

**WRIT PETITION NO: 24822 of 2024
ALONG WITH**

WRIT PETITION Nos. 23507, 24019, 25158, 25174, 25186, 25371, 25374, 25633, 25736, 25762, 25871, 25878, 25886, 25894, 25974, 26059, 26176, 26251, 26260, 26261, 26603, 26696, 26766, 26812, 26881, 26972, 26991, 27086, 27203, 27417, 27437, 27438, 27439, 27441, 27445, 27470, 27483, 27541, 27600, 27618, 27637, 27703, 27718, 27772, 27818, 27820, 27830, 27839, 27857, 27894, 27906, 27912, 27915, 28031, 28045, 28061, 28091, 28113, 28146, 28228, 28229, 28230, 28231, 28272, 28335, 28377, 28453, 28459, 28625 & 28853 of 2024; 1230, 1467 of 2025

WRIT PETITION NO: 24822 of 2024

Thupakula Venkateswar Rao and
others

...Petitioners

Vs.

The State of AP and others

...Respondents

Advocate for Petitioners:

Mr. Tagore Yadav Yaragorla

Advocate for Respondents:

Mr. E. Sambasiva Pratap (Addl.
Advocate General)

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE RAVI CHEEMALAPATI**

DATE : 28th April, 2025.

PER DHIRAJ SINGH THAKUR, CJ:

The petitioners in this batch of writ petitions are all retired Government Employees who formerly held various positions in the State

of Andhra Pradesh. They retired from service on attaining the age of superannuation of 58 years. The present batch of writ petitions has been filed challenging the validity of Rule 18 of the Andhra Pradesh Civil Pensions (Commutation) Rules, 1944.

2. The petitioners contend that Rule 18 which stipulates a 15-year period for the restoration of the commuted portion of pension is arbitrary, unjust and leads to unjust enrichment of the state. The petitioners therefore pray for a writ of *Mandamus* to declare Rule 18 as illegal and to direct the respondents to restore the full pension after 11 years and 3 months.

3. As is commonly known and understood, employees who joined the government service before 1st of September 2004 and have retired subsequently, are entitled to receive pension which is a welfare measure providing financial security and stability to employees post their retirement from service. Pension is payable to an employee post his retirement and after his death, the eligible members of their family get what is called family pension.

4. Employees do not contribute towards pension and the burden is borne by the public exchequer. This is in regard to all those employees who had joined the government service before 1st of September 2004,

whereafter the scheme stands modified. Another benefit which is provided to retiring employees is the benefit of commutation of pension.

5. The Andhra Pradesh Civil Pension (Commutation) Rules, 1944 prescribes the relevant provisions for commutation of pension. As per Rule 2(a), a government servant to whom the AP Civil Pension (Commutation) Rules, 1944 apply, would be allowed to commute, for a lump sum payment, any portion not exceeding 40 percent of the pension granted to him by the State Government which was enhanced from one third of the pension with effect from 01.04.1999.

6. Needless to say that the commutation of pension is a voluntary act whereby the option is exercised by a retiring employee who takes that decision depending upon the benefits or drawbacks which the commutation scheme envisages.

As per the scheme of the Rules, it is made clear to a retiring employee that upon receipt of the lump sum amount representing the commuted value of the pension calculated as per the prescribed mechanism, the full pension would be restored only after 15 years from the date of commutation of the pension.

7. In this regard, it is relevant to reproduce Rule 18, which reads as under:

“18. In the case of pensioners drawing pension in India, the commuted portion of pension was ordered to be restored to the petitioners on completion of 15 years from the date of retirement if the commutation was simultaneous with retirement. If there is any time gap between the date of retirement and the date of commutation, the commuted portion of pension shall be restored after expiry of 15 years from the date on which reduction in pension on account of commutation becomes effective.”

8. It is not out of place here to mention that according to the stand of the respondent State, initially there was no process of restoration of full pension till 1980 and the reduction in the monthly pension on account of commutation was a lifetime event and a petitioner would be entitled to draw only the reduced pension during his entire retired life.

However, subsequently the government ordered restoration of full pension on attaining the age of 70 years, with regard to employees who retired on superannuation at the age of 55 years and commuted before attaining the age of 56 years.

9. It would be apposite to mention that G.O.Ms.No.44, dated 19th February 1991 was issued by the Government of Andhra Pradesh whereby it was decided to adopt the orders of Government of India for restoration of commuted portion of pension with effect from 1st April 1990 following the Apex Court judgment rendered in the case of **Common**

Cause vs. Union of India¹. The said position is continuing to subsist even on date.

10. The case of the petitioners is that the period of 15 years which is fixed as per Rule 18 read with Government Order No.44 has been fixed arbitrarily and without any mathematical basis inasmuch as the value of the commuted portion of pension is recovered by the State in approximately 11 years and 3 months and that any recovery thereafter up to a period of 15 years amounts to nothing but undue enrichment to the State.

It is stated that whereas earlier the life expectancy was only 57 years, and the retirement age was 58 years for all categories except class 4, the average present life expectancy in the country had improved significantly to about 70 years, which was much more than the age of retirement on superannuation.

11. Reliance was placed on WHO statistics to show that life expectancy was more in the case of Government Employees to the extent of 77 years as against the general population. It was thus sought to be urged that since there was a reduced risk on account of death of a Government Employee, leading to non-recovery of a portion of the

¹ (1987) 1 SCC 142

commuted value of the pension, there was no justification in continuing to recover the pension up to 15 years.

12. Apart from this, the petitioners' case is that the rates of interest have since changed from the time when initially the official respondents had fixed the period of restoration of full pension up to 15 years and therefore, on account of the change in rate of interest, there was no justification for the respondents to continue to recover the amount up to 15 years.

13. Reliance was also placed upon a judgment of the Kerala High Court rendered in Writ Petition No.23282 of 2005 titled **Central Government Pensioners Association vs. Union of India**, in which a direction was issued to the Union of India to take a fresh decision based upon the recommendations made by the 5th Central Pay Commission as regards restoration of commuted pension drawn by the central pensioners after 12 years.

The learned counsel for the petitioners has also placed reliance on the recommendations of the 5th Central Pay Commission, which had recommended reducing the restoration period to 12 years.

The aforementioned judgment of the Kerala High Court is in apt in the facts and circumstances of the case as the direction which was

issued by the Kerala High Court was a direction to the Central Government to take a decision based on the recommendation made by the 5th Central Pay Commission which decision of the Pay Commission had not been accepted by the Government. However, thereafter consistently the 6th as also the 7th Central Pay Commissions have recommended the restoration of the commuted portion of the pension only after completion of 15 years.

14. Mr. E. Sambasiva Pratap, learned Addl. Advocate General, appearing for the respondents, has vehemently defended the validity of Rule 18 and the 15-year restoration period. It is submitted that pension itself is a welfare scheme providing long-term financial security to retired employees, with no contribution from the employees themselves and that the entire pension expenditure, including the commuted value, is borne by the State exchequer from the Consolidated Fund of the State.

15. It was further contended that the payment of huge lump sum amounts upfront at the instance of the employees on their retirement constitutes a considerable financial burden on the State resources. Learned counsel for the respondent State emphasized that commutation of pension is a voluntary option exercised by the employee with full awareness of the rules and implications and that provides immediate lump sum benefit and financial flexibility to the pensioner.

It was further submitted that the 15-year period for restoration is not arbitrary but is based on the recommendations of expert bodies, including various Pay Commissions, and has been upheld by the Supreme Court in the **Common Cause** case and further that this period accounts for various factors, including mortality risk and the overall financial implications for the State.

16. At the outset, it must be noted that the option of commutation of pension is not mandatory but voluntary. A Government Servant, at the time of retirement, exercises this option with full knowledge of its implications, including the fact that the commuted portion would be restored only after 15 years.

17. One of the issues that falls for our consideration is whether the petitioners can challenge Rule 18 and question the prescribed 15 year period for restoration of full pension inasmuch as the petitioners have themselves derived benefit of the Rules by way of commutation of pension.

In our opinion, the petitioners having derived the benefit of lump sum payment on commutation of pension cannot be permitted to now challenge the very Scheme under which they had obtained the said benefit. The maxim *qui approbat non reprobat*, that is one who

approbates cannot reprobate, is a doctrine which is embodied in English common law and is applied by Courts in this country. The doctrine of approbate and reprobate which is a species of estoppel clearly applies in the instant case.

18. The Apex Court while dealing with the aforementioned principle of law in the case of ***New Bihar Biri Leaves Co. vs. State of Bihar***, (1981) 1 SCC 537, held:

“48. It is a fundamental principle of general application that if a person of his own accord, accepts a contract on certain terms and works out the contract, he cannot be allowed to adhere to and abide by some of the terms of the contract which proved advantageous to him and repudiate the other terms of the same contract which might be disadvantageous to him. The maxim is *qui approbat non reprobat* (one who approbates cannot reprobate). This principle, though originally borrowed from Scots Law, is now firmly embodied in English Common Law. According to it, a party to an instrument or transaction cannot take advantage of one part of a document or transaction and reject the rest. That is to say, no party can accept and reject the same instrument or transaction.”

19. In ***R.N. Gosain vs. Yashpal Dhir***, (1992) 4 SCC 683, the Apex Court held that law did not permit a person to both approbate and reprobate and that the principle was based on the doctrine of election, which postulates that no party could accept and reject the same instrument.

“10. Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that “a person

cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage". According to *Halsbury's Laws of England*, 4th Edn., Vol. 16, "after taking an advantage under an order (for example for the payment of costs) a party may be precluded from saying that it is invalid and asking to set it aside".

20. In ***Shyam Telelink Ltd. vs. Union of India***, (2010) 10 SCC 165, the Apex Court in paragraph 27 referred to the principle of estoppel by acceptance of benefits as per the American jurisprudence and held:

"27. In America estoppel by acceptance of benefits is one of the recognised situations that would prevent a party from taking up inconsistent positions qua a contract or transaction under which it has benefited. *American Jurisprudence*, 2nd Edn., Vol. 28, pp. 677-80 discusses "estoppel by acceptance of benefits" in the following passage:

"Estoppel by the acceptance of benefits.— Estoppel is frequently based upon the acceptance and retention, by one having knowledge or notice of the facts, of benefits from a transaction, contract, instrument, regulation which he might have rejected or contested. This doctrine is obviously a branch of the rule against assuming inconsistent positions.

As a general principle, one who knowingly accepts the benefits of a contract or conveyance is estopped to deny the validity or binding effect on him of such contract or conveyance.

This rule has to be applied to do equity and must not be applied in such a manner as to violate the principles of right and good conscience."

21. Keeping in view the aforementioned principles, in our opinion, it would not be open to the petitioners to challenge Rule 18 at all, having

received the benefits under the very Scheme which is now sought to be questioned by them.

22. Notwithstanding the above, it can be noticed that a similar issue came up for consideration before the Apex Court, in ***Common Cause vs. Union of India***, wherein, the Apex Court was considering certain provisions of the commutation of pension Rules applicable to civilian and defence pensioners on the ground that it permitted the Union of India to recover more than what was paid to the petitioners upon commutation. A direction was thus sought that an appropriate scheme rationalizing the provisions relating to commutation be brought into force.

In deference to the suggestions made by the Apex Court, Government of India took a decision that recovery from pension payable every month towards commuted value of pension would stop on completion of 15 years from the date of retirement on superannuation or on pensioner completing the age of 70 years, whichever was later.

The contention of the petitioners before the Supreme Court was that the commuted portion of the pension was ordinarily recovered within about 12 years and therefore there was no justification for fixing the period at 15 years.

The Apex Court upon consideration of the arguments held:

“5. The petitioners have contended that the commuted portion out of the pension is ordinarily recovered within about 12 years and, therefore, there is no justification for fixing the period at 15 years. Commutation brings about certain advantages. The commuting pensioner gets a lump-sum amount which ordinarily he would have received in course of a spread over period subject to his continuing to live. Thus, two advantages are certainly forthcoming out of commutation — (1) availability of a lump sum amount, and (2) the risk factor. Again many of the State Governments have already formulated schemes accepting the 15 year rule. In this background, we do not think we would be justified in disturbing the 15-year formula so far as civilian pensioners are concerned.”

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

7. The respondent government has agreed that this benefit should be extended with effect from April 1, 1986. The writ applications were filed in 1983. The matter was placed on board for hearing in February 1984. The Union Government took some time for responding to the suggestion of the court and that is how the disposal was initially delayed. Thereafter, the hearing of the matter has again been delayed on account of pressing business in the court. In these circumstances, we think it just and equitable that the benefit agreed to be extended in respect of the commuted portion of the pension should be effective from April 1, 1985 so far as the civilian employees are concerned.”

23. A similar question arose before the Delhi High Court, in ***Forum of Retired IPS Officers v. Union of India***². While dealing with a challenge to the 15-year restoration period, it was held:

² 2019 SCC OnLine Del 6610

"20. Increase in life expectancy and its effect on commuted pension cannot be viewed in isolation. Several factors, figures and the entire pension provisions on the whole including cost to the exchequer have to be taken into consideration... Courts would hesitate and not go by one formula and mathematical calculations on assumption and precept that the formula would be more fair, just and appropriate. There can be many formulas. Calculations are complex, convoluted and a tricky task. Fixation of payment of pension or commutation of pension, etc. are highly difficult and cumbersome exercise which the Court would not like to step into, undertake and even interfere unless there is complete arbitrariness and discrimination that is ex-facie apparent."

24. This Court also takes note of the fact that the risk factor involved in commutation is a significant consideration. The State provides a lump sum amount upfront, and in case of premature death of the pensioner before the completion of the restoration period, the unrecovered amount is foregone by the State. This aspect cannot be overlooked.

25. This Court also notes that the commutation of pension provides certain advantages to the pensioner, as highlighted by the Supreme Court in ***Common Cause*** case, namely, the availability of a lump sum amount and the risk factor.

Additionally, the commutation of pension is presently not taxed under the Income Tax Act, 1961, which adds to the monetary benefit accruing to the pensioners.

26. This Court finds merit in the submissions of the respondents that the 15-year period is a consistent policy followed by the State Government adopted and based on the Central Government's policy and upheld by the Supreme Court in **Common Cause** case. Matters relating to commutation of pension are policy matters, which are examined and decided on the basis of recommendations of expert bodies like the Pay Commissions.

27. Furthermore, the respondents have placed before us the recommendations of the 6th and 7th Central Pay Commissions which recommended the 15 years period as the period for restoration of full pension. Apart from this the 9th, 10th and 11th Pay Revision Commissions constituted by the State Government also recommended the continuation of the 15 year period for restoration of full pension.

28. The argument of the petitioners that the commuted portion is recovered with interest within 11 years and 3 months is based on a simplistic calculation that does not take into account various factors such as mortality risk, and the overall financial implications for the State. As

observed by the Delhi High Court, such calculations are complex, convoluted, and cannot be decided merely on mathematical formulae.

29. While the petitioners have tried to suggest the time period within which the commuted amount stands recovered, but there is no explanation as to how the risk which the Government takes in foregoing the lump sum amount on account of death of a pensioner could be balanced. Emphasis laid by the counsel for the petitioners on the decreased risk of the Government on account of the longevity of life of pensioners is belied by the facts and figures provided by the Government in their counter-affidavit. The amount foregone by the State on account of such premature mortality of the pensioners is stated to be Rs.1153 Crores. The table showing the mortality between the period 2022-24, is reproduced hereunder:

Years within which Pensioner Expired after Sanction of 1 st CVP	No. of Pensioners
Expired within 1 Year of Commutation Sanctioned	628
Expired within 2 Year of Commutation Sanctioned	766
Expired within 3 Year of Commutation Sanctioned	970
Expired within 4 Year of Commutation Sanctioned	931
Expired within 5 Year of Commutation Sanctioned	876
Expired within 6 Year of Commutation Sanctioned	669
Expired within 7 Year of Commutation Sanctioned	775
Expired within 8 Year of Commutation Sanctioned	895
Expired within 9 Year of Commutation Sanctioned	1079
Expired within 10 Year of Commutation Sanctioned	1329
Expired within 11 Year of Commutation Sanctioned	1474
Expired within 12 Year of Commutation Sanctioned	1527
Expired within 13 Year of Commutation Sanctioned	1616
Expired within 14 Year of Commutation Sanctioned	1838
Expired within 15 Year of Commutation Sanctioned	1737

CVP Waived off 100% because of expiry of pensioner before receiving the CVP as per Rule 17 - 18.39 Cr.	262
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30. While it is true that Courts in exercise of the power of judicial review do not ordinarily interfere with the policy decisions of the executive yet equally settled is the principle that if the policy suffers from unfairness, arbitrariness, or can be faulted on *mala fides*, irrationality, or perversity, the same could render the policy unconstitutional. Equally settled is the principle that if a policy framed by the Government is based on a number of circumstances on facts, law including constraints based on its resources, the Court would dissuade itself from entering into the realm which belongs to the executive. Reference in this regard can be made to the Apex Court judgment in ***State of Punjab v. Ram Lubhaya Bagga***, (1998) 4 SCC 117.

31. In ***Ugar Sugar Works Ltd. v. Delhi Admn.***, (2001) 3 SCC 635, the Apex Court held:

“18. The challenge, thus, in effect, is to the executive policy regulating trade in liquor in Delhi. It is well settled that the courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. However, if the policy cannot be faulted on any of these grounds, the mere fact that it would hurt business interests of a party, does not justify invalidating the policy. In tax and economic regulation cases, there are good

reasons for judicial restraint, if not judicial deference, to judgment of the executive. The courts are not expected to express their opinion as to whether at a particular point of time or in a particular situation any such policy should have been adopted or not. It is best left to the discretion of the State.”

32. In ***BALCO Employees' Union (Regd.) v. Union of India***, (2002) 2 SCC 333, the Apex Court held that unless any illegality was committed in the execution of the policy or the same was contrary to law or was malafide in character, the same could not be interfered with by the Court. It was further held:

“98. In the case of a policy decision on economic matters, the courts should be very circumspect in conducting any enquiry or investigation and must be most reluctant to impugn the judgment of the experts who may have arrived at a conclusion unless the court is satisfied that there is illegality in the decision itself.”

33. In ***Parisons Agrotech (P) Ltd. vs. Union of India***, (2015) 9 SCC 657, the aforementioned view has been reiterated by the Apex Court, wherein it was held:

“14. No doubt, the writ court has adequate power of judicial review in respect of such decisions. However, once it is found that there is sufficient material for taking a particular policy decision, bringing it within the four corners of Article 14 of the Constitution, power of judicial review would not extend to determine the correctness of such a policy decision or to indulge into the exercise of finding out whether there could be more appropriate or better alternatives. Once we find that parameters of Article 14 are satisfied; there was due application of mind in arriving at the decision which is backed by cogent material; the decision is not arbitrary or irrational and; it is taken in public interest, the Court has to

respect such a decision of the executive as the policy making is the domain of the executive and the decision in question has passed the test of the judicial review.”

34. Considering the fact that the Government has framed a Rule which has as its substratum the policy based upon the recommendations of the Pay Revision Commissions and when we test the impugned Rule on the touchstone of the aforementioned principles, it can be seen that the Government has prescribed a period of 15 years, considering various factors including the risk factors which accompany the payment of a lump sum amount to a pensioner and other economic considerations accompanying it. It would be worthwhile to reproduce the recommendations made by the 11th Pay Revision Commission which shows the advantage which the pensioners secure upon receipt of lump sum payment:

“Recommendation

17.34. This issue was put forth before the earlier PRCs as well. The PRC 1999 did not agree for reducing the period of restoration on the ground that the age of retirement in the State Government was 58 years but not 60 years as was being followed in other states like Kerala, Orissa, Punjab and Madhya Pradesh. This position is no longer relevant though since the age of retirement has been revised to 60 years in 2014. The PRC 2005 suggested to adopt the principles which are followed by the Government of India. The 2010 and 2015 PRCs reiterated the recommendation of the 2005 PRC.

17.35. We would like to highlight four different aspects which have a bearing on this issue:

i) Firstly, commutation of pension is a voluntary act and the employee can even exercise this option at any time after his retirement. He/she can also decide the portion of pension which he/she wants to commute, subject of course to the prescribed limit. The employee is therefore free to judge the benefits and drawbacks of the scheme and then decide whether to opt for it or not.

ii) Secondly, the rules provide for restoration of the commuted portion of pension in the unfortunate event of demise of the original pensioner i.e. in such cases no further recovery is made from the Family Pensioner. This introduces an element of mortality risk which has been factored in for the purpose of calculating the restoration period. The Supreme Court, vide their judgment dated 09.12.1986, allowed restoration of pension after 15 years because of the presence of this risk factor. We are aware that this conclusion has been contested in some quarters by arguing that the Supreme Court decision was delivered long time back and since then the expectancy of life at birth has increased (from 56.60 to 69.04 years). Nevertheless, considering the fact that the normal age of retirement is 60 years and the restoration of pension takes place at the age of 75 (or more) there is still a mortality risk involved in the scheme although it has reduced quite a bit.

iii) Thirdly, one of the most attractive benefits of the scheme is that it makes available to the pensioner a lump sum amount by capitalising the pension over several months. The pensioner can use it either to meet some urgent family needs such as acquiring a suitable shelter, meeting marriage/educational/health care expenses etc. or simply invest it for financial return. In the earlier case the true value of this amount cannot be expressed only in monetary terms.

iv) Fourthly, as mentioned above, the pensioner may choose to invest the amount for financial benefit. Although there are many alternative avenues of investment, we would make an attempt to compare the financial returns that the pensioner would get if he/she deploys the lump sum commuted amount in a Bank fixed deposit, which is the safest mode of investment, with the amount that one would have made by investing the amount recovered every month towards commutation i.e. had he not opted for commutation. The contention of the pensioners is that the Government recovers more than it pays in lump sum on commutation. While making this comparison one has to keep in mind the fact that the Commutation Value of

pension, received in lump sum, is not taxable but the monthly pension as well as the interest accrued on Bank deposits are taxable. The following realistic assumptions and formulae have been used in drawing this comparative Table:

a) The lump sum commuted value of pension is deposited in a Bank fixed deposit for a period of 15 years at an interest rate of 8% p.a. compounded at quarterly intervals;
 b) Alternatively, an amount equivalent to the monthly commuted portion of pension is deposited every month in a Bank Recurring Deposit for a period of 15 years, at an interest rate of 8% p.a. compounded at quarterly intervals;
 c) For simplicity of calculation, it is assumed that ₹.1,000/- is the commuted portion of pension. The lump sum Commuted Value then comes to ₹.1000 x 8.194 x 12 = ₹.98,328/-.

d) Total Future Value (A) of investment in Fixed Deposit including interest is given by

$$A = P(1+r/n)^{nt}$$

where P= Principal Amount, r= Annual Rate of Interest (in decimal), n= number of times that interest is compounded per unit 't', t= the time for which money is invested

e) Total Maturity Value (M) of investment in Recurring Deposit including interest is given by

$$M = R[(1+i)^n - 1] / i$$

where R= Monthly Instalment, n= number of quarters, i= Annual Rate of Interest/400

Comparative Table

Fixed Deposit		Recurring Deposit	
1. Commuted amount of pension	₹ 1,000	Post Tax Monthly Pension (i) 5.2% tax bracket (ii) 20.8% tax bracket (iii) 31.2% tax bracket	₹948 ₹792 ₹688
2. Total Commuted Value	₹ 98,328		
3. Income Tax on (1) above	NIL		
4. Net amount deposited in F.D.	₹98,328		
5. Pre-tax maturity value ('A' above)	₹3,22,617	Pre-tax maturity value ('M' above)	₹3,08,777 ₹2,57,965 ₹2,24,091
6. Maturity Value after Tax	₹3,10,954 ₹2,75,965 ₹2,52,639	Maturity Value after Tax (i) 5.2% tax bracket (ii) 20.8% tax bracket (iii) 31.2% tax bracket	₹3,01,594 ₹2,33,961 ₹1,92,812

17.36. The above Table shows that the Commuted Value based on present number of years of purchase yields better

returns post tax, as compared to the recoveries made in a period of 15 years, at 8% compounded rate of interest. Hence, coupled with the mortality risk covered, and the advantage and flexibility associated with the lump sum amount received, opting for commutation is at present more advantageous to the employees.

17.37. We may also mention here in passing that the above issue was judicially tested in the Hon'ble Delhi High Court in the case of Forum of Retired IPS Officers vs. Union of India and the Hon'ble High Court, in its judgement delivered on 17 January, 2019, dismissed the case of the petitioners.

17.38. In the totality of the matter discussed above, the Commission therefore recommends continuance of the period of restoration of commuted portion of pension at the present level of 15 years."

35. The fact that even after 15 years, receipt of a lump sum amount by a pensioner if invested rightly earns better returns as compared to receiving full pension on a monthly basis, goes to show that the scheme framed by the Government, even when it envisages restoration of full pension upon completion of 15 years, is not detrimental to the interest of the petitioner. Moreover, whereas the pensioner is liable to pay income tax on the monthly pension which he receives at the end of the year, the amount if paid in lump sum upon commutation is not liable to be taxed at all.

36. All these factors persuade us to hold that the impugned rule does not suffer from any perversity or arbitrariness.

37. Be that as it may, we do not find any merit in the present set of writ petitions which are accordingly dismissed.

No order as to costs. Pending miscellaneous applications if any, in these petitions, shall stand closed.

DHIRAJ SINGH THAKUR, CJ.

RAVI CHEEMALAPATI, J.

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