

20. There shall be no order as to costs.

21. The Registrar (Compliance) is directed to communicate this order to the Superintending Engineer, Irrigation Workshop Circle, Lucknow through the learned Chief Judicial Magistrate, Lucknow, and the Works Manager, Irrigation Workshop Division, Meerut and the Assistant Engineer-II, Irrigation Workshop Division, Meerut, both through the learned Chief Judicial Magistrate, Meerut.

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**(2025) 2 ILRA 668**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: LUCKNOW 11.02.2025**

**BEFORE**

**THE HON'BLE ATTAU RAHMAN MASOODI, J.**  
**THE HON'BLE SUBHASH VIDYARTHI, J.**

Writ - A No. 12905 of 2024

**Dan Bahadur Yadav** ...Petitioner  
**Versus**  
**Managing Director And Ceo Bank of Baroda Corporate Center Mumbai & Ors.**  
...Respondents

**Counsel for the Petitioner:**  
Salik Ram Yadav

**Counsel for the Respondents:**  
Prashant Kumar Srivastava

**(A) Service Law - Pension - Bank of Baroda (Employees') Pension Regulations, 1995 - Regulation 41 - Commutation - The Central Civil Services (Commutation of Pension) Rules, 1981 - Rule 10 A - Restoration of commuted pension - Doctrine of Estoppel - Wednesbury Unreasonableness - Matters related to commutation of pension are complex affairs involving vexed issues traversing diverse fields, requiring**

**specialized expertise - In such matters, the Court would venture only in cases of manifest and apparent arbitrariness. (Para -13)**

Petitioner (retired employee of Bank of Baroda) challenged - validity of a note appended to Regulation 41 of the Bank of Baroda (Employees') Pension Regulations, 1995 - which mandates a 15-year period for the restoration of commuted pension - petitioner argued - commuted amount had already been set off in 9.81 years, making the remaining deductions unjust enrichment. **(Para - 2,3,4)**

**HELD:** - Petitioner voluntarily accepted the commutation scheme in 2013 and is now estopped from challenging it. 15-year restoration rule is neither arbitrary nor unreasonable and has been upheld by the Hon'ble Supreme Court in *Common Cause case*. Provision does not amount to unjust enrichment, and no interference is warranted. **(Para -13,19)**

**Petition dismissed.** (E-7)

**List of Cases cited:**

1. Hari N. Saste & ors. Vs U.O.I. & ors., C.A.T., Mumbai Bench, Mumbai in O.A. No. 860 of 2024
2. Shila Devi & ors. Vs St. of Punj. & ors., C.W.P. No. 9426 of 2023 (O&M)
3. "Common Cause" a registered society & ors. Vs U.O.I., (1987) 1 SCC 142
4. Associated Provincial Picture Houses, Ltd. Vs Wednesbury Corporation, (1948) 1 K.B. 223
5. East India Commercial Co. Ltd. Vs Collector of Customs, AIR 1962 SC 1893

(Delivered by Hon'ble Subhash Vidyarthi, J.)

1. Heard Sri Salik Ram Yadav, the learned counsel for the petitioner and Sri Prashant Kumar Srivastava for the opposite parties.

2. By means of the instant writ petition filed under Article 226 of the Constitution of India, the petitioner has challenged the validity of a note appended to Regulation 41 of Bank of Baroda (Employees') Pension Regulation, 1995 which reads as under: -

*“(2) An employee who had commuted the admissible portion of pension is entitled to have the commuted portion of the pension restored after the expiry of a period of fifteen years from the date of commutation.”*

3. The petitioner has sought a direction to the opposite party to restore full pension of the petitioner immediately after expiry of 9.81 years, instead of 15 years as provided in the aforesaid provision.

4. The petitioner retired from Bank of Baroda on 31.03.2013 and he got 1/3rd of his pension commuted in accordance with the following provisions contained in Chapter VIII of Bank of Baroda (Employees') Pension Regulations, 1995: -

**“41. Commutation.**

*(1) An employee shall be entitled to commute for a lump sum payment of a fraction not exceeding one-third of his pension:*

*Provided that in respect of an employee who is governed by sub-regulation (5) of Regulation 3 of these regulations, the family of such employee shall also be entitled to commute for a lump sum payment a fraction not exceeding one-third of the pension admissible to the employee.*

*(2) An employee shall indicate the fraction of pension, which he desires to commute, and may either indicate the*

*maximum limit of one-third pension or such lower limit, as he may desire to commute.*

*(3) If fraction of pension to be commuted results in fraction of rupee, such fraction of a rupee shall be ignored for the purpose of commutation.*

*(4) The lump sum payable to an applicant shall be calculated in accordance with the Table given below.*

**TABLE**  
**Commutation values for a pension of Re. one per annum**

Age Ne xt birt hda y	Commutation value expressed as number of year's purchase	Age next birth day	Communica tion value express as number of year's purchase
17	19.28	51	12.95
18	19.20	52	12.66
19	19.11	53	12.35
20	19.01	54	12.05
21	18.91	55	11.73
22	18.81	56	11.42
23	18.70	57	11.10
24	18.59	58	10.78
25	18.47	59	10.46
26	18.34	60	10.13
27	18.21	61	9.81
28	18.07	62	9.48
29	17.93	63	9.15
30	17.78	64	8.82
31	17.62	65	8.50
32	17.46	66	8.17
33	17.29	67	7.85
34	17.11	68	7.53
35	16.92	69	7.22
36	16.72	70	6.91

37	16.52	71	6.60
38	16.31	72	6.30
39	16.09	73	6.01
40	15.87	74	5.72
41	15.64	75	5.44
42	15.40	76	5.17
43	15.15	77	4.90
44	14.90	78	4.65
45	14.64	79	4.40
46	14.37	80	4.17
47	14.10	81	3.94
48	13.82	82	3.72
49	13.54	83	3.52
50	13.25	84	3.32
		85	3.13

**Notes:**

(1) *The Table above indicates the commuted value of pension expressed as number of years' purchase with reference to the age of the pensioner as on his next birthday. The commuted value in the case of an employee retiring at the age of fifty eight years is 10.46 years' purchase and, therefore, if he commutes rupees one hundred from his pension within one year of retirement, the lump sum amount payable to him works out to Rs.100 X 10.46 X 12 = Rs. 12,552.;*

(2) ***An employee who had commuted the admissible portion of pension is entitled to have the commuted portion of the pension restored after the expiry of a period of fifteen years from the date of commutation.***

(3)...

(4)...

(5)...

(6)..."

5. As per the provisions contained in the aforesaid Regulation, the petitioner

would become entitled to restoration of full pension after expiry of a period of 15 years from the date of commutation i.e. with effect from 01.04.2028, which is clearly mentioned in the pension payment order dated 01.04.2013. The petitioner has challenged validity of the aforesaid Regulation and he has submitted that the amount received by him by way of commutation, has been set off within 9.81 years and he is entitled to restoration of full pension after the aforesaid period. The petitioner has submitted that the deduction of pension for 15 years would mean that the opposite parties are charging interest on the commuted amount at the rate of 8% per annum, which amount to unjust enrichment of the state at the expense of the pensioners/senior citizens. The provision has been termed as arbitrary and unreasonable.

6. The petitioner has pleaded that the Union Territory of Chandigarh has issued an Office Memorandum dated 04.09.2024 directing that recovery of commutation amount be stopped from the pensioners who have completed ten years from the date of their superannuation and he is seeking parity of the aforesaid Office Memorandum.

7. The learned counsel for the petitioner has relied upon a judgment and order dated 11.11.2024 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai in O.A. No. 860 of 2024 titled **Hari N. Saste and others Vs. Union of India and others.**

8. *Per contra*, the learned counsel for the opposite parties has submitted that the petitioner had availed the benefit of commutation of pension as per the provisions contained in Regulation 41 of

Bank of Baroda (Employees') Pension Regulation, 1995 alongwith the conditions attached to it, way back in the year 2013, including the condition that his full pension will be restored after 15 years, i.e. with effect from 01.04.2028. The petitioner did not challenge the condition at the time of availing the benefit. Now he is estopped from challenging the condition attached to the benefit that he availed more than a decade ago.

9. The learned Counsel for the opposite parties has placed reliance on a judgment dated 27.11.2024 passed by the High Court of Punjab and Haryana at Chandigarh in **Shila Devi and others versus State of Punjab and others - C.W.P. No. 9426 of 2023 (O&M)** along with a bunch of 807 other writ petitions wherein the petitioners had opted for commutation of their pension in terms of the provisions contained in Chapter XI of Punjab Civil Services, Vol-II. The question involved in the writ petitions was whether the portion of pension of the petitioners should be restored after completion of 15 years from the date of commutation as provided in Rule 11.1(2) of Punjab Civil Service Rules Volume-II or it should be restored after lessor period i.e. about 12 years. Rule 11.1 provides as follows: -

*11.1 (1) A Government employee, on superannuation/pre-mature retirement, shall be entitled to commute for a lump sum payment a fraction not exceeding 40% (forty percent) of his pension. The fraction of pension so commuted on retirement i.e. superannuation/premature retirement shall, however, be restored to him on completion of 15 years from the date of retirement or 15 years from the actual receipt of commutation value, whichever is later.*

*(2)...*

The Punjab and Haryana High Court rejected the challenge made to the aforesaid provision and held that: -

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

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

*se and ex facie irrational or arbitrary which calls for interference by this Court."*

10. Punjab & Haryana High Court has referred to a decision of the Hon'ble Supreme Court in the case of **"Common Cause" a registered society and others versus Union of India:** (1987) 1 SCC 142, which was a Writ Petition under Article 32 of the Constitution of India filed by 'Common Cause', a registered society and three retired government servants challenging certain provisions of the Commutation of Pension Rules applicable to civilian and defence pensioners as per which when a pensioner commuted any part of his pension up to the authorised limit, his pension was reduced for the remaining part of his life by deducting the commuted portion from the monthly pension. Thus the Union of India recovered more than what was paid to the pensioners upon commutation. The petitioners had prayed for a direction that an appropriate scheme rationalising the provisions relating to commutation be brought into force. The argument advanced on behalf of the petitioners was that there has been a substantial improvement in the life expectancy of the people in India had not been refuted on behalf of the respondent. The Hon'ble Supreme Court had suggested to the respondent in course of the hearing that in the changed situation then prevailing in the country, a new look should be given to the matter. In deference to the suggestion made by the Hon'ble Supreme Court, the Union of India agreed to restore the commuted portion of the pension in regard to all civilian employees at the age of seventy years or after fifteen years, whichever is later. Thereafter the following Rule was inserted in the Central Civil Services (Commutation of Pension) Rules, 1981: -

*"10 A. Restoration of Commuted Pension – "The commuted amount of pension shall be restored on completion of fifteen years from the date the reduction of pension on account of commutation becomes operative in accordance with rule 6: Provided that when the commutation amount was paid on more than one occasion on account of upward revision of pension, the respective commuted amount of pension shall be restored on completion of fifteen years from the respective date(s)"*

The petitioners contended that the commuted portion out of the pension is ordinarily recovered within about 12 years and, therefore, there is no justification for fixing the period at 15 years. Commutation brings about certain advantages. Rejecting this contention, the Hon'ble Supreme Court held that: -

*"5....The commuting pensioner gets a lump-sum amount which ordinarily he would have received in course of a spread over period subject to his continuing to live. Thus, two advantages are certainly forthcoming out of commutation — (1) availability of a lump sum amount, and (2) the risk factor. Again many of the State Governments have already formulated schemes accepting the 15 year rule. In this background, we do not think we would be justified in disturbing the 15-year formula so far as civilian pensioners are concerned."*

The Hon'ble Supreme Court further held that: -

*"9. In dealing with a matter of this nature, it is not appropriate to be guided by the example of life insurance; equally unjust it would be to adopt the interest basis. On the other hand, the*

*conclusion should be evolved by relating it to the “years-of-purchase” basis. An addition of two years to the period necessary for the recovery on the basis of years of purchase justifies the adoption of the 15-year rule. That is more or less the basis which appears to be equitable...”*  
(Emphasis added)

11. The petitioner has challenged validity of the aforesaid Regulation and he has submitted that the amount received by him by way of commutation, has been set off within 9.81 years and he is entitled to restoration of full pension after the aforesaid period. The petitioner has submitted that the deduction of pension for 15 years would mean that the opposite parties are charging interest on the commuted amount at the rate of 8% per annum, which amounts to unjust enrichment of the state at the expense of the pensioners/senior citizens.

12. The petitioner has contended that the provision of restoration of full pension after 15 years, suffers from Wednesbury unreasonableness. The principle of Wednesbury unreasonable was propounded in **Associated Provincial Picture Houses, Limited V. Wednesbury Corporation:** (1948) 1 K.B. 223, in which the defendant corporation had granted a license to the plaintiff company, who was the owner and licensee of Gaumont Cinema, Wednesbury, Staffordshire, a license to give performances on Sunday under Section 1 (1) of the Sunday Entertainments Act, 1932; but the license was granted subject to a condition that “no children under the age of fifteen years shall be admitted to any entertainment whether accompanied by an adult or not.” The plaintiffs sought a declaration that the condition was ultra vires and unreasonable.

While dismissing the claim, the King’s Bench laid down the following proposition of law, which came to be known as ‘the Wednesbury principle’ and which is being consistently followed by the Court’s in India: -

*“It is true to say that, if a decision on a competent matter is so unreasonable that no reasonable authority could ever have come to it, then the courts can interfere. ...It is not what the court considers unreasonable, a different thing altogether. If it is what the court considers unreasonable, the court may very well have different views to that of a local authority on matters of high public policy of this kind. Some courts might think that no children ought to be admitted on Sundays at all, some courts might think the reverse, and all over the country I have no doubt on a thing of that sort honest and sincere people hold different views. The effect of the legislation is not to set up the court as an arbiter of the correctness of one view over another. It is the local authority that are set in that position and, provided they act, as they have acted, within the four corners of their jurisdiction, this court, in my opinion, cannot interfere.”*

13. We have to examine the challenge to the Regulation laying down the policy of fixing 15 years duration for restoration of commuted pension on the test of Wednesbury unreasonableness. The Regulation fixing 15 years period for restoration of full pension has been framed by the Bank of Baroda. Matters related to commutation of pension are complex affairs involving vexed issues traversing diverse field which calls for application of specialized expertise. It is a settled position that in such matters the Court would venture only in case of manifest and apparent arbitrariness.

14. Note 2 appended to Rule 41 of Bank of Baroda (Employees') Pension Regulations, 1995 contains a provision similar to Rule 10-A of the Central Civil Services (Commutation of Pension) Rules, 1981, the validity whereof has already been examined and upheld by the Hon'ble Supreme Court in **Common Cause** (Supra). The learned Counsel for the petitioner did not make any effort to distinguish the present case from the case of **Common Cause** (Supra). Therefore, the aforesaid contentions of the petitioner have no force in light of the law laid down by the Hon'ble Supreme Court in **Common Cause** (Supra).

15. Moreover, the petitioner availed of the benefit of commutation of pension in the year 2013, without raising any objection to the stipulated period of 15 years for restoration of pension and, therefore, the petitioner is estopped from challenging the validity of the Regulation which provides for restoration of full pension after 15 years since its commutation.

16. Regarding the judgment of reliance placed on the judgment and order dated 11.11.2024 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai in O.A. No. 860 of 2024, suffice it to say that Article 141 of the Constitution of India provides that the law declared by the Supreme Court shall be binding on all courts within the territory of India.

17. In **East India Commercial Co. Ltd. v. Collector of Customs**: AIR 1962 SC 1893, the Hon'ble Supreme Court held that: -

*“31....Under Article 215, every High Court shall be a court of record and*

*shall have all the powers of such a court including the power to punish for contempt of itself. Under Article 226, it has a plenary power to issue orders or writs for the enforcement of the fundamental rights and for any other purpose to any person or authority, including in appropriate cases any Government, within its territorial jurisdiction. Under Article 227 it has jurisdiction over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. It would be anomalous to suggest that a tribunal over which the High Court has superintendence can ignore the law declared by that court and start proceedings in direct violation of it. If a tribunal can do so, all the subordinate courts can equally do so, for there is no specific provision, just like in the case of Supreme Court, making the law declared by the High Court binding on subordinate courts. It is implicit in the power of supervision conferred on a superior tribunal that all the tribunals subject to its supervision should conform to the law laid down by it. Such obedience would also be conducive to their smooth working : otherwise, there would be confusion in the administration of law and respect for law would irretrievably suffer. **We, therefore, hold that the law declared by the highest court in the State is binding on authorities or tribunals under its superintendence, and that they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding....**”* (Emphasis added)

18. The Tribunals have to follow the law laid down by the Hon'ble Supreme Court and the High Court within whose superintendence they function, but they do not have the power to lay down law. Therefore, the reliance placed by the learned Counsel for the petitioner upon a

judgment of the Central Administrative Tribunal is misconceived.

19. Moreover, the Central Administrative Tribunal, Mumbai Bench has passed the order dated 11.11.2024 without referring to the law laid down by the Hon'ble Supreme Court in **Common Cause** (Supra) and against the principle of law laid down by the Hon'ble Supreme Court, which vitiates the order. The petitioner or any person cannot claim any benefit on the basis of an order passed by a Tribunal in violation of the law laid down by the Hon'ble Supreme Court.

20. In view of the aforesaid discussion, we find no force and the writ petition is ***dismissed*** accordingly.

**(2025) 2 ILRA 675**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: ALLAHABAD 11.02.2025**

## BEFORE

**THE HON'BLE AJAY BHANOT, J.**

Writ - A No. 16401 of 2024

**Surya Pratap Singh** ...Petitioner  
**Versus**  
**State of U.P. & Ors.** ...Respondents

**Counsel for the Petitioner:**  
Satyendra Chandra Tripathi

**Counsel for the Respondents:**  
C.S.C., Jitendra Ojha, Rama Nand Pandey

**A. The petitioner challenged the order dated 16.08.2024 which assigned him Booth Level Officer (BLO) election duties-Held, Authorities must review and revise the deployment of teachers for election duties-Teachers should only be appointed if all other categories (Patwaris,**

**Panchayat Secretaries etc.) are exhausted-until review, the petitioner must perform duties only on holidays or after school hours. (Para 1 to 42)**

**The writ petition is disposed of. (E-6)**

**List of Cases cited:**

1. Sunita Sharma Adv. HC & anr. Vs St. of UP & ors., PIL No.11028 of 2015
2. Nirbhay Singh & ors.Vs St. of UP & ors., Writ A No. 26204 of 2021
3. ECI Vs St. Mary's School (2008) AIR SC 655
4. Uttar Pradeshiya Prathmik Shikshak Sangh & ors. Vs St. of UP & ors., PIL No. 36449 of 2016
5. Sudhir Kr. Sharma Vs St. of UP & ors., Writ A No. 34551 of 2015
6. Umakant Ramkrushan Mahure Vs St. of Mah. & ors., W.P. No. 6718 of 2019
7. Satyendra Kr. Sandilya Vs St. of Bih. & ors.(2018) 11 ADJ 393
8. Mahesh Swami & ors.Vs St. of Raj. & ors.W.P. No. 17945 of 2021
9. Smt. Rekha Vs St. of UP, Crl. Misc. Bail Appl. No. 25993 of 2024
10. Avinash Nagra Vs Navodaya Vidyalaya Samiti (1997) 2 SCC 534
11. Vineet Mishra Vs BHU (2023) SCC Online All 2972
12. Sushmita Basu Vs Ballygunge Shiksha Samity (2006) 7 SCC 680

(Delivered by Hon'ble Ajay Bhanot, J.)

1. The judgement is being structured in the following conceptual framework to facilitate the discussion:

A.	Introduction
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