HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 7586/2024

Justice Prakash Tatia (Retired) S/o Late Shri Jaswant Raj Sa Tatia, Aged About 72 Years, Resident Of 754, Tatia Bhawan, Umaid Hospital Road, Sardarpura, Jodhpur

----Petitioner

Versus

1. The State Of Rajasthan, Through Additional Chief Secretary, Department Of Home (Human Rights), Government Of Rajasthan, Secretariat, Jaipur.
2. Principal Secretary, Department Of Law And Legal Affairs, Secretariat, Jaipur
3. Director, Directorate Of Pension And Pension Welfare secretariat, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. M.S. Singhvi , Sr. Adv. asssisted by Mr. Abhishek Mehta Mr. Keshar Singh Chouhan
For Respondent(s)	:	Mr. Rajendra Prasad , Advocate General assisted by Mr. Mahaveer Bishnoi, AAG Mr. Anirudh Singh Mr.B.L. Bhati,AAG Mr. Deepak Chandak,AAAG Mr. Manish Patel

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HON'BLE MR. JUSTICE FARJAND ALI

HON'BLE MR. JUSTICE ANUROOP SINGHI

Order

Reportable

Order Pronounced On : 20/09/2025

Order Reserved On : 24/07/2025

BY THE COURT:-(Per Hon’ble FARJAND ALI, J.)

Grievance of the Petitioner

1. By way of filing this instant petition under Article 226 of the Constitution of India, the petitioner, a retired Chief Justice of the Jharkhand High Court who later served as Chairperson of

the Rajasthan State Human Rights Commission from 11.03.2015 to 25.11.2019, has approached this Court alleging that the respondents have acted illegally and arbitrarily in denying him pensionary benefits for his tenure as Chairperson, despite the mandate of Rule 4 of the Rajasthan State Human Rights Commission (Salaries, Allowances and Other Conditions of Service of Chairperson and Members) Rules, 2002, as amended on 28.05.2012 *("hereinafter referred to as – The Rules of 2002")* , and in further rejecting his claim through communications dated 18.02.2020, 26.02.2024, and 15.03.2024 on the ground that he was already drawing pension for his earlier service as Chief Justice and that the precedent in ***Justice Mahendra Bhushan Sharma v. State of Rajasthan (S.B. CWP No. 3890/2000, decided on 13.12.2001)*** was inapplicable.

Facts in Brief

2. The petitioner was appointed as a permanent Judge of the Rajasthan High Court in January 2001 and was elevated as Chief Justice of the Jharkhand High Court in the year 2011. Upon attaining the age of superannuation, he demitted the office of Chief Justice of Jharkhand High Court on 03.08.2013. Thereafter, he was appointed as Chairperson of the Armed Forces Tribunal, New Delhi, and upon demitting that office, he was appointed as Chairperson of the Rajasthan State Human Rights Commission on 11.03.2015.

The petitioner served as Chairperson of the Commission until 25.11.2019, when he submitted his resignation, having held the post for about three years and eight months.

3. The appointment to the post of Chairperson of the Commission is governed by the Protection of Human Rights Act, 1993,(for short "Act of 1993") and the Rules of 2002 framed by the State Government in exercise of powers under Section 26 of the Act of 1993. The Rules of 2002 were amended on 28.05.2012 to provide that the salary, allowances, facilities and pension payable to the Chairperson or Members shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Rajasthan, with a proviso that such terms shall not be varied to the disadvantage of the incumbent after appointment.

4. While the petitioner awaited issuance of his Pension Payment Order for the services rendered as Chairperson of the Commission, he received a letter dated 18.02.2020 from respondent No. 1 stating that he was not entitled to pension for such tenure, as he was already drawing pension as a retired Chief Justice of a High Court and the pension payable to the Chairperson of the Commission was equivalent to that of a retired Chief Justice of the High Court.

5. The petitioner thereafter made several representations to the authorities on 15.06.2020, 05.10.2020, 06.07.2022, 08.03.2023, and 08.05.2023. Receiving no favourable

response, he submitted a representation dated 08.06.2023 to the Governor of Rajasthan. By letter dated 28.06.2023, the Deputy Secretary to the Governor informed the petitioner that the said representation had been forwarded on 21.03.2023 to the Principal Law Secretary, Government of Rajasthan. The Principal Law Secretary in turn referred the matter to the Registrar General, Rajasthan High Court, who returned it with the remark that no action was required on the part of the High Court.

6. On 11.08.2023, the Deputy Secretary to the Governor informed the petitioner that his representation, along with the legal opinion dated 13.07.2023 of the Principal Law Secretary, had been forwarded to the Home Department for necessary action. On 13.07.2023, respondent No. 2 addressed a letter to the Principal Secretary to the Governor and to the Home Department, apprising them of the legal position approved by the competent authority regarding pension payable to the Chairperson of the Commission, and as well as the fact that the provisions of the Rajasthan Lokayukt & Up-Lokayukt Act, 1973 ("h*ereinafter shall be referred to as –the Act of 1973")* and Rajasthan Lokayukt & Up-Lokayukt (Conditions of Service) Rules, 1974(for short 'the Rules of 1974) were in pari materia with the Rules of 2002 .

7. Subsequently, the Hon'ble Governor's Secretariat, by communication dated 15.03.2024, informed the petitioner that his claim for pensionary benefit for his tenure as Chairperson was not acceptable. This letter enclosed a communication dated 26.02.2024 from the Principal Secretary, Law and Legal Affairs Department, Government of Rajasthan, which in turn reproduced a Finance Department noting dated 02.02.2024. The noting recorded that the petitioner's representation was based on pensionary benefits granted to Justice Mahendra Bhushan Sharma, Lokayukt, on retirement on 06.07.1999 in compliance with the judgment dated 13.12.2001 in SBCWP No. 3890/2000 (***Justice Mahendra Bhushan Sharma v. State of Rajasthan)***, but that the said judgment was not applicable to a Chairperson or Member of the Rajasthan State Human Rights Commission.

8. At the relevant time of the petitioner's appointment as Chairperson, the tenure prescribed was five years. Section 26 of the Act of 1993 provides that salaries, allowances, and other service conditions of the Chairperson and Members shall be prescribed by the State Government, with the safeguard that they shall not be varied to the disadvantage of the incumbent after appointment. In exercise of these powers, the State Government amended the Rules of 2002 on 28.05.2012, fixing the salary, allowances, facilities, and pension of the Chairperson and Members at the same level

as those of the Chief Justice or a Judge of the Rajasthan High Court.

9. The amendment to the Rules of 2002 in 2012 was made following discussions at various levels between the Home Department and the Finance Department. The Finance Department had noted that the position of Lokayukt and Chairperson of the State Human Rights Commission was at par, and that it would be appropriate to allow pension to the Chairperson and Members of the Commission at the same rate as the Chief Justice and Judges of the High Court, respectively.

10. The petitioner's claim for pension for his tenure as Chairperson of the Commission was ultimately rejected through communications dated 18.02.2020, 26.02.2024, and 15.03.2024. Being aggrieved by these communications, the petitioner has filed the present writ petition.

Contentions of counsels present for the parties

11. The learned counsels for the petitioner Sr. Adv. Shri. M.S. Singhvi , asssisted by Shri. Abhishek Mehta, Shri. Kesar Singh contended that the impugned communications dated 18.02.2020, 26.02.2024, and 15.03.2024 are ex facie illegal, arbitrary, and violative of Articles 14, 16, and 21 of the Constitution of India . The rejection of petitoner's claim on the ground of already receiving pension as a former Chief Justice is contrary to Rule 4 of the Rules of 2002 , which

contains no such exception. Rule 4 of the rules of 2002, post its 2012 amendment, expressly entitles the Chairperson to pension equivalent to the Chief Justice of the Rajasthan High Court, independent of earlier constitutional pensions. The analogy sought to distinguish his case from Justice ***Mahendra Bhushan Sharma v. State of Rajasthan*** is unsustainable because Rule 4 of the rules of 2002 is pari materia with Section 5(4) of the Act of 1973, under which such pension is payable irrespective of prior entitlements. Acceptance of the respondents' stand would render the pension provision for Chairperson and Members of the Commission redundant, defeating legislative intent. The decision reflects mala fide exercise of power and a colourable attempt to deny him benefits despite earlier governmental recognition of parity between Lokayukta and the Chairperson's office. Learned counsels for the petitioner further placed reliance on the judgments of the Hon'ble Supreme Court in ***Union of India v. Gurnam Singh, (1982) 2 SCC 314 and State of M.P. v. Shardul Singh, (1970) 1 SCC 108,*** and urged that Section 26 of the Act of 1993 employs the expression "other conditions of service," which, as per the dicta laid down by the Supreme Court, necessarily encompasses within its ambit the term pension. Therefore, the absence of an express mention of "pension" in Section 26 is of no consequence. It was further argued that the controversy stands concluded in view of the 2012

amendment to the Rules of 2002, which expressly incorporated the word "pension." Consequently, there remain no distinguishable features between the Lokayukta Act and the Act of 1993, and since the matter has already been decided by this Court in analogous circumstances, the petitioner is equally entitled to pension for his tenure as Chairperson of the Commission.

12. The learned counsels for the respondents Advocate General Shri. Rajendra Prasad , assisted by Shri. Deepak Chandak,AAG, Shri. Anirudh Singh Shri. Mahipal Bishnoi, Shri. Manish Patel filed a reply to the petition wherein they asserted that the petitioner is already in receipt of the maximum permissible pension of ₹1,25,000 per month under the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, for his tenure as Chief Justice, and that no independent pension is admissible under the Act of 1993 or the Rules of 2002. According to them, Rule 4 of the rules of 2002 merely aligns the service conditions of the Chairperson with those of the Chief Justice, without overriding statutory pension ceilings or authorising dual pensions. It is urged that the Rules of 2002 contain no provision for an additional pension for service as Chairperson, unlike the Lokayukta Rules of 1974 which expressly provide for a separate pension, and hence the two offices are not pari materia. They further argue that the decision in Mahendra Bhushan Sharma(supra) is

inapplicable, as it turned on provisions materially distinct from those governing the Human Rights Commission. They asserted that the Finance and Home Departments, have consistently maintained that the petitioner is not entitled to an independent pension, and all his representations have been duly considered and rejected at the competent level. The respondents maintain that the denial of pension is neither arbitrary nor violative of Articles 14, 16, or 21 the Constitution of India, since the classification between the Lokayukta and the Commission's Chairperson is founded on statutory distinctions in their respective governing provisions.

13. Heard learned counsels present for the parties and gone through the materials available on record.

14. **Issue for Determination**

Whether Rule 4 of the Rules of 2002, as amended in 2012 , lawfully provides for payment of pension to the Chairperson of the Rajasthan State Human Rights Commission, even if such person is already in receipt of pension from previous constitutional service?

Observations and Legal Analysis

15. ***The Foundational Principles of Pensionary Benefits***

At the very threshold, this Court considers it apposite to recall the foundational principles which govern the jurisprudence of pensionary entitlements. Pension, in its

truest conception, is not a gratuitous dole extended at the pleasure of the State but a deferred portion of the compensation earned by an employee in recognition of past service rendered with fidelity to the sovereign. It carries with it an element of right, flowing from constitutional guarantees under Article 300A the Constitution of India, and therefore, any deprivation of pension must be sanctioned by express statutory authority and conform to the discipline of due process. This understanding has been reinforced consistently by the pronouncements of the Hon'ble Supreme Court, which have clarified that pension is neither a bounty nor a matter of grace, but an enforceable entitlement once the conditions prescribed by law are met.[1]

15.1 Defining "Pension"

The expression "pension," though apparently simple, has travelled a long historical journey before attaining its present legal contours. The term itself is derived from the Latin root *pensio* (from pendere, meaning "to pay"), and in its earliest conception referred to a periodical allowance made by the Sovereign as a mark of gratitude for services rendered to the Crown. Over time, what began as an ex gratia grant matured into a structured scheme, finding statutory expression and judicial recognition as an enforceable entitlement. In the Indian context, pension has always been understood as a

1 Deokinandan Prasad v. State of Bihar (1971) 2 SCC 330 ; D.S. Nakara v. Union of India (1983) 1 SCC 305 ; State of Jharkhand v. Jitendra Kumar Srivastava (2013) 12 SCC 210.

benevolent scheme of the sovereign, intended to reward fidelity to public service and to secure those who have devoted their lives in the service of the State.

This benevolent character finds resonance in the constitutional doctrine of *Parens Patriae*, which embodies the obligation of the State to act as guardian and protector of those who, after completing their active tenure of service, look to it for sustenance in the autumn of their lives. However, while the State acts in a protective capacity, its benevolence is neither unbounded nor unregulated. The entitlement to pension is created, circumscribed, and regulated exclusively by the statutory framework applicable to the office in question. In ***Union of India v. P.N. Menon, (1994) 4 SCC 68,*** the Hon'ble Supreme Court observed that pensionary provisions are "entirely statutory in character" and must be strictly governed by the relevant rules. Similarly, in ***State of Punjab v. Justice S.S. Dewan, (1997) 4 SCC 569,*** it was underscored that claims to multiple pensions cannot be sustained unless expressly conferred by the governing statutory provisions.

It is, therefore, axiomatic that no person may assert a right to pension dehors the express language of the rules, statutes, or notifications that govern the office held. Pension, by its very design, embodies the principle of continuity of sustenance after superannuation, but it does not extend to

multiplicity of financial accretions for every public office occupied, unless the legislative text clearly provides for such an entitlement. In this backdrop, the duty of this Court is confined not to assessing the desirability or fairness of the claim, but to adjudging its legality within the strict contours of the statutory framework.

15.2 The Purpose of Pension

The avowed purpose of pensionary provisions is to secure a dignified livelihood and financial stability in the evening of life, preventing destitution and hardship for those who have retired after long service. Pension partakes the character of a social welfare measure, embodying the State's obligation to protect the financial security of its retired employees. Yet, this benevolent object cannot be construed as permitting augmentation of benefits by reading into the rules that which the framers, in their wisdom, did not provide. The generosity of the State in providing pensions must operate within the four corners of statutory enactment, and not extend to permitting cumulative or duplicative pensions where the statutory text is silent. To hold otherwise would risk unsettling fiscal discipline and create unintended classes of superannuated officials enjoying overlapping benefits.

16. ***The Legal and Policy Framework Against "Pension Stacking"***

The issue raised in this petition does not exist in a vacuum.

The jurisprudence of pensionary entitlements in India has evolved against a consistent backdrop of fiscal prudence and a conscious legislative intent to prevent what is often described as "pension stacking," namely, the simultaneous accumulation of multiple pensions arising from successive appointments under the State. Such a practice, if permitted indiscriminately, would not only create an inequitable system where some public functionaries derive disproportionately high lifetime benefits at the cost of the public exchequer, but would also erode the delicate balance between recognition of past service and the sustainability of pension schemes. The law, therefore, has historically moved in the direction of allowing only one pension for one stream of service, unless the legislature, in clear and express terms, has carved out an exception permitting a separate pension for a subsequent office.

16.1 The Principle of "One Career, One Pension"

A discernible norm runs through the statutory frameworks governing pensions that one continuous career of public service yields one terminal pension. This principle is not merely an accounting convenience; it is reflective of the underlying philosophy that public service is a vocation, not a source of multiplicative financial entitlements. Where an individual, after retiring from one high constitutional or statutory office, is appointed to another, the benefits of the

second office ordinarily manifest in the form of salary, allowances, and facilities co-extensive with the tenure of that office. But once that tenure concludes, the law does not, save for specific provision, contemplate the creation of a second, independent pension stream. The jurisprudence thus guards against the possibility of lifetime "pension layering," which, while attractive to individual claimants, stands contrary to the principles of equality and fiscal responsibility in a welfare State.

16.2 The High Court Judges (Salaries and Conditions of Service) Act, 1954: A Case Study

The High Court Judges (Salaries and Conditions of Service) Act, 1954, furnishes an instructive paradigm. Section 14 of the Act, 1954 which prescribes pension for retired Judges, is hedged with a significant proviso: that if a Judge at the time of appointment is already in receipt of a pension for earlier service under the Union or a State, the pension under the Judges Act shall be in lieu of, and not in addition to, that earlier pension. For ready reference, Section 14 of the Act, 1954 is reproduced as under:

> *14. Pension payable to Judges.—Subject to the provisions of this Act, every Judge shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part I of the First Schedule:*
>
> *Provided that no such pension shall be payable to a Judge unless—*

(a) he has completed not less than twelve years of service for pension; or

(b) he has attaied the age of sixty-two years; or;

(c) his retirement is medically certified to be necessitated by ill-health:

Provided further that if a Judge at the time of his appointment is in receipt of a pension (other than a a disability or wound pension) in respect of any previous service in the Union or a State, the pension payable under this Act shall be in lieu of, and not in addition to, that pension.

Explanation.—In this section "Judge" means a Judge who has not held any other pensionable post under the Union or a State and includes a Judge who having held any other pensionable post under the Union or a State has elected to receive the pension payable under Part I of the First Schedule.

This proviso sends a clear legislative signal that Parliament has deliberately foreclosed the possibility of dual pension streams even within the same constitutional family of judicial offices. The maxim *expressio unius est exclusio alterius* which translates to the express mention of one thing implies the exclusion of another, squarely applies; the express prohibition of cumulative pensions in the context of High Court Judges underscores that no second pension arises unless specifically legislated. It would be incongruous to suggest that while even Judges of High Courts are barred from pension stacking, statutory functionaries such as the Chairperson of a State Human Rights Commission may, by implication, enjoy such an entitlement. The legislative silence in Rule 4 of the rules of 2002 , rules on the aspect of dual

pensions must therefore be read not as inadvertence, but as fidelity to this wider legislative policy.

16.3 Harmonious Interpretation of Pension Rules (CCS and RCS)

The same principle finds reinforcement in general pensionary codes applicable to civil servants. Rule 7(2) of the Central Civil Services (Pension) Rules, 1972, as well as Rule 6 of the Central Civil Services (Pension) Rules 2021 , make it explicit that a government servant shall not earn two pensions for the same service or post at the same time. Similarly, Rule 5 of the Rajasthan Civil Services (Pension) Rules, 1996, places categorical restrictions on multiplicity of pensions, making clear that subsequent re-employment cannot generate a fresh and independent pension. These provisions, though not in terms binding on statutory authorities such as the State Human Rights Commission, are nevertheless powerful interpretive guides. When courts are confronted with ambiguous or general language in special enactments, the interpretive exercise is to harmonise them with the broader statutory fabric of pension law, rather than to create an anomalous departure. This interpretive discipline ensures that fiscal and legal coherence is maintained across the spectrum of public service.

17. ***Integrated Analysis of Rule 4 of the rules of 2002 : The Parity Clause, Provisos, and Pension Entitlements***

For ready reference, the substituted Rule 4 of the rules of 2002 is extracted in extenso as under:

(4) Salary, Allowances facilities and other conditions of the service-

The salary, allowances facilities and pension, payable to and conditions of service of the Chairperson or Members shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Rajasthan:

Provided that the allowances and pension payable to and other conditions of service of the Chairperson or Members shall not be varied to his disadvantage after his appointment:

Provided further that if the Chairperson or Members at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service as the. Chairperson or, as the case may be, Members may be reduced -

(a) by the amount of that pension, and

(b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof by the amount of that portion pension, and

(c) If he has, before such appointment, received a retirement gratuity in respect of such previous service by the pension equivalent of that gratuity.

17.1 The fulcrum of the present controversy undeniably lies in the interpretation of Rule 4 of the Rajasthan State Human Rights Commission (Salaries, Allowances and Other Conditions of Service of Chairperson and Members) Rules, 2002, as substituted by the 2012 notification. The amended Rule 4 of the rules of 2002 provides that "the salary, allowances, facilities and pension payable to the Chairperson or Members shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Rajasthan." The petitioner contends that this formulation entitles him, over and above the pension already receivable as a retired Chief Justice, to a second, independent pension for his tenure as Chairperson of the Commission. The respondents, in contrast, submit that this provision is referential in nature, aimed merely at fixing parity of emoluments with a Chief Justice, and cannot be construed as creating a fresh pensionary stream. This Court must, therefore, undertake a meticulous textual, contextual, and purposive analysis to

unravel the legislative intent underlying the parity clause and its provisos, mindful of the established principles of statutory interpretation and fiscal prudence.

17.2 At its core, the main enacting clause of substituted Rule 4 of the Rules of 2002 cannot and must not be read in isolation. While it states that ***"the salary, allowances, facilities and pension payable to the Chairperson or Members shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Rajasthan,"*** this language is referential rather than constitutive. The clause functions as a parity-in-quantum provision, aligning the emoluments and service conditions of Commission members with those of High Court Judges. Jurisprudentially, referential clauses are recognized as measures that adopt the benefits of a cognate office purely as a benchmark, without independently creating fresh entitlements. The legislative design also took cognizance of the practical reality that any person appointed as Chairperson or Member would invariably be an erstwhile Chief Justice or Judge of the High Court already in receipt of pensionary benefits from prior service. It is precisely for this reason that the expression "pension" was consciously inserted in the Rule to clarify the scope and manner of pension payable under the parity framework, and to ensure that such appointment does not operate to the disadvantage of the appointee, nor result in ambiguity as to the treatment

of pre-existing pension vis-à-vis the Commission post. Thus, the reference to pension is not to create a second, independent stream of pension but to define what pension, and to what extent, is to be paid by aligning it with the judicial office benchmark. Reading the main clause in isolation, to suggest that a former Judge is entitled to a second, full pension in addition to the pension already receivable from prior judicial service, would invert the legislative intent, transforming a parity measure into a source of duplication. Such an interpretation would not only disregard grammatical construction but would also contradict established principles of public finance and the statutory framework preventing dual pensions, unless expressly provided.

17.3 The first proviso reinforces this interpretative approach and further underscores the protective, non-creative nature of Rule 4 of the rules of 2002. It provides that "***the allowances and pension payable to and other conditions of service of the Chairperson or Members shall not be varied to his disadvantage after his appointment.***" Each part of this clause matters. The opening words ***"Provided that"*** are the classic signal of a qualifying safeguard to the main clause; they do not expand the field of entitlement, they police it. The phrase ***"the allowances and pension payable to"*** refers to benefits referable to the office itself i.e., the single stream of pension

and the allowances that attach to the Chairperson's post by virtue of the parity formula in the main part of Rule 4 of the rules of 2002. The use of the singular "**the … pension payable"** is deliberate and coheres with a single-pension parity model; had the rule-maker intended duplication or aggregation with any pre-existing pension, the text would naturally have spoken in terms of "pensions" or of "any pension in addition to." The words "and other conditions of service" show that the proviso's protection is broad (embracing tenure, leave, facilities, etc.), but it remains tethered to what the office carries; it is not a charter for creating new heads of benefit. The command ***"shall not be varied"*** prohibits the State from altering, scaling down, or restructuring the parity-linked package in a manner adverse to the incumbent; ***"varied"*** is capacious, capturing reductions in rate, quantum, indexation, or mode of calculation, whether by subordinate legislation, executive order, or administrative interpretation. The qualifier ***"to his disadvantage"*** is a one-way valve: downward changes are barred; neutral or beneficial revisions (for example, general pay or pension revisions that raise the Chief Justice's scale) may flow to the incumbent because they are not to his disadvantage. Crucially, the temporal marker ***"after his appointment"*** freezes the baseline at the point of entry i.e., once appointed, the incumbent's office-linked allowances, pension, and service conditions cannot thereafter be tinkered

with to leave him worse off than what the parity yardstick then promised; this temporal focus again shows the proviso is protective of status quo parity, not creative of cumulative entitlements.

Applied to the present facts, the petitioner is already receiving a pension of ₹15 lakh per annum for his prior constitutional service as Chief Justice. The first proviso does not create a second, parallel pension stream merely because he later held the office of Chairperson; it simply guarantees that the office-specific parity package (including the pension payable to that office) will not, after his appointment, be depressed below what the parity clause assures. Put differently, the proviso operates as a shield against erosion, not a spigot for a fresh flow of pensionary benefits. It also answers a practical concern the rule-maker anticipated that a person drawing a higher pension in his previous office should not suffer a diminution merely because he accepts the office of Chairperson. In other words, if the pension already available from earlier service is higher, the State cannot, after appointing him as Chairperson, alter the terms in a manner that reduces him to a lower amount. Conversely, if the parity formula applicable to the Chairperson's office yields a higher level at any point during incumbency (for instance, because of a general upward revision in the Chief Justice's pension), the proviso disables the State from capping the office-linked entitlement at some lower pre-

existing figure merely to save outlay; in such case, the higher pension would be made available. However, this always operates within a single-pension framework traceable to the office and subject to any overarching statutory caps. Read harmoniously with the main clause (which fixes equivalence with the Chief Justice) and the second proviso (which separately provides a mechanism to adjust salary against any pre-existing pension so as to prevent double-dipping during service), the first proviso's words ***"not varied to his disadvantage after his appointment"*** point firmly away from "double pension" and toward non-erosion of the parity-based, single pension that the office carries. In established canons of construction, a proviso is ordinarily a qualifier or safeguard; it ***"modifies, safeguards, or regulates the main clause without enlarging it."*** That is precisely how this proviso functions here: it locks in parity for the Chairperson, prevents post-appointment downgrades, ensures the incumbent is not penalised for accepting office (no worsement), but nowhere licenses duplication or cumulation of pensions.

17.4. The second proviso provides the clearest and most decisive insight into the legislative intent regarding the interplay between pre-existing pensions and the emoluments of the office of Chairperson. It stipulates in unambiguous terms that if a Chairperson or Member, at the time of his appointment, is already in receipt of a pension (other than a

disability or wound pension) in respect of any previous service under the Government of India, a State Government, or their predecessor Governments, then his salary in respect of service as the Chairperson may be reduced by the amount of that pension. The proviso further contemplates adjustments in two additional scenarios: (b) if any commuted portion of the earlier pension has already been availed, then the amount of that portion shall be deducted, and (c) if a retirement gratuity in respect of such previous service has been received, then the pension equivalent of such gratuity shall also be deducted. Each word and clause in this proviso is deliberate and points unmistakably to a single-pension framework.

The choice of expression **"his salary ... may be reduced by the amount of that pension"** is crucial. It demonstrates beyond doubt that the legislature envisaged only one stream of pensionary benefit corresponding to the office of the Chairperson, and not an additional or overlapping entitlement. Had it been the intention to confer a dual pension, there would have been no occasion to mandate reduction of the salary by the quantum of earlier pension; instead, both pensions could have been drawn in parallel. The very fact that the rule-maker directed deduction shows that fiscal prudence and avoidance of double pension was the guiding consideration. The proviso thus operates as an adjustment mechanism, ensuring that an incumbent who

is already in receipt of a government pension does not receive duplicative benefits, but at the same time does not suffer any disadvantage in terms of parity with the office of Chief Justice or Judge of the High Court.

The legislative purpose is twofold. First, it protects the exchequer from the burden of paying multiple pensions for sequential offices held by the same individual. Second, it upholds the principle of parity embedded in the main clause: that the emoluments and pensionary rights of the Chairperson shall be aligned with those of the Chief Justice of the High Court, and of Members with those of a Judge of the High Court. To secure this parity, the proviso ensures that whatever pension the individual is already drawing is factored into his new service conditions, so that the overall benefit does not exceed what is payable to a Chief Justice or Judge in the ordinary course. In other words, the salary is calibrated downwards by the amount of the pre-existing pension to balance the two, thereby maintaining parity without duplication.

Each component of the proviso reinforces this understanding. The words "**if the Chairperson or Members at the time of his appointment is in receipt of a pension**" identify the triggering condition: an incumbent already enjoying a pension from earlier government service. The qualification **"other than a disability or wound pension"** is a humane

carve-out, ensuring that special compensatory pensions granted on account of disability or injury are not counted against the salary, since they are distinct in nature and purpose. The operative mandate **"his salary ... may be reduced by the amount of that pension"** is the fulcrum of the proviso, unmistakably showing that the scheme is one of set-off, not addition. Sub-clauses (a), (b), and (c) then expand this principle by capturing situations of commutation or gratuity, ensuring that the entire financial value of earlier pensionary benefits is taken into account in adjusting the salary, leaving no room for double receipt.

Applied to the case at hand, the petitioner is already in receipt of a substantial pension of ₹15 lakh per annum from his earlier tenure as Chief Justice. Under the second proviso, his salary as Chairperson could therefore be reduced to the extent of this pre-existing pension, thereby preventing the possibility of a second, independent pensionary entitlement accruing to him. This demonstrates the clear policy intent: the scheme contemplates only one pension stream aligned with parity principles, not a duplication of benefits for successive constitutional or statutory offices. If the legislative intent had been otherwise, the proviso would have expressly provided for both pensions to be drawn cumulatively, without any reduction mechanism. Its silence on such a possibility, coupled with its express mandate of reduction, conclusively establishes that only a single pension

is envisaged. Viewed from the standpoint of the petitioner's own argument, his construction would imply that, as Chairperson, he ought to draw both full salary and full pension simultaneously, a position that is expressly disallowed. On the contrary, the statutory design makes it manifest that wherever emoluments are received from a subsequent office, they stand correspondingly reduced by the amount of pension already drawn, and this principle operates uniformly irrespective of whether the charge is upon the State exchequer or the Union treasury.

It also merits emphasis that had the legislative intent been to sanction additional pensionary entitlements, the framework would have unequivocally provided for continuation of the earlier judicial pension during the tenure as Chairperson, with the further stipulation that on demitting office, a separate pension relatable to the SHRC tenure would accrue cumulatively. The deliberate choice, instead, of a deduction mechanism demonstrates that the scheme is predicated upon the principle of "salary during service, pension thereafter," and not upon conferment of dual pensions. Equally significant are the words employed in the proviso "**any previous service under the Government of India or the Government of a State"** which underscore the constitutional philosophy that both Union and State services ultimately draw upon a common source, namely, the public exchequer. The distribution of subjects between the

Union and the States under the constitutional scheme is one of functional decentralisation, but the treasury in both cases represents public revenue. Such revenue, being public money, cannot be disbursed as largesse or bounty; its allocation is circumscribed by principles of fiscal prudence and statutory mandate. The second proviso, therefore, must be understood as a constitutional guardrail against overlapping or duplicative pensionary benefits, ensuring that while parity is preserved, the sanctity of public funds is not compromised.

Thus, the second proviso, when read textually, contextually, and purposively, reinforces the conclusion already drawn from the main clause and the first proviso: the Rules of 2002 establish a parity-based, single-pension framework. They prevent disadvantage to the incumbent but do not authorise double pensions. The reduction formula strikes a balance between equity for the office-holder and fiscal responsibility for the State. In essence, it operationalises the legislative intent that the Chairperson shall enjoy parity with the Chief Justice, but not at the cost of duplicative or overlapping pensionary entitlements.

17.5 When the main clause and both provisos are read harmoniously with the broader statutory framework namely, the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, and the Central Civil Services (Pension)

Rules, it becomes manifest that pension entitlements under Rule 4 of the rules of 2002 , the Rajasthan State Human Rights Commission are bounded by a defined architecture. The legislative scheme envisages structured post-retirement emoluments anchored to prior service, eschewing any notion of multiplicity. Accepting the petitioner's construction would produce an absurd and fiscally imprudent outcome, wholly against the spirit of the statutory provisions : a retired Judge appointed as Chairperson would be entitled to draw dual pensions, thereby surpassing even sitting Judges of High Courts, who are expressly precluded from overlapping pensions. Such a result would violate the canon against absurdity in statutory interpretation and run counter to legislative intent. The parity clause, along with its provisos, therefore, must be interpreted to ensure that the quantum of emoluments during tenure is equivalent to that of a Chief Justice or Judge, but without authorising duplication of pensionary benefits, a conclusion consonant with principle, precedent, and fiscal propriety.

17.6 The statutory landscape governing analogous tribunals fortifies this conclusion. Under Section 10 of the Armed Forces Tribunal Act, 2007, the Central Government was empowered to frame rules on salaries, allowances, and pensionary benefits. For ready reference, Section 10 of the Armed Forces Tribunal Act, 2007 is extracted below:

> *10. Salaries, allowances and other terms and conditions of service of Chairperson and other Members.—The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson and other Members shall be such as may be prescribed by the Central Government:*
>
> *Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson and other Members shall be varied to their disadvantage after their appointment.*

And Rule 3 of the Armed Forces Tribunal (Salaries and Allowances, etc.) Rules, 2009 explicitly mandated that where a retired Chief Justice or Judge was appointed as Chairperson or Member, his pay was to be reduced by the gross amount of any pension or retirement benefit already being drawn. Rule 3 of the Armed Forces Tribunal (Salaries and Allowances, etc.) Rules, 2009 provided as under:

> *3. Pay and Allowances, Leave, Pension, Provident Fund, Travelling Allowance, Leave Travel Concession, Accommodation, etc., to the Chairperson and Members of the Armed Forces Tribunal.- (a) When a Retired Judge of the Supreme Court is appointed as Chairperson of the Tribunal, he shall be entitled to salary, allowances and other perquisites as are available to the sitting Judge of the Supreme Court, and as provided in the Supreme Court Judges (Salaries and Conditions of Services) Act, 1958 (51 of 1958), and these shall apply mutatis mutandis alongwith rules made thereunder as amended from time to time. The Chairperson shall be entitled to take his spouse with him while travelling within the country while on official visit to Benches.*
>
> *(b) When a Retired Chief Justice of a High Court is appointed as Chairperson of the Tribunal, he shall be entitled to salary, allowances and other perquisites as are available to the sitting Chief Justice of a High Court and as provided in the High Court Judges (Salaries and Conditions of Services), Act 1954*

(28 of 1954), and these shall apply mutatis mutandis alongwith rules made thereunder as amended from time to time:

Provided that in case the Retired Judge of the Supreme Court or the Retired Chief Justice of a High Court, is in receipt of, or has received or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to the Contributory Provident Fund or other forms of retirement benefits, the pay of such Chairperson shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provident Fund or any other form of retirement benefits, if any (except pension equivalent of retirement gratuity), drawn or to be drawn by him.

(c) When a serving or retired Judge of a High Court is appointed as Judicial Member of the Tribunal or when any person from the three services is appointed as Administrative Member of the Tribunal, he shall be entitled to salary, allowances and other perquisites as are available to the sitting Judge of a High Court and as provided in the High Court Judges (Salaries and Conditions of Services) Act, 1954 (28 of 1954) and these shall apply mutatis mutandis alongwith rules made thereunder as amended from time to time:

Provided that in case the retired Judge of a High Court, or a person from the three services, is in receipt of, or has received or has become entitled to receive any retirement benefits by way of pension, gratuity, employer's contribution to the Contributory Provident Fund or other forms of retirement benefits, the pay of such Member shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provident Fund or any other form of retirement benefits, if any (except pension equivalent of retirement gratuity), drawn or to be drawn by him.

This principle was later reinforced and made uniform by rule 13 of the Tribunal (Conditions of Service) Rules, 2021, which not only directed reduction of pay by the gross pension but also categorically prohibited the grant of any

"additional pension or gratuity" for service rendered in the Tribunal, stipulating instead that such service would merely count towards the pension of the service to which the appointee originally belonged. For ready reference, rule 13 of the Tribunal (Conditions of Service) Rules, 2021 is extracted below:

> ***13. Pension, Provident Fund and Gratuity****.— (1) In case of a serving Judge of the Supreme Court or a High Court or a Member of an organised Service appointed as the Chairperson or Member, the service in the Tribunal shall count for pension to be drawn in accordance with the rules of the service to which he belongs and he shall be governed by the provisions of the General Provident Fund (Central Services) Rules, 1960 or the Contribution Pension System, as the case may be ,and the rules for pension applicable to him.*
>
> *(2) In all other cases, the Member shall be governed by the provisions of the Contributory Provident Fund (India) Rules, 1962 or the Contribution Pension System, as the case may be.*
>
> *(3) Additional pension and gratuity shall not be admissible for service rendered in the Tribunal.*

The Armed Forces Tribunal itself, through internal notifications, has operationalised this scheme in practice by applying the "pay reduced by pension" formula to its Members. Significantly, the petitioner has himself served in such a comparable statutory position as Chairperson of the Armed Forces Tribunal, yet no separate or additional pension was ever contemplated or paid for that office. If his present construction were to be accepted, he would then logically become entitled to three pensions, one as a former Chief Justice, another as Chairperson of the AFT , and a third for

his tenure as Chairperson of the Human Rights Commission. Such an outcome would not only be wholly incongruous with established service jurisprudence but would also run directly contrary to the consistent and deliberate central policy of preventing multiplicity of pensions for sequential statutory offices, while ensuring parity during tenure.

17.7 Indeed, while holding office as Chairperson of the Human Rights Commission, he was not paid the judicial pension in addition to his salary; nor was he ever granted or permitted to draw any pension for his subsequent tenure as Chairperson of the Armed Forces Tribunal. Instead, the amount of pension already receivable was expressly deducted from his emoluments, thereby demonstrating in practice that the governing scheme envisaged only a single stream of benefits. This contemporaneous conduct, accepting pension-adjusted salary during incumbency, undercuts his present plea for cumulative entitlements. Analogies drawn from the judicial hierarchy further reinforce this principle. When a District Judge is elevated to the High Court, he does not simultaneously draw the salary of a High Court Judge along with the pension of his earlier district judgeship. Likewise, upon demitting office as a High Court Judge, he is not entitled to two separate pensions, one for his service as District Judge and another for his tenure in the High Court. His pension is determined with reference to the last substantive constitutional office held, and not cumulatively

across both positions. Similarly, a retired Supreme Court Judge who may subsequently serve as Chairman of the Armed Forces Tribunal, and thereafter as Chairman of a Pay Commission, does not on that account become entitled to three pensions; his pre-existing judicial pension remains intact, but no fresh pensions accrue from successive statutory assignments. The rationale is consistent and compelling: pension is attached to the last substantive judicial or constitutional office, while subsequent positions operate within an adjustment framework to prevent duplication. Equally telling is the fact that in the petitioner's own case, his pension as a former Chief Justice was adjusted against his salary as Chairperson of the Human Rights Commission, a process carried out in strict conformity with the second proviso to Rule 4 of the rules of 2002. This deliberate deduction was not an aberration but a direct application of the parity scheme, which explicitly recognises earlier pensions from Central or State Government service and neutralises them against the salary of the new office. The proviso thereby makes abundantly clear that there is no concept of dual pensions for successive constitutional or statutory roles; rather, there exists a single parity-based entitlement calibrated by set-off.

18. ***The Mahendra Bhushan / Lokayukta Precedent: A Distinguishing Factor***

The reliance placed by the petitioner on the judgment of a learned Single Bench of this Court in ***Justice Mahendra Bhushan Sharma v. State of Rajasthan (S.B. CWP No. 3890/2000, decided on 13.12.2001)*** does not materially advance his case. For proper appreciation of the petitioner's reliance, the pertinent portion of the judgment in Justice Mahendra Bhushan Sharma (supra) is reproduced hereunder:

> *"5. It would be profitable to note the provisions of the Acts and the Rules at the threshold itself.*
>
> *Sub-section (4) of Section 5 of the Act of 1973.*
>
> *"(4) The salary, allowances and pension, payable to and conditions of service of the Lokayukta or Up-Lokayukta shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Rajasthan:*
>
> *Provided that the allowances and pension payable to and other conditions of service of the Lokayukta or Up-Lokayukta shall not be varied to his disadvantage after his appointment: Relevant provision of Section 21:*
>
> *21. Power to make rules - (1) The Governor may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.*
>
> *(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for-*
>
> *(b) the allowances and pension payable to and other conditions of service of, the Lokayukta and Up-Lokayukta;*
>
> *(e) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provisions and provision is in the opinion of the*

Governor necessary for the proper implementation of this Act."

Rule 6 of the Rules of 1974 "6. Pension payable - The Lokayukta and Up-Lokayukta in respect of each completed year of service as Lokayukta and the Up-Lokayukta respectively shall be paid pension at the rates applicable from time to time in the case of Chief Justice and Judges of the High Court"

Rule-13 "13. Other conditions of service. - The conditions of service of the Lokayukta and the Up-Lokayukta, for which no express provision has been made in the Act or these Rules, shall be the same as are applicable respectively to the Chief Justice and the other Judges of the High Court at the commencement of these Rules, and as amended from time to lime."

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8. Submission of the learned counsel for the petitioner is that the service of Lokayukla under the Act of 1973 is a service separate and independent of the appointment as a High Court Judge under the Constitution of India and, therefore, the pension of the Lokayukta has to be fixed separately without there being any ceiling of maximum pension as provided in the proviso to part I of the First Schedule attached to the Act of 1954 wherein it is said that pension under this paragraph shall in no case exceed Rs. 1,80,000 per annum in case of Chief Justice and Rs. 1,56,000 per annum in the case of any other Judge. It is further urged that the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners Welfare, under its notification dated 27th of October, 1997 made amendments whereby the term "Emoluments" has been defined which indicates that the emolument shall also include Dearness Allowance admissible on the date of retirement/death and, therefore, while calculating the gratuity of the petitioner on the post of Lokayukta his emoluments shall be basic pay plus (+) dearness allowance admissible on the date of retirement.

9. Under Sub-section (4) of Section 5 of the Act of 1973, the salary, allowances and pension payable to and conditions of service of Lokayukta shall be some as of the Chief Justice and the allowances and pension payable to and any other condition of service of Lokayukta shall not be varied to its disadvantage after his appointment. Section 22 of the Act gives an authority to the Governor to make Rules by issuance of notification published in the Official Gazette, for purpose of

carrying into effect the Act of 1973. Section 21 (2)(b) of the Act of 1973 authorises framing of the Rules in respect of allowances and pension payable to any any other condition of service of Lokayukta and UpLokayukta. Rule 6 of the Rules of 1974 framed under Section 21 of the Act of 1973, provides for pension, under it Lokayukta is entitled for a pension, at the rate applicable from time to time in case of Chief Justice, for each completed year of service as Lokayukta. Rule 13 provides that where there is no express provision made in the Act or under the Rules the condition of service of Lokayukta shall be as applicable to the chief Justice of the High Court at the commencement of these Rules and as amended from time to time. Rule 6 of the Rules of 1974 provides that Lokayukta shall be paid pension at the rate applicable, from time to time, in case of Chief Justice. Therefore, Lokayukta shall be paid pension at the rate it is payable to Chief Justice. Rate so provide is for the purposes of calculation of the pension of the Lokayukta. Rate does not provide for maximum amount of pension payable to Lokayukta. There is no ceiling limit on the pension of the Lokayukta.

10. It is alleged in the petition that Justice M.L. Joshi, a retired Judge of the Rajasthan High Court, was appointed as Lokayukta under Section 3 of the Act of 1973 on 1.7.1983 for a period of three years, as then by amendment in the Act, the tenure was reduced from five years to three years but later on it was restored to five years, and on completion of this tenure as Lokayukta he was paid pension for every completed year of service at the rate then applicable to the Chief Justice of the High Court. After amendment in the Act of 1954 the pension of Justice M.L. Joshi was also revised.

11. It is further alleged that Justice M.L. Shrimal, who was earlier a Judge of the Rajasthan High Court and retired as a Chief Justice of Sikkim High Court, was appointed as Lokayukta on 3.1.1985. On completion of his tenure of five years in the afternoon of 3rd of January, 1990, orders were issued for payment of his pension at the rate of Rs. 18630/- per annum instead of Rs. 22, 500/-, as required to be paid, which was in addition to the pension he was getting as Chief Justice of Sikkim High Court imposing a ceiling of Rs. 54000/- on the ground that under the Act of 1954 the pension of the Chief Justice of the High Court, in no case, would exceed to Rs. 54,000/- per annum. The pension as a Chief Justice of the High Court and Lokayukta were clubbed so as not to exceed the maximum pension payable to a Chief Justice under the Act of 1954. Justice M.L. Shrimal represented against the fixation of his pension on the ground that his service as Lokayukta was independent and under the provisions of the Act and the Rules made thereunder he was entitled to pension as Lokayukta independent of an in addition t any previous pension payable to him as Chief Justice of the Sikkim High Court. The State Government agreeing with the contentions of Justice M.L. Shrimal under its order dated 4.10.1993 for a five

year tenure as Lokayukta, ordered for payment of pension of Rs. 22,500/- per annum which is in addition to the pension which Justice M.L. Shrimal was getting as Chief Justice of the Sikkim High Court.

12. Allegations made in the petition so far as they relate to payment of additional pension on the post of Lokayukta for two retired Judges irrespective of the ceiling on the pension of the Chief Justice have not been denied by the State in its return.

13. Thus, service of Lokayukta under the Act of 1973 has been treated consistently by the State Government as service separate and independent of the appointment as High Court Judge under the Constitution of India. The State Government allowed pension to retired Lokayukta with reference to the Act of 1973 and the Rules of 1974 without clubbing the pension of retired Lokayukta with the pension of the High Court Judge/Chief Justice and without reference to Maximum ceiling limit provided to the pension payable to the Chief Justice under the Act of 1954.

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17. For the aforesaid reasons, the petition is allowed and the respondents are directed to pay the pension to the petitioner for the post of Lokayukta treating the petitioner's service as lokayukta independent then that of a High Court Judge and without putting the ceiling limit on his pension as prescribed under the Act of 1954. The petitioner shall be paid gratuity calculating the same on his pay as defined in FR 9(21)(a)(i) plus Dearness Allowance admissible on the date of his retirement."

In the first place, the said decision, rendered by a Single Judge, does not constitute a binding precedent for consideration by this Division Bench. Secondly, upon a close scrutiny of the reasoning therein, it is evident that certain fundamental aspects relating to the nature and permissibility of dual pension entitlements were not addressed. The learned Single Judge in Mahendra Bhushan Sharma

proceeded to direct the grant of pension under the Lokayukta framework without examining whether, in law, a person who had already earned and was drawing pension from one constitutional or statutory office could, in the absence of an express legislative mandate, claim a second pension for another tenure of service. The crucial distinction between pension being attached to a specific service, and pension being granted in addition to an already existing pension, was not considered in that case. Likewise, the broader question whether the statutory scheme under either the Union or the State framework contemplates or authorises "dual pensions" for presiding officers was left entirely unexamined. Equally, the aspect of examining pari materia or analogous provisions in other statutes, which could have shed light on legislative intent in such circumstances, also remained unaddressed.

Another plea raised by learned counsel for the petitioner is that the provisions of the Lokayukta Act and Rules are pari materia with the State Human Rights Commission Rules of 2002, and therefore the analogy must necessarily operate in his favour. However, even if such pari materia construction is accepted, it does not advance the case of the petitioner, for the simple reason that neither scheme contains any express stipulation permitting the grant of double pension. As already discussed, the doctrine of stare decisis is inapplicable in this context, since the earlier judgment failed to adjudicate upon,

or even advert to, the substantial questions of law relating to dual pensions. This Court is of the considered view that such substantial legal issues were not dealt with in Mahendra Bhushan Sharma (supra), and therefore, the ratio therein cannot bind or conclude the present controversy.

In contrast, the present case squarely raises these questions, since the petitioner admittedly draws pension as a retired Chief Justice of a High Court and now claims a further pension for his tenure as Chairperson of the State Human Rights Commission. This Court, upon an independent and careful examination of the rules of 2002, as amended in 2012, finds no express provision which authorises the grant of a second or additional pension to an incumbent already in receipt of a constitutional pension. The statutory alignment of the service conditions of the Chairperson with those of the Chief Justice of the High Court cannot, by itself, be stretched to read in a right to draw dual pensions, in the absence of explicit legislative language to that effect. The omission to consider this vital legal bar in Mahendra Bhushan Sharma makes the ratio of that judgment distinguishable, and it cannot be mechanically imported into the present controversy. Respectfully, therefore, this Court disapproves of the reasoning in Mahendra Bhushan Sharma (supra) and holds that, until and unless the governing statute or rules clearly provide that pension for such office is to be paid "in addition to" or "over and above" any earlier pension, no such

entitlement can be read by implication. Consequently, the precedent relied upon by the petitioner does not assist his claim.

19. ***Scope of Conditions of Service***

This Court has duly considered the reliance placed by learned counsels for the petitioner on the judgments of the Hon'ble Supreme Court in ***Union of India v. Gurnam Singh, (1982) 2 SCC 314 and State of M.P. v. Shardul Singh, (1970) 1 SCC 108.*** Undoubtedly, the propositions laid down therein, namely that pension is an integral incident of service and that "conditions of service" embrace not only the incidents of tenure but also the gamut of retiral benefits including pension and gratuity, are well-settled and command full respect. At the same time, this Court is constrained to observe that the ratio of the aforesaid authorities, though correct in principle, cannot be mechanically transplanted to the factual or statutory framework governing the present controversy. In the considered view of this Court, a clear demarcation must be drawn between service benefits such as allowances, medical facilities, promotional avenues, increments and the like , which accrue during active service, and retirement benefits such as pension, gratuity, commutation, and leave encashment, insurance cover etc. which accrue only upon cessation of service. Anyways this court is guided by the

judgements ***Gurnam Singh and Shardul Singh*** ,but they do not, either expressly or by necessary implication, confer any right to the receipt of multiple pensions for successive offices held. Neither Section 26 of the Protection of Human Rights Act, 1993 nor Rule 4 of the Rajasthan State Human Rights Commission (Salaries, Allowances and Other Conditions of Service of Chairperson and Members) Rules, 2002, read conjunctively or disjunctively, create any entitlement to a dual pensionary stream. The judgments relied upon by the petitioner undoubtedly underscore the sanctity of pension as a protected condition of service and lay down guiding principles in that regard; however, they do not extend to the proposition that an incumbent who has already been granted a constitutional pension for his tenure as Chief Justice can simultaneously claim an independent pension for his subsequent statutory appointment. Consequently, the reliance on the aforesaid precedents, though doctrinally sound within their factual matrix, is misplaced and does not advance the case of the petitioner.

20. ***The Principle of Fiscal Discipline and Proportionality***

It is a settled canon that the interpretation of pensionary provisions cannot be divorced from the broader context of fiscal responsibility and constitutional propriety. Pensions, unlike contractual benefits, are continuing obligations charged upon the Consolidated Fund of the State. They are,

therefore, not merely matters of individual entitlement but questions of systemic fiscal design. Courts, while adjudicating claims of this nature, must act with circumspection, ensuring that judicial interpretation does not unwittingly impose on the public purse burdens which the legislature itself did not consciously create.

20.1 Judicial Deference to Fiscal Policy

The Hon'ble Supreme Court has, on more than one occasion, underscored the principle that matters involving fiscal implications are primarily within the legislative and executive domain, and that courts must refrain from reading into statutes financial liabilities not explicitly authorised by Parliament or the State Legislature. The guiding norm is clear: unless the text of the provision unequivocally mandates a recurring financial outgo, judicial interpretation must lean towards restraint. This is not a matter of judicial abdication but of judicial discipline, rooted in respect for separation of powers. For the judiciary to declare, by way of interpretation, that the State must shoulder a second lifetime pension for an office-holder, without an express statutory sanction, would amount to judicial legislation, a course impermissible under our constitutional scheme. When faced with two plausible readings, the interpretation that maintains fidelity to fiscal prudence and legislative intent must prevail.

20.2 Avoiding Duplicative Liabilities

The petitioner's construction of Rule 4 the rules of 2002, if accepted, would inevitably create an enduring duplicative liability upon the State exchequer. A second pension pegged at the level of a Chief Justice is not a negligible or incidental outlay; it is a recurring obligation which carries with it not only the monthly pension quantum but also ancillary liabilities such as periodic Dearness Allowance adjustments, commutation rights, and family pension exposures. The cascading effect of such interpretation would be to saddle the State with open-ended financial commitments extending beyond the lifetime of the incumbent to his dependents, thereby creating an unforeseen and unbudgeted liability of indefinite duration.

Equally significant is the disruption such interpretation would cause to the coherent fiscal policy evident across cognate statutory regimes. The High Court Judges (Salaries and Conditions of Service) Act, 1954, the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, and the Central and State Civil Services Pension Rules, all converge upon a principle that forecloses dual pensionary streams for sequential public offices. To carve out an implied exception for the Chairperson of the Human Rights Commission, absent explicit statutory mandate, would not only break this fiscal and legal symmetry but also create a precedent with

expansive ramifications, inviting claims from other statutory or constitutional office-holders by parity of reasoning. The Court, therefore, cannot be oblivious to the systemic consequences of adopting the petitioner's construction. Fiscal discipline and legal coherence converge upon the respondents' interpretation namely, that the parity clause in Rule 4 the rules of 2002 operates as a rate-referential provision for determining the quantum of benefits, not as a legislative device for authorising multiple pensions. It is this construction which maintains fidelity to legislative design, constitutional prudence, and the overarching principle of proportionality in balancing individual claims with public fiscal sustainability.

21. ***Application of Broader Doctrines***

21.1 Statute Overrules Equitable Claims

It is a cardinal principle of law that pensionary entitlements flow strictly from statutory provisions and cannot be enlarged by equitable considerations or notions of fairness. The petitioner's contention that denial of a second pension is unjust and contrary to the dignity of his office cannot, therefore, sustain in the face of the clear statutory architecture. Rule 4 of the Rules of 2002, even as amended in 2012 , does not contemplate a multiplicity of pensions. It merely prescribes parity of conditions with the Chief Justice for the limited purpose of salary and pension structure,

without creating a substantive right to an additional pension. In the absence of a specific statutory provision, the plea for dual pensions is unsupportable.

21.2 Doctrine of Legitimate Expectation

The plea of legitimate expectation also does not come to the aid of the petitioner. The doctrine applies where there exists a clear and consistent past practice, or a categorical representation by the State, giving rise to an expectation of continuity. As elucidated in ***FCI v. Kamdhenu Cattle Feed Industries, (1993) 1 SCC 71***, the doctrine is confined to situations where a reasonable promise is shown to have been extended. In the present case, no instance has been cited of any Chairperson of the State Human Rights Commission being extended an additional pension over and above a pre-existing constitutional pension. The mere fact that internal notings of the Finance Department contemplated parity of status cannot amount to a binding promise or a crystallised practice. Consequently, no legitimate expectation can be said to have accrued in favour of the petitioner.

21.3 Articles 14, 16 and 21 the Constitution of India

The invocation of Articles 14, 16 and 21 the Constitution of India is equally without merit. The classification between those receiving a single pension and those claiming dual pensions is not only rational but is also intimately connected

with the objective of fiscal prudence and avoidance of pension stacking. The petitioner already enjoys the maximum pension admissible under the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, a pension which in itself secures a life of dignity. The denial of an additional pension for his tenure as Chairperson does not impair his right to equality, does not result in hostile discrimination, and certainly does not trench upon his right to life under Article 21 the Constitution of India. On the contrary, it reflects a reasonable balance struck by the legislature between individual entitlements and larger public finance considerations.

21.4 Comparative Jurisprudence

Further, comparative perspectives in advanced jurisdictions fortify this conclusion. The jurisprudence in the United Kingdom, United States, and Canada has consistently disfavoured the concept of “double dipping” in pensions unless specifically and unequivocally authorised by statute. The policy rationale is clear: public pensions are a form of deferred compensation, not an avenue for accumulation across multiple tenures unless the legislature has expressly provided otherwise. To interpret Rule 4 the rules of 2002 as creating an entitlement to dual pensions would be to judicially create a right that not only lacks statutory backing but also runs contrary to settled fiscal policy both

domestically and internationally. Similar regulatory trends emerge across other major jurisdictions:

Germany permits receipt of pensions from different sources, but imposes strict caps on total pension income to avoid excessive accumulation. This reflects a regulatory balance recognising multiple entitlements while safeguarding fiscal prudence.[2]

Cyprus, through successive reforms, has sought to phase out multiple pensions. Presently, earlier pensions may be offset during a subsequent tenure, with a cap of two-thirds of the highest salary, and from June 2026, pensions will be suspended if a new public office is assumed, albeit with limited exemptions for high constitutional offices such as judges and the Attorney-General.[3]

Pakistan has recently moved to a strict prohibition: re-employed civil servants must elect between drawing salary or pension, but not both. Comprehensive reforms notified in April 2025 abolished entitlement to multiple pensions, recalculating benefits on the basis of averaged pay rather than last drawn salary.[4]

The European Co-ordinated Organisations (including the Council of Europe) have gone further by imposing an outright bar under Article 32 of their Pension Rules, which forbids

2 Sigmalive English – Report on German pension cap rules.
3 Cyprus Mail – Coverage of Cyprus pension reform legislation, 2023–2026.
4 Dawn (April 2025) and The News International – Reports on Pakistan’s pension reforms eliminating dual pensions.

concurrent pensions or the combination of pension with indemnity, and prevents re-employment while drawing pension within the organisation.[5]

22. ***Comparative Insight***

Thus, across jurisdictions, the consistent theme is caution against dual pension entitlements. Where allowed, they are either capped (Germany), gradually abolished (Cyprus), or strictly prohibited (Pakistan, EU). Even exceptions (U.S. state-level cases) arise from specific statutory carve-outs rather than general entitlement. The comparative jurisprudence underscores that pensions are designed as deferred remuneration for service to the State, not cumulative benefits across successive tenures, unless the legislature has explicitly provided otherwise.

23. ***Conclusion***

23.1 In sum, the petitioner's case is founded on an erroneous reading of Rule 4 the rules of 2002 and an overextension of the doctrine of parity. Thus having no express provision of dual pension, the broader doctrines of statutory supremacy over equity, the limited scope of pari materia interpretation, the inapplicability of legitimate expectation, the constitutionality of rational classification, and persuasive comparative jurisprudence all converge towards a single conclusion: that there exists no statutory

5 Council of Europe, Pension Rules, Article 32 (Co-ordinated Organisations).

right to claim an additional pension for service as Chairperson of the State Human Rights Commission once a pension is already being drawn for prior constitutional service.

23.2 The present writ petition is thus devoid of merit and is liable to be dismissed. Accordingly, the writ petition is dismissed. No order as to costs. Pending applications, if any, also stand disposed of.

(ANUROOP SINGHI), J **(FARJAND ALI),J**

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