PETITIONER:
STATE OF MADHYA PRADESH AND ANOTHER

Vs.

RESPONDENT:
COL. LAL RAMPAL SINGH

DATE OF JUDGMENT:
07/10/1965

BENCH:
SARKAR, A.K.
BENCH:
SARKAR, A.K.
HIDAYATULLAH, M.
DAYAL, RAGHUBAR
MUDHOLKAR, J.R.
BACHAWAT, R.S.

CITATION:
1966 AIR 820 1966 SCR (2) 53
CITATOR INFO :
R 1971 SC 846 (9)
R 1987 SC 82 (7)

ACT:
Indian State-Retirement pension fixed by Ruler in relaxation of Rewa State Pension and Gratuity Rules-Ruler's act whether 'law' or 'grant'--Succeeding Government whether bound to continue payment.

HEADNOTE:
The respondent held various offices under the Government of the erstwhile Rewa State. By an Order made on April 3, 1948;, the Ruler allowed him to, retire on a full pension of Rs. 350/- per month as a special case, and the breaks in his service were also condoned. The State of Rewa was later merged with the State of Vindhya Pradesh and the appropriate authority passed orders reducing the respondent's pension. Vindhya Pradesh later became a part of the State of Madhya Pradesh. The respondent moved a petition in the High Court of Madhya Pradesh for a writ of certiorari in which he prayed that the orders reducing his pension be quashed. The High Court decided in his favour whereupon the State of Madhya Pradesh appealed- to this Court.
The questions that fell for determination in the appeal were whether the Order of the Ruler of Rewa amounted to 'law', and whether, if not 'law', it was a grant which the succeeding Government must be deemed to have accepted since it made payments in terms of it for several years.
HELD : (i) From the terms of the Order in question it was clear that the Ruler purported to act under the Rewa State Rules. This would appear from the reference to 'full pension', condonation of the 'breaks in service' and 'special case, in the said order. This would also appear from the fact that the Order granted the respondent certain advance increments which could only have been done to justify the full pension of Rs. 350/- per month under the rules. Obviously under the rules the respondent would have been entitled to a smaller pension in view of the breaks and if the increments had not been granted. The Ruler was not'.

therefore, acting in exercise of his sovereign power and in disregard of the rules; on the contrary he was purporting to act in terms of the rules. That being so it had to be held that the Order in question was not a law but an executive order passed in terms of the rules. It was open to the succeeding Government to set aside that order by another executive order. [54 G-H; 55 B]

(ii) what the Ruler did by his Order of April 3, 1948 does not appear to have been to make a grant but to have passed an Order purporting to act under the Rules. If that Order was not justified by the rules it was liable to be set aside by another order duly made under them. Pension is furthermore normally always a matter of grace. It is implicit in the grant of a pension that it may be subsequently reviewed. The succeeding State was hence competent to review the order even if it had paid the pension for sometime in terms of it. [55 D-F]

JUDGMENT:

CIVIL APPELLATE JURISDICTION Civil Appeal No. 736 of 1963.

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Appeal by special leave from the Judgment and Order, dated November 12, 1960, of the Madhya Pradesh High Court in Misc. Petition No. 265 of 1958.

B. Sen, M. N. Shroff and I. N. Shroff, for the appellants.

A. P. Singh Chohan and A. D. Mathur, for respondent.

The Judgment of the Court was delivered by

Sarkar, J. This is the third case in the series and it arises out of a petition for a writ of certiorari moved in the High Court of Madhya Pradesh to quash -certain orders reducing the pension granted to the respondent Col. Lal Rampal Singh by an order of the Ruler of Rewa before that State had merged in the United State of Vindhya Pradesh. The High Court of Madhya Pradesh took the same view as in the Nagod case (Civil Appeal No. 738 of 1963) in which judgment has been delivered earlier in the day. The subsequent fortunes of the United State have been described in that judgment. Here also the question is whether the order of the Ruler of Rewa was law.

The respondent held various offices in the Government of Rewa. By an order made on April 3, 1948 and published in an extraordinary issue of the Rewa Raj Gazette the Ruler stated that "Col. Lal Rampal Singh entered State service-on 21st November, 1922 and he is now anxious to retire. I find that he has. put in a service of more than 25 years up to date, and, as such, he is allowed to retire on a full pension of Rs. 350 per month of his last grade, as a special case with effect from the date of this order, and the so-called breaks in his service, if there be any, are hereby condoned."

The respondent in his petition stated that in Rewa the Ruler had made a set of rules, which was called "Rewa State Pension and Gratuity Rules" for grant of pension to Rewa State Civil Servants. He however added that the Ruler was not bound by those Rules as he was a sovereign Ruler. It seems to us quite clear from the terms of the order that the Ruler purported to act under the Rewa State Rules. This appears from the reference in the order to "full pension", condonation of the "breaks in his service' and "special case". This also appears from the fact that the Order granted the respondent certain advance increments which could only have been done to justify the full pension of Rs.

350 per month under the Rules. Obviously, under the Rules the respondent would have been entitled to a smaller pension in view of the breaks and if the

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increments had not been granted. The Ruler was not, therefore, acting in the exercise of his sovereign power and in disregard of the Rules; on the contrary, he was purporting to act in terms of the Rules. That being so, it has to be held that the Order of April 3, 1948 is not a law but an executive order passed in terms of the Rules. It is open to the succeeding Government to set aside that order by another executive order. What appropriate order can be passed by the Government of India is not a, question that arises it the present moment. The respondent's rights under the Rewa State Rules, accepting it as a law binding on the Indian Union, are not in the least affected. He is, however, not entitled to any rights except those which the Rules justify. The first contention of the respondent, therefore, that the order of April 3, 1948 is a law which can only be altered by another law duly passed by the Union or other competent legislature must fail.

Another point raised was, that if the order was not a law, it was a grant and that as the Indian Union had paid the respondent in terms of the order up, to March 27, 1953, it must be deemed to have accepted that grant and it cannot now deprive the respondent of his right of property under the grant. It seems to, us that this contention is ill-founded. What the Ruler did by his order of April 3, 1948 does not appear to have been to make a grant but to have passed an order purporting to act under the Rules. If that order was not justified by the Rules, it was illegal and is liable to be set aside by another order duly made under them. Pension is furthermore -normally always a matter of grace when there is no law governing. It is implicit in the grant of a pension that it may be subsequently reviewed. Therefore the grant of the pension-assuming that to be the correct view to take-must always have been subject to alteration. The succeeding State was hence competent to review the order even if it had paid the pension for sometime in terms of it. In the result, in our view, the appeal must be allowed and we order accordingly. There will be no order for costs.

Appeal allowed.

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