, commutation is admissible up to 43 per cent in the case of officers and up to 45 per cent in respect of other ranks. The argument advanced on behalf of the petitioners that there has been a substantial improvement in the life expectancy of the people in India has not been refuted on behalf of the respondent. This Court suggested to the respondent in course of the hearing that in the changed situation now prevailing in the country, a new look should be given to the matter. In deference to the suggestion made by this Court, the respondent took time to consider the various aspects raised in the writ petitions and the oral submissions advanced at the hearing as also the written notes submitted in court. It also took into account the fact that several State Governments have changed the Rule applicable to commutation and have restored full pension to the pensioners who commuted a part of their pension after lapse of fifteen years. Union of India has now agreed to restore the commuted portion of the pension in regard to all civilian employees at the age of seventy years or after fifteen years, whichever is later, and has agreed to make this effective from April 1, 1986.....

4. As the position now stands, when a pensioner commutes any part of his pension up to the authorised limit, his pension is reduced for the remaining part of his life by deducting the commuted portion from the monthly pension."

(emphasis by Court)

20. In deciding the issue involved, the Supreme Court held in Common Cause:

"5. The petitioners have contended that the commuted portion out of the pension is ordinarily recovered within about 12 years and, therefore, there is no justification for fixing the period at 15 years. Commutation brings about certain advantages. The commuting pensioner gets a lump-sum amount which ordinarily he would have received in course of a spread over period subject to his continuing to live. Thus, two advantages are certainly forthcoming out of commutation -- (1) availability of a lump sum amount, and (2) the risk factor. Again many of the State Governments have

already formulated schemes accepting the 15 year rule. In this background, we do not think we would be justified in disturbing the 15-year formula so far as civilian pensioners are concerned.

6. The age of superannuation used to be 55 until it was raised to 58. It is not necessary to refer to the age of the commuting pensioner when the benefit would be restored. It is sufficient to indicate that on the expiry of fifteen years from the period of retirement such restoration would take place.

9. In dealing with a matter of this nature, it is not appropriate to be guided by the example of life insurance; equally unjust it would be to adopt the interest basis. On the other hand, the conclusion should be evolved by relating it to the "years-of-purchase" basis. An addition of two years to the period necessary for the recovery on the basis of years of purchase justifies the adoption of the 15-year rule. That is more or less the basis which appears to be equitable. It may be that this would give rise to an additional burden on the exchequer but it would not be heavy and after all it would bring some relief to those who have served the cause of the nation at great sacrifice. We are, therefore, of the view that no separate period need be fixed for the armed forces personnel and they should also be entitled to restoration of the commuted portion of the pension on the expiry of 15 years as is conceded in the case of civil pensioners. And for them too, the effective date should be from April 1, 1985."

(emphasis by Court)

21. A perusal of the law laid down by the Supreme Court in Common Cause is of seminal importance. The Rule in Common Cause brought about a drastic change to the rights of pensioners, who had elected to commute their pension. Prior to Common Cause, as it appears, except in the cases of some State Governments, who had adopted the rule of restoring full pensions after expiry of a period of 15 years from the date of commutation, the Central Government, both in relation to the civil services and defence services, was adhering to the letter of the law carried in the Rules of 1981, which made commutation of pension by a retiring government servant, whether a civil servant or a service man, burdened with a permanent monthly deduction from his pension. This would have obviously far exceeded the gains from the commutation received in lump sum by the pensioners. The petitioners, at that time too, had contended in Common Cause that recovery of the commuted value of pension is complete in 12 years and there is no justification to bring in a rule of restoring the pension upon the expiry of 15 years. This came about as a result of the Union Government agreeing to alter the rule, prescribing a permanent reduction of pension for the pensioners, by a rule which said that recovery of the commuted value would stop on completion of 15 years from the date of retirement on superannuation or the pensioner attaining the age of 70 years, whichever is later. Their Lordships did not go with the 70 years ceiling, but also did not accept the position that the entire recovery of commutation value being over in 12 years, there was no justification to fix the period of time for restoration of pension at 15 years. It was remarked that commutation brings about certain advantages for the employee. The pensioner gets a lump sum, which he would have received spread over a period of time, subject to his continued survival. It was, therefore, remarked that two

advantages, that came to the pensioner with commutation, was firstly, the immediate availability of a lump sum amount of money, and, secondly, exclusion of the risk factor, arising from the event of death. The Court also took note that many State Governments had already formulated schemes, accepting the 15 year rule. It was in this background that for civilian pensioners, the Court accepted the 15 year rule. The Court specifically rejected the criteria of the pensioners' age as one for restoring the pension. The other remarks in paragraph No.9 of the report may not be very relevant to this case, as this cause essentially relates to pension in civilian service, albeit of a Bank or Corporation.

22. What really matters is that the Court in Common Cause introduced a 15 year rule, consciously adding a 3 year period beyond the 12 year recovery of the commutation value, bearing in mind the advantage to the employee of receiving a lump sum, which he might or might not have received, depending upon his fate in the matter of life expectancy. The other more important fact was that given the uncertainties of human life, described as a risk factor, the employer too would have to be compensated in the matter of maintenance of the pension fund as the employer would have to absorb in the budgeting of the fund, cases of those employees, who took the lump sum and did not survive long enough, to ensure replenishment.

23. For the present, the submission, that has been advanced on behalf of the petitioners, is that life expectancy has increased generally, and, therefore, there would be a larger number of pensioners, contributing to the replenishment of the pension fund, compared to the time when Common Cause was decided. Therefore, given the fact that the average life expectancy has risen to 70 years or so, which was 57 years at the time, when Common Cause was decided, the Rule of adding 3 years beyond the 12 year recovery period of the commutation value and fixing a 15 year period of time, after which pension would get restored, is now absolutely arbitrary and unfair. It would lead to unjust enrichment of the respondents or the exchequer at the cost of the senior citizens. This is said to be antithetical to the values of a welfare State. The argument, though attractive, does not hold much force; at least to be suited in a writ petition, or for that matter, a Court of law, as matters stand. There could be some sense to the fact that increase in average longevity may have made pension funds with an employer more viable, but that is a matter of working out economies on a larger scale. There are neither sufficient pleadings nor could there be in a few writ petitions filed before the Court, that may enable the Court to take an informed decision, affecting the budgeting and economy of the respondents' pension fund. It is not something, that is so palpably wrong or absurd that the Court may hold it to be arbitrary. The factor of increase in average longevity may require a policy decision on the respondents' part to be taken, but that would not entitle the petitioners to a writ of ours, limiting the recovery period of the commuted pension value to 10 years or 11, as the petitioners seek, or even 12. Working out of economies and money matters, like this, are reputed in law to be best left to the primary decision maker, who has to bear the burden, manage great funds and frame budgets. It is not a matter, which can be decided within the confines of a lis, founded on pleading and some documents.

24. Mr. Harsh Vardhan Gupta is right in saying that the decision of their Lordships of the Supreme Court in R. Gandhi is not in point and decides something entirely different, to wit, the reckoning of the period of 15 years: whether it is to commence from the date of retirement or the commutation of pension. To consider the point involved, reference must be made to a Bench decision of the Delhi

High Court in Forum of Retired IPS Officers (FORIPSO) (supra), where it was held:

"21. Pension, commutation of pension, etc. are policy matters, which are examined and decided on the basis of recommendations of the Pay Commissions by the authorities. No doubt, an executive order or policy decision is not beyond the scope of judicial review but the Courts do not go into the nitty gritty of the policy to substitute the table by making various computations and calculations, which are possible by different formulas or by applying a particular formula. Broadly, policy decisions can be subjected to judicial review when they are unconstitutional being de hors the provisions of the Act and the Regulations, if the delegatee has acted beyond its power of delegation and if the executive policy is contrary to the statutory or larger policy in matters of price fixation, pay fixation, etc. Courts would not interfere unless formula or method adopted is per se and ex facie irrational, arbitrary or can be struck down on the four grounds mentioned above.

22. These aspects were kept in mind and highlighted by the Supreme in Common Cause (supra) when they rejected the contention that the commuted portion of pension would be ordinarily recovered within 12 years, and therefore, there was no justification for fixing period at 15 years. The Supreme Court observed that commutation brings about its advantages as a lump sum amount is received, which amount would have otherwise been paid over a period of time during a person's life-time. The Supreme Court had listed out two clear advantages, namely, availability of the lump sum as pension and the risk factor. We may add another advantage as the commutation of pension is presently untaxed under the Income Tax Act, 1961. This considerably adds to the monetary benefit accruing to the pensioners. Further, the rate of return on the funds invested by the pensioners could vary and depends upon market driven rate of interest. There are schemes for senior citizens in which the rate of returns is high. Computations made by the petitioner do not refer to the return by way of interest that the pensioner would earn. In the aforesaid background the Supreme Court had specifically rejected similar argument observing that while fixing the commutation period, the Court should not be guided or go by the example of life insurance. The Supreme Court had made the following observations on the said aspects in Common Cause (supra):--

"9. In dealing with a matter of this nature, it is not appropriate to be guided by the example of life insurance; equally unjust it would be to adopt the interest basis. On the other hand, the conclusion should be evolved by relating it to the "years-of-purchase" basis. An addition of two years to the period necessary for the recovery on the basis of years of purchase justifies the adoption of the 15-year rule. That is more or less the basis which appears to be equitable. It may be that this would give rise to an additional burden on the exchequer but it would not be heavy and after all it would bring some relief to those who have served the cause of the nation at great sacrifice. We are, therefore, of the view that no separate period need be fixed for the armed forces personnel and they should also be entitled to restoration of the

commuted portion of the pension on the expiry of 15 years as is conceded in the case of civil pensioners. And for them too, the effective date should be from April 1, 1985."

23. We would want most favourable terms for the pensioners, but there are restraints and the field experts and not the Court is the best judge to evaluate on different and somewhat conflicting factors that have to be taken into consideration. This is not to say that courts do not have jurisdiction and aggrieved pensioners/employees if they are unjustly treated cannot be granted relief, but for such interference the Court should come to a firm conclusion that a grave error had crept in which makes the court's interference absolute to do justice. Interference in such matter can result in creating all kinds of problems and cascading effects as these are highly complexed and difficult matters requiring balancing of various competing interests, which would to some extent include financial resources available."

(Emphasis by Court)

25. An identical issue was raised before a Division Bench of the Punjab and Haryana High Court in Shila Devi (supra), where the questions involved and the facts in brief can be recapitulated in the words of their Lordships thus:

"3. Writ-petitioners in all the petitions are retired employees of the State of Punjab having served its various departments. All of them opted for commutation of their pension in terms of applicable provisions of Chapter 11 of the Punjab Civil Services Rules, Volume-II (for short 'PCS, Rules), Volume-II). Question raised for consideration and adjudication is as to whether portion of pension commuted by the pensioner should be restored after completion of 15 years from actual date of commutation as provided in Rule 11.1 (2) of PCS Rules, Volume-II or it should be restored after a lesser period i.e., about 12 years.

4. It is a matter of record that all the petitioners had opted for commutation of their pension in accordance with the applicable rules. They broadly fall in two categories i.e., petitioners whose pensions stand restored after completion of the period of 15 years from the date of commutation and those for whom the period of 15 years is yet to be completed. Petitioners have challenged Sub Rule (2) of Rule 11.1 of PCS Rules to be ultra vires the Constitution of India primarily on the premise that commuted pension stands recovered much earlier than the stipulated period and is thus unconstitutional."

26. In repelling the petitioners' contention, it was held by Lisa Gill, J.:

"25. Learned counsel for petitioners were at pains to indicate that the 6th Central Pay Commission had recommended periodical revision and review of commutation tables keeping in view the interest rates and mortality rate. While referring to Sample Registration System (SRS), Based Abridged Lifetables 2013-2017 issued by Registrar General and Census Commissioner, Ministry of Home Affairs, it was contended that



palpable change is indicated in mortality rate which calls for a relook by the authorities on the issue in question. In respect to this argument, we take note of the response of State of Punjab by way of additional affidavit dated 04.11.2024 of Saroj, Under Secretary to Government of Punjab, Department of Finance, in CWP No. 9426 of 2023 stating therein that as per data supplied by Department of Health State of Punjab, based on the Sample Registration System (SRS) statistical data issued by Registrar General and Census Commissioner, Ministry of Home Affairs, Government of India, death rate in the State of Punjab is higher since the year 2019 than that of the Country as a whole.

26. It is pertinent to note at this stage that the 7th Central Pay Commission did not recommend any change in respect to commutation of pension including the period of restoration. The Punjab Pay Commission on considering the report of the 7th Central Pay Commission as well as the representations of the Employees Association did not find any reason to differ and did not recommend any change. The observations and recommendations as reproduced in affidavit dated 04.11.2024 read as under:-

"Observations and recommendations 8.11.3 Employee Associations have represented that the commuted pension needs to be restored after 12 years and the commutation be allowed @ 40% of the pension as was previously the case. Moreover, the existing rate of commutation is 40% for Central Government pensioners.

8.11.4 The 7th CPC has not recommended any change either in maximum percentage of commutation or in the period of restoration. It has in this context referred to the Supreme Court judgment of 09.12.1986 wherein the hon'ble court specifically observed that though the amount is recovered in 12 years yet since there is a risk factor and some of the States are restoring pension after 15 years, the existing period of restoration should be retained.

8.11.5 The Commission has no reason to differ and recommends that the rate of commutation be raised to 40% with no change in the period of restoration of the commuted amount."

27. It is a matter of record that all the petitioners before us are retired employees who have admittedly availed of the benefit of commutation of pension. Admittedly, pension of some of the employees also stands restored. All the petitioners were in service at the time of issuance of notification dated 21.07.1998. They never raised any objection to the stipulated period of 15 years for restoration of pension. Having availed of a benefit which is clearly voluntary in nature, it is not open to the petitioners to raise the grievances as noted above, at this stage, to seek a variation in the terms and conditions accepted by them with open eyes. They are not entitled to seek recovery of the amount so deposited by them in accordance with the accepted terms and conditions.

28. In this factual matrix, the argument that it is a continuing cause of action as it pertains to pension, is clearly unacceptable. There is no question of any direction to the State to restore pension on expiry of 11.5 years or 12 years as prayed for or to refund the amount so recovered. It is necessarily for the State to take a considered decision thereon after delving into the complex questions and underlying parameters which would be involved for assessment of the issues. Admittedly, matters related to commutation of pension are complex affairs involving vexed issues traversing diverse field which calls for application of specialized expertise. It is a settled position that in such matters the Court would venture only in case of manifest and apparent arbitrariness. Learned counsel for petitioners were unable to point out any material on record to indicate that the formula adopted is per se and ex facie irrational or arbitrary which calls for interference by this Court.

29. At this stage, we take note of the specific stand of the State as projected before us that it would be ready to examine the scheme/period of commutation while taking into consideration changes, if any, in underlying parameters and that an Expert Committee would be constituted in this respect which would be assisted by Recognized Expert Agency or Institution(s) which possess requisite knowledge and competence in assessing such matters. In this process the Committee would also invite and consider submission and representations in the matter from Associations of pensioners in the State.

30. Keeping in view the fair stand on the part of the State, we do not find any ground for issuance of any particular direction in this regard except to observe that in terms of the stand as projected before us, it is expected that necessary steps in this regard would be taken expeditiously by the State."

27. No doubt, in Central Government Pensioners Association, a learned Judge of the Kerala High Court was swayed into thinking that there was some force in the contention that 12 years was sufficient to recover the pension fund from the depleting effect of commutation and that continuing the recovery beyond 12 years seemed unjust enrichment for the employer at the senior citizens' expense, but this view of the Court was tentatively held and did not lead the learned Judge to enter judgment. This was obviously, though not said there, for the reason that working out of economies and budget is a large scale and complicated exercise best done by the primary decision maker, who manages the funds and the budget. Moreover, the learned Judge seems to have been inspired into thinking that recovery was indeed complete at the end of 12 years on the basis of some recommendations of the 5th Pay Commission, that were relevant at the time, which said that the recovery was complete in 12 years. That part of the recommendation of the Central 5th Pay Commission was not accepted by the Government. The learned Judge, therefore, ordered the Government to consider and decide the petitioners' claim, after hearing him on the foot of the representation, bearing in mind the Court's remarks. But, the Court did not issue a mandamus to reduce the period of recovery from 15 to 12 years. The relevant remarks of the Court in Central Government Pensioners Association read:

"11. Going by the lumpsum amount payable on commutation and the recovery effected by applying the years of purchase as given by the table of commutation of

pension rules there seems to have been a reason for the recommendation made by the pay commission. The reasons are expressed in para 136.9 and 136.10 of the pay commission report. As to what persuaded the Government to take a decision not to accept the recommendation of the pay commission in the matter of restoration of pension after a period of 12 years, the counter-affidavit is significantly silent on this aspect. The counter-affidavit only mentions of that the recommendation made by any pay commission are not mandatory. They are in the nature of suggestions which the Government may accept or not. In other words, the stand taken in the counter-affidavit suggests either absence of application of mind on the part of the Government in taking a decision not to accept the recommendation of the pay commission or more seriously a refusal to reveal such reasons as such.

12. The recommendation of the pay commission for reducing the number of years from 15 to 12, would normally suggest that recovery effected over a period of 12 years is sufficient. If that be so, is it not reasonable to assume that further recovery effected for a period of three years, after the expiry of 12 years, would constitute an unjust enrichment on the part of the respondent. If so, is it not necessary for the Government to restrict the recovery of 12 years from the date of commutation and order restoration of full pension. Obviously no Government would countenance a situation where it unjustly enriches itself at the expense of its senior citizens. In my view, these are matters which merit serious attention by the Government. For all these reasons, I am of the view that the first respondent should take a fresh decision in the matter of the recommendation made by the 5th Central Pay Commission as regards restoration of the commuted pension drawn by the central pensioners, after 12 years. A reasoned order may be passed in this regard by the first respondent after hearing a representative of the petitioner. The Government shall take note of the observations made in this judgment. The petitioners are at liberty to supplement Exts. P1 and P2 with additional representations and also produce materials in support of their contention."

28. There is another angle to the matter and that is that the petitioners here have accepted the terms of commutation freely and of their own accord. Having accepted the benefit of the terms of commutation, it is no longer open to them to repudiate the burden that the scheme of commutation brings. The commutation is one whole scheme, which has to be accepted by a pensioner for all that it offers. It would be grossly inequitable for a pensioner, who has accepted the terms, to avail the benefit and repudiate the burden, as already said. The term of restoration of full pension is 15 years, which the petitioners in each of these cases, accepted, when they opted for commutation. They cannot now be permitted to turn around. In a matter, where a petitioner, similarly circumstanced as the writ petitioners here, chose to question the vires of the rules, under which time period of recovery of the commutation value was fixed, went before the Division Bench in Ashok Kumar Agarwal and others v. Union of India and others, 2025:AHC:6439-DB. In Ashok Kumar Agarwal (Supra), it was held:

"The provisions contained in the Regulations would clearly indicate that the retiring employee shall indicate a fraction of pension, which he desires to commute, and may indicate its maximum limit, which shall not be more than 1/3rd of the pension. In case, the fraction amount is in part of the rupee, such fraction of a rupee is to be ignored for the purposes of commutation. Note (2) is categorical and provides in specific terms that employees who have commuted the admissible portion of pension, is entitled to have the commuted portion of the pension restored after the expiry of 15 years from the date of commutation. The statutory scheme is, therefore, abundantly clear that an option is extended to the retiring employee concern to avail of the benefit of computation and such computation is on specific terms that on expiry of 15 years of such commutation, the original pension is to be restored.

The petitioners' contention that period for resumption of full pension be reduced from 15 years to 10 years only because the bank actually recovers the lumpsum amount paid on expiry of 10 years, is a misconceived argument. The Policy contained in the Regulations of 1995 extends an offer to the retiring employee to avail the benefit of commutation on specific terms. These terms clearly provide for restoration of pension only on expiry of 15 years. The petitioners otherwise do not say that the terms of the policy is unconstitutional or unconscionable.

Having accepted such offer, a binding contract comes into existence between the employee and the employer as per which the original pension is to be restored after 15 years. Having acquiesced to the commutation policy with open eyes, it is not open for the retiring employee to contend later that the period of restoration of full pension be reduced from 15 years to 10 years. Whether or not the lumpsum amount gets equalised on expiry of 10 years or 11 year is not decisive or material. What is material is the nature of obligation which enures upon the parties when the retiring employee accepts the provision of commutation of pension. The employee with his open eyes having availed the policy, cannot subsequently turn around or seek modification in its terms. The argument that the table or the figures were not adequately disclosed, is also not acceptable, inasmuch as the chart specifies the manner in which the commutation is to be fixed and the period after which the original pension is to be restored. In case, the employees had any misgivings about it, they could have sought appropriate clarification before accepting the offer. Once, the petitioners have acquiesced to the policy and accepted the offer, their subsequent attempt to resile or seek change in its computation would clearly be impermissible."

29. In view of whatever has been said above, there is no force in these petitions. All the petitions fail and are dismissed.

30. The interim orders, in whichever petitions passed, shall stand vacated.

31. There shall be no order as to costs.

Order Date :- 01.4.2025 Anoop (J.J. Munir) Judge