

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE ASHISH SHROTI

WRIT PETITION No. 10766 of 2024

NEERAJ KEWAT

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Mr. Krishna Kartikey Sharma - Advocate for the petitioner.

Mr. Sohit Mishra - GA for the State.

Mr. Rinkesh Goyal - Advocate for respondents no.2 & 3.

ORDER

Reserved on : 13.11.2025

Delivered on : 24.11.2025

ORDER

The petitioner has filed this petition praying for following reliefs:

- "(i) That, respondent no.2 & 3 may kindly be directed to release family Pension to the petitioner at the earliest possible.
- (ii) That, respondent no.2 & 3 may be directed to also grant the arrears of pension alongwith 12% interest to the petitioner from the death of his father.
- (iii) That, the condition of marriage as specified in the sanction letter may kindly be held to de-hors the provision of pension rules.
- (iv) That, any other relief which this Hon'ble High Court may deem fit, with cost of the petition."

2. The facts necessary for decision of this case are that the petitioner's father Late Mr. Gangaram Kewat was working as Line Helper in the office of Deputy General Manager (O&M), Division Mungoali. After his retirement, he was drawing pension from the respondent - Company w.e.f. 01.06.2018 and continued to draw the same till his death on 15.05.2021. His wife predeceased him.

3. After the death of his father, the petitioner made an application for grant of family pension. He was earlier asked to submit the succession certificate, which he submitted with the respondents on 29.09.2022. Thereafter respondent no.2 passed the impugned order dated 09.08.2023 (Annexure P/1) thereby sanctioning the family pension to the petitioner for the period from 16.05.2021 to 02.02.2026. The family pension was sanctioned to the petitioner upto the date he attains the age of 25 years or marriage or death, which ever is earlier. The petitioner is aggrieved by the condition of **marriage** inserted in the order. He submitted representations before the respondent authorities, which are brought on record as Annexure P/2. He objected to the insertion of condition of marriage as a condition for payment of pension. However, no response was given by the respondents and, therefore, the petitioner filed the present petition.

4. The learned counsel for the petitioner submitted that the payment of family pension to the son of the deceased employee is governed by the provision of Rule 47(6) of M.P. Civil Services (Pension) Rules, 1976. Referring to the said provision, learned counsel submitted that the Rule does not provide that upon marriage, son would not be entitled to family pension. He thus submitted that the

insertion of condition of marriage in the impugned order is *de-hors* the provisions of Rule 47(6) of Pension Rules. He also submitted that despite family pension being sanctioned to him, the respondents have yet not disbursed the amount to the petitioner. He submitted that the non-payment of pension to the petitioner is illegal and arbitrary. He thus, prayed for issuance of suitable direction to the respondents.

5. On the other hand learned counsel for the respondents refuted the submission made by counsel for the petitioner and submitted that Rule 47(14)(b) (ii) provides that a son on marriage would not be entitled to family pension. He also submitted that the petitioner was asked to submit the ration card/family ID for verification of the factum of his marriage. The petitioner furnished the copy of Samagra ID, wherein the name of one Neetu Kewat aged 25 years and Harshika Kewat aged 1 year is mentioned. The petitioner was asked to clarify about his relation with Neetu Kewat and Harshika Kewat vide letter dated 17.01.2024 (Annexure R/3). Since the petitioner failed to clarify the aforesaid position, he was not paid family pension. The learned counsel also submitted that the petitioner submitted an affidavit on 29.11.2023 (Annexure R/2) stating that he is unmarried, which appears to be incorrect in view of inclusion of the name of Neetu Kewat and Harshika Kewat in his family ID. He thus submitted that the petitioner has not disclosed the factum of his marriage in the present petition also and has thus not approached the respondents as also this Court with clean hands. The learned counsel thus submitted that the petitioner is not entitled to the family

pension.

6. Considered the arguments and perused the records.

7. The objection of the respondents' counsel regarding furnishing of wrong information in the affidavit by the petitioner is being examined first. The payment of family pension to the son of deceased employee is governed by statutory rules. If the rules provides that upon marriage also, the son is entitled to family pension, the respondents are bound to pay him family pension. Therefore, furnishing of incorrect information in the affidavit would not be a relevant factor for purposes of petitioner's right to get family pension. Thus, the objection of the respondents' counsel regarding furnishing of incorrect information in the affidavit is rejected.

8. The issue for consideration is as to whether by virtue of provisions of Rule 47 of Pension Rules, the petitioner is entitled to family pension or not, even if presumed to be married?

9. Rule 47(6) provides for payment of family pension to a son/daughter of deceased employee. Rule 47(6) being relevant is reproduced hereunder:

"(6) The period for which family pension is payable shall be as follows:-

- (i) in the case of a widow or widower, up to the date of death or remarriage whichever is earlier;
- (ii) in the case of a son, until he attains the age of 25 years; and
- (iii) in the case of an unmarried daughter, until she attains the age of 24 years or until she gets married, whichever is earlier."

10. Thus, from reading clause (ii) of Sub-rule (6) of Rule 47 makes it evident that a son would be entitled to family pension until he attains the age of 25

years. Whether he is married or not, is not a criteria for grant of family pension to him. This is further clear from reading the Explanation to this sub-rule, which reads as under:

"Explanation. - (a) Only that disability which manifests itself before the retirement or death of the Government servant while in service shall be taken into account for the purpose of grant of family pension under this sub-rule.

(b) A daughter shall become ineligible for family pension under this sub-rule from the date she gets married.

(c) The family pension payable to such a son or daughter shall be stopped if he or she starts earning his/her livelihood.

(d) In such cases it shall be the duty of guardian to furnish a certificate to the Treasury or Bank, as the case may be, every month that (i) he or she has not started earning his/her livelihood; (ii) in case of daughter, that she has not yet married."

11. Thus, Explanation (b) makes it explicitly clear that the marriage criteria is applicable only for a daughter and not for a son. So far as son is concerned, he becomes ineligible for family pension under Rule 47 when he attains the age of 25 years or if he starts earning.

12. The respondents have relied upon the provisions of Rule 47(14)(b)(ii) which provides definition of term 'family' for purposes of Rule 47. Rule 47(14)(b) (ii) reads as under :

"(14) For the purpose of this rule-

(b) "family" in relation to the Government servant means-

(i) xxxx

(ii) son or an unmarried or widowed or divorced daughter till such son or daughter attains the age of twenty five years or upto the date of his/her marriage/remarriage as the case may be, whichever is earlier, subject to the income criteria as prescribed by the State Government from time to time."

13. Even reading of opening sentence of this provision also, it is evident that

the condition of marriage is not attached with the son. The said condition is applicable only in relation to the daughter including widowed/divorced daughter. However, use of term '**his**' (marked in bold for better understanding) creates some confusion while interpreting this definition. It gives an impression that condition of marriage is provided for son as well. However, when read with Rule 47(6) which is the substantive provision providing for period of payment of family pension and as also the opening words of even clause (b)(ii) of sub-rule 14 of Rule 47 which states "*son or an unmarried or widowed or divorced daughter till such son or daughter attains the age of twenty five years*", it becomes evident that the condition of marriage is not attracted in case of a son.

14. At this stage, the issue that arises for consideration is as to whether sub-rule 14(b)(ii) of Rule 47 restricts the right of son to get family pension till he gets married when it is not so provided in Rule 47(6) which is a substantive provision providing for the period for which family pension is payable to a son or a daughter of deceased employee?

15. A definition clause must be considered in relation to the principal matter to which it stands. It needs to be construed harmoniously with the main enactment. The Apex Court, in the case of ***CIT v. Ajax Products Ltd.*** reported in **1964 SCC OnLine SC 59 (AIR 1965 SC 1358)** was considered the effect and scope of a proviso *vis-a-vis* the main provision to which it stands as proviso. The Court held as under:

"18. The function of a proviso has been considered by this Court in CIT

Mysore, Travancore-Cochin and Coorg v. Indo-Mercantile Bank Ltd. [1959] 36 ITR 1] It is neatly summarised in the Head Note thus:

"The proper function of a proviso is that it qualifies the generality of the main enactment by providing an exception and taking out as it were, from the main enactment a portion which, but for the proviso, would fall within the main enactment. Ordinarily, it is foreign to the proper function of a proviso to read it as providing something by way of an addendum or dealing with a subject which is foreign to the main enactment "It is a fundamental rule of construction that a proviso must be considered with relation to the principal matter to which it stands as a proviso". Therefore, it is to be construed harmoniously with the main enactment." There may be cases in which the language of the statute may be so clear that a proviso may be construed as a substantive clause. But whether a proviso is construed as restricting the main provision or as a substantive clause, it cannot be divorced from the provision to which it stands as a proviso. It must be construed harmoniously with the main enactment. So construed, we have already stated earlier the result that flows from such a construction."

16. Thus, when the language of Rule 47(6) is clear and unambiguous, the provisions of Rule 47(14)(b)(ii) cannot be given the interpretation which restrict the scope of main provision. It has to be construed harmoniously so as to give full effect to the substantive provision i.e. Rule 47(6) of Pension Rules.

17. Somewhat similar issue regarding interpretation of a proviso, is considered by Apex Court in the case of *DMRC v. Tarun Pal Singh* reported in (2018)14 SCC 161 wherein the Court held as under:

"25. If the proviso to sub-section (2) of Section 24 is read as part of sub-section (1) of Section 24, the same makes the said provision completely different and inconsistent. When we consider the expression "where an award under Section 11 has been made" provided under Section 24(1)(b), the proceedings have to continue under the provisions of the 1894 Act. If the proviso to sub-section (2) of Section 24 read as proviso to Section 24(1), then Section 24(1)(b) will be rendered

nugatory and/or becomes otiose. True effect has to be given to the provision contained in Section 24(1)(b) which says that when award under Section 11 has been made, then such proceedings shall continue under the provisions of the Land Acquisition Act, 1894, as if the said Act has not been repealed.

29. *We have already clarified supra based on a catena of judgments, that a proviso appended to a provision has to be specifically interpreted in the manner so as to enable the field which is covered by the main provision. The proviso is only an exception to the main provision to which it has been enacted and no other. The proviso deals with a situation which takes something out of the main enactment to provide a particular course of action, which course of action could not have been adopted in the absence of the proviso."*

18. Similar is the situation in the case in hand. If by reading Rule 47(14)(b)(ii), the benefit of family pension is restricted to an unmarried son, that would be inconsistent with provisions of Rule 47(6) which restricts such right only in case of a daughter. Further, even the opening words of Rule 47(14)(b)(ii) makes it evident that condition of marriage is attached to a daughter only. However, the use of the term 'his' in later part creates a confusion.

19. In view of the discussion made above, it is held that mere marriage of petitioner, i.e. the son of deceased employee, would not render him ineligible for family pension. He is entitled to get family pension till he attains the age of 25 years or till he starts earning or till his death, whichever is earlier. The action of the respondents in inserting the condition of marriage in the impugned order dated 09.08.2023, as an ineligibility for payment of family pension is held to be invalid and *de-hors* the provisions of Rule 47(6) of Pension Rules.

20. It is, therefore, declared that the petitioner would be entitled to family pension till he attains the age of 25 years or till he starts earning or death,

whichever is earlier. The respondents are accordingly directed to disburse the amount of arrears of family pension to the petitioner w.e.f. 16.05.2021 till date and continue to pay him family pension as sanctioned vide order, dated 09.08.2023. He would also be entitled for the interest @ of 6 % per annum on the aforesaid amount of arrears, which shall be paid to him within a period of 90 days from the date of submission of certified copy of this order.

21. With the aforesaid observations, this petition is **disposed of**.

(ASHISH SHROTI)

JUDGE

bj/-