REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10857 OF 2016

All Manipur Pensioners Association by its Secretary ..Appellant

Versus

The State of Manipur and others ..Respondents

J U D G M E N T

M.R. SHAH, J.

Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court of Manipur at Imphal dated 01.03.2016 passed in Writ Appeal No. 28 of 2006, by which the Division Bench of the High

Court has allowed the said appeal preferred by the respondent – State and has quashed and set aside the judgment and order dated 24.3.2005 passed by the learned Single Judge in Writ Petition (C) No. 1455 of 2000, by which the learned Single Judge held that the method of calculating the revised pension in paragraph 4.1 of the office memorandum dated 24.4.1999 in respect of pre-1996 pensioners is different from the method of calculating the revised pension for the Government employees who retired/died in harness on or after 1.1.1996 is arbitrary and violative of Article 14 of the Constitution of India, the original writ petitioners have preferred the present appeal.

2. The facts leading to the present appeal in nutshell are as under:

That the State of Manipur adopted the Central Civil Services (Pension) Rules, 1972, as amended from time to time. As per Rule 49 of the Central Civil Services Rules, 1972, a case of a government employee retired in accordance with the provisions of the rules after completing qualifying service of not less than 30 years, the amount of pension shall be calculated at 50% of the average emoluments subject to a maximum of Rs.4500/- per month. It appears that considering the increase in the cost of

living, the Government of Manipur decided to increase the quantum of pension as well as the pay of the employees. That the Government of Manipur issued an office memorandum dated 21.4.1999 revising the quantum of pension. However, provided that those Manipur Government employees who retired on or after 1.1.1996 shall be entitled to the revised pension at a higher percentage and those who retired before 1.1.1996 shall be entitled at a lower percentage.

2.1 Feeling aggrieved by office memorandum dated 21.4.1999 providing two different revised pensions, viz, the higher percentage of revised pension to the government employees who retired on or after 1.1.1996 and the lower percentage of revised pension to those who retired on or before 1.1.1996, the appellant herein – All Manipur Pensioners Association approached the learned Single Judge of the High Court of Manipur by way of Writ Petition (C) No.1455 of 2000. It was the case on behalf of the original writ petitioners that all the pensioners who retired on or after 1.1.1996 and those who retired before 1.1.1996 form only one class as a whole and therefore the classification between those who retired on or after 1.1.1996 and those who retired on or before 1.1.1996 for the purpose of granting the benefit of

revised pension is arbitrary, unreasonable and violative of Article 14 of the Constitution of India. It was submitted that the date of retirement cannot form the very criterion for classification. Before the learned Single Judge, heavily reliance was placed on the decision of this Court in the case of *D.S. Nakara and others vs. Union of India, reported in (1983) 1 SCC 305.* The writ petition before the learned Single Judge was opposed by the State Government and the aforesaid classification was sought to be justified solely on the ground that considering the financial constraints of the State, the State was justified in granting revised pension differently to those who retired after 1.1.1996 and those who retired before 1.1.1996. It was the case on behalf of the State that considering the financial constraints of the State, the State was not in a position to extend the benefit of pension making the percentage given by the Government of India in its memorandum dated 17.12.1998 to the pre-1996 pensioners and accordingly a decision was taken to extend the benefit of revised pension at certain percentage for the pre-1996 pensioners and higher percentage for the post 1996 pensioners. Relying upon the decision of this Court in *D.S. Nakara's case (supra)*, by the judgment and order dated 24.3.2005, the learned Single

Judge allowed the writ petition and held the classification between those pensioners who retired prior to 1996 and those who retired after 1996 as arbitrary and violative of Article 14 of the Constitution of India and consequently directed the State Government to pay the revised pension uniformly to all the pensioners irrespective of any cut-off date, i.e., those who retired pre-1996 or those who retired post-1996.

2.2. Feeling aggrieved and dissatisfied with the judgment and order dated 24.3.2005 passed by the learned Single Judge in Writ Petition (C) No. 1455 of 2000, the State preferred appeal before the Division Bench of the High Court. By the impugned judgment and order dated 1.3.2016, the Division Bench of the High Court has allowed the said appeal and has quashed and set aside the judgment and order passed by the learned Single Judge by observing that a classification is permissible and cut-off date can be pressed into service depending on financial resources of the State. The Division Bench has held that the cut-off date fixed by the State government as 1.1.1996 for payment of revised pension to pre-1996 retirees and post-1996 retirees cannot be termed to be unreasonable or irrational in the light of Article 14

of the Constitution of India and therefore need not be held to be invalid.

3. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court, the original writ petitioners have preferred the present appeal.

4. Shri R. Balasubramanian, learned Senior Advocate has appeared for the appellant herein and Shri Sanjay Hegde, learned Senior Advocate has appeared for the State.

4.1 Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant – Pensioners Association has vehemently submitted that in the facts and circumstances of the case, the Division Bench of the High Court has materially erred in allowing the appeal and quashing and setting aside the judgment and order passed by the learned Single Judge of the High Court and approving the creation of two classes of pensioners, viz., pre-1996 and post-1996 for the purpose of revision in pension, which is contrary to catena of decisions of this Court including the decision of this Court in the case of *D.S. Nakara (supra)*.

4.2 It is further submitted by Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant – Pensioners Association that the Division Bench of the High Court has materially erred in not following the decision of this Court in the case of *D.S. Nakara (supra)*. It is submitted that the Division Bench of the High Court has not properly appreciated the fact that the decision of this Court in the case of *D.S. Nakara (supra)* has not been diluted at all in any of the subsequent decisions and still holds the field. It is submitted that the decisions of this Court in the cases of *Hari Ram Gupta (D) through L.R. Kasturi Devi v. State of U.P., reported in (1998) 6 SCC 328; T.N. Electricity Board v. R. Veerasamy & others, reported in (1999) 3 SCC 414; State of Punjab and others v. Amar Nath Goyal & others, reported in (2005) 6 SCC 754*, which came to be considered by the Division Bench of the High Court while not following the decision of this Court in the case of *D.S. Nakara (supra)* shall not be applicable to the facts of the case on hand and all the aforesaid decisions are clearly distinguishable.

4.3 It is further submitted by Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant –

Pensioners Association that the Division Bench of the High Court has erred in not properly appreciating the fact that all the pensioners form only one class as a whole and therefore they cannot be divided in two/classified into two groups for the purpose of giving more financial benefits to one group than the other. It is submitted that the State's financial difficulty/constraint cannot be a ground to discriminate and/or create two classes who as such belong to one class only.

4.4 It is further submitted by Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant – Pensioners Association that the High Court has not properly appreciated the fact that all the pensioners, whether they have retired pre-1996 or post-1996 are governed by the pension rules and are entitled to pension and therefore as such they form only one class as a whole and therefore all the pensioners are entitled to the same pensionary benefits irrespective of their date of retirement.

4.5 It is further submitted by Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant – Pensioners Association that as held by this Court in the case of *D.S. Nakara (supra) (para 42)*, the classification has to be based

on some rational principle and the rational principle must have nexus to the objects sought to be achieved. It is submitted that if the State Government considered it necessary to revise the pension due to the escalation in the cost of living and other things, there is no rational principle behind it for granting the revised pension only to those who retired post-1996 and simultaneously denying the same to those who retired pre-1996. It is vehemently submitted that if the revision of pension was necessitated due to the escalation in the cost of living etc., there is no reason to deny the benefit of revised pension to those who retired pre-1996. It is submitted that therefore this revision which classified pension into two classes is not based on any rational principle. It is submitted that as held by this Court in the case of *D.S. Nakara (supra)* if the rational principle is the one of dividing pensioners with a view to giving something more to persons otherwise equally placed, it would be discriminatory. It is submitted that this arbitrary division has not only no nexus to the revision in pension but it is counterproductive and runs counter to the whole gamut of pension scheme, more particularly the revision in pension.

4.6 It is further submitted by Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant – Pensioners Association that the only justification by the State to create two classes for the purposes of payment of revision in pension, viz., those who retired pre-1996 and those who retired post-1996 was the financial constraint. It is submitted that the aforesaid has no nexus with the object and purpose of revision in pension. It is submitted therefore that such a classification is absolutely arbitrary and therefore violative of Articles 14 & 16 of the Constitution of India. It is submitted that as such the learned Single Judge of the High Court was justified in holding creation of two classes for the purpose of revision in pension as arbitrary and violative of Article 14 of the Constitution of India.

4.7 It is further submitted by Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant – Pensioners Association that looking to the object and purpose of the revision in pension, namely, increase in the cost of living, the Division Bench of the High Court has materially erred in observing and holding that as the State does not have the financial resources to pay uniform pension to all the retired employees and therefore cut-off date fixed by the State

Government as 1.1.1996 for payment of revised pension to pre-1996 retirees and post-1996 retirees cannot be termed to be unreasonable or irrational in the light of Article 14 of the Constitution of India. It is submitted that the aforesaid finding recorded by the Division Bench of the High Court is just contrary to the decision of this Court in the case of *D.S. Nakara (supra)* and other subsequent decisions in which the decision of this Court in the case of *D.S. Nakara(supra)* has been followed.

4.8 It is further submitted by Shri R. Balasubramanian, learned Senior Advocate appearing on behalf of the appellant – Pensioners Association that in the present case the decision of this Court in the case of *D.S. Nakara (supra)* is squarely applicable to the facts of the case. It is submitted therefore that the Division Bench of the High Court has materially erred in quashing and setting aside the judgment and order passed by the learned Single Judge in holding the decision of the State Government creating two groups for the purpose of revision in pension as arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

4.9 Making the above submissions and heavily relying upon the decision of this Court in the case of *D.S. Nakara(supra)*, it is prayed to allow the present appeal.

5. The present appeal is vehemently opposed by Shri Sanjay Hegde, learned Senior Advocate appearing on behalf of the respondent – State.

5.1 It is vehemently submitted by Shri Sanjay Hegde, learned Senior Advocate appearing on behalf of the respondent – State that in the facts and circumstances of the case and after considering the observations made by this Court in the cases of *Hari Ram Gupta (supra), R. Veerasamy (supra) and Amar Nath Goyal (supra)*, the Division Bench of the High Court has rightly held that the cut-off date fixed by the State Government for the purpose of revised pension cannot be said to be unreasonable or irrational in the light of Article 14 of the Constitution of India.

5.2 It is further submitted by Shri Sanjay Hegde, learned Senior Advocate appearing on behalf of the respondent – State that the decision of this Court in the case of *D.S. Nakara (supra)*, which has been heavily relied upon by the learned Senior Advocate appearing on behalf of the appellant – Pensioners Association, subsequently came to be considered by this Court and it has

been observed that the decision of this Court in the case of *D.S. Nakara (supra)* is one of the limited application and there is no scope for enlarging the ambit of that decision to cover all schemes made by the retirees or a demand for an identical amount of pension irrespective of the date of retirement. In support of his above submission, Shri Sanjay Hegde, learned Senior Advocate appearing on behalf of the respondent – State has heavily relied upon the decisions of this Court in the cases of *Indian Ex-Services League v. Union of India, reported in (1991) 2 SCC 104, Union of India v. P.N. Menon, reported in (1994) 4 SCC 68 and State of Rajasthan v. Amrit Lal Gandhi, reported in (1997) 2 SCC 342.*

5.3 Shri Sanjay Hegde, learned Senior Advocate appearing on behalf of the respondent – State has also heavily relied upon some of the observations made by this Court in the case of *Kallakkurichi Taluk Retired Officials Association, Tamil Nadu and others v. State of Tamil Nadu, reported in (2013) 2 SCC 772* in support of his submission that financial constraint can be a valid ground to grant the benefit of revised pension to some of the pensioners and it is always open to the State Government looking

to its own financial constraint to grant the benefit of revised pension by providing the cut-off date. It is submitted therefore that such a classification and/or creation of two groups for the purpose of granting the benefit of revised pension cannot be said to be unreasonable, irrational and violative of Article 14 of the Constitution of India as sought to be contended on behalf of the Pensioners Association.

5.4 Making the above submissions and relying upon the aforesaid decisions, it is prayed to dismiss the present appeal.

6. We have heard the learned Senior Advocates for the respective parties at length.

6.1 It is not in dispute that the State of Manipur has adopted the Central Civil Services (Pension) Rules to be applicable to the State of Manipur. Therefore, all the government servants retired in accordance with the provisions of the Pension Rules and after completing qualifying service are entitled to the pension/pensionary benefits. It appears that considering the increase in the cost of living, the State Government enhanced/revised the pension of its employees with effect from 1.1.1996 as in the case of Central Government employees. However, this revision in pension was done differently, viz., for

employees who retired prior to 1.1.1996 and for employees who retired after 1.1.1996. Consequently, the State provided a lower percentage of increase to those who retired pre-1996 and provided higher percentage of increase to those who retired post-1996. The learned Single Judge of the High Court held that such a classification is not permissible in law keeping in mind the equality clause of the Constitution. However, on an appeal, by the impugned judgment and order, the Division Bench of the High Court has reversed the decision of the learned Single Judge and has observed and held that as in the present case the State does not have the financial resources to pay uniform pension to all the retired employees, the cut-off date fixed by the State Government as 1.1.1996 for payment of revised pension to pre-1996 retirees and post-1996 retirees cannot be termed to be unreasonable and irrational in the light of Article 14 of the Constitution of India. While passing the impugned judgment and order, the Division Bench of the High Court has not followed the decision of this Court in the case of *D.S. Nakara (supra)*, considering some of the observations made by this Court in the subsequent decisions in the cases of *R. Veerasamy (supra); Amar Nath Goyal(supra) and P.N. Menon (supra)* to the effect that the

decision in the case of *D.S. Nakara (supra)* is one of the limited application and there is no scope for enlarging the ambit of that decision to cover all schemes made by the retirees or a demand for an identical amount of pension irrespective of the date of retirement.

6.2 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court, the original writ petitioners – All Manipur Pensioners Association – employees/pensioners who retired pre-1996 have preferred the present appeal.

7. The short question which is posed for consideration before this Court is, whether in the facts and circumstances of the case, the decision of this Court in the case of *D.S. Nakara (supra)* shall be applicable or not, and in the facts and circumstances of the case and solely on the ground of financial constraint, the State Government would be justified in creating two classes of pensioners, viz., pre-1996 retirees and post-1996 retirees for the purpose of payment of revised pension and whether such a classification is arbitrary, unreasonable and violative of Article 14 of the Constitution of India or not?

7.1 At the outset, it is required to be noted that in the present case, the State Government has justified the cut-off date for payment of revised pension solely on the ground of financial constraint. On no other ground, the State tried to justify the classification. In the backdrop of the aforesaid facts, the aforesaid question posed for consideration before this Court is required to be considered.

7.2 It is not in dispute that the State Government has adopted the Central Civil Services (Pension) Rules, to be applicable to the State of Manipur. The State has also come out with the Manipur Civil Services (Pension) Rules, 1977. It is also not in dispute that subject to completing the qualifying service the government servants retired in accordance with the pension rules are entitled to pension. Therefore, as such, all the pensioners form only one homogeneous class. Therefore, it can be said that all the pensioners form only one class as a whole. Keeping in mind the increase in the cost of living, the State Government increased the quantum of pension and even pay for its employees. The State Government also enhanced the scales of pension/quantum of pension with effect from 1.1.1996 keeping in mind the increase in the cost of living. However, the State Government provided the

cut-off date for the purpose of grant of benefit of revised pension with effect from 1.1.1996 to those who retired post-1996 and denied the revision in pension to those who retired pre-1996. The aforesaid classification between these pensioners who retired pre-1996 and post-1996 for the purpose of grant of benefit of revision in pension is the subject matter of this appeal. As observed hereinabove, the aforesaid classification is sought to be justified by the State Government solely on the ground of financial constraint.

7.3 At the outset, it is required to be noted that in the case of *D.S.Nakara (supra)*, such a classification is held to be arbitrary, unreasonable, irrational and violative of Article 14 of the Constitution of India. In paragraphs 42 and 65, this Court in the case of *D.S. Nakara (supra)* has observed and held as under:

> **"42.** If it appears to be undisputable, as it does to us that the pensioners for the purpose of pension benefits form a class, would its upward revision permit a homogeneous class to be divided by arbitrarily fixing an eligibility criteria unrelated to purpose of revision, and would such classification be founded on some rational principle? The classification has to be based, as is well settled, on some rational principle and the rational principle must have nexus to the objects sought to be achieved. We have set out the objects underlying the payment of pension. If the

State considered it necessary to liberalise the pension scheme, we find no rational principle behind it for granting these benefits only to those who retired subsequent to that date simultaneously denying the same to those who retired prior to that date. If the liberalisation was considered necessary for augmenting social security in old age to government servants then those who, retired earlier cannot be worst off than those who retire later. Therefore, this division which classified pensioners into two classes is not based on any rational principle and if the rational principle is the one of dividing pensioners with a view to giving something more to persons otherwise equally placed, it would be discriminatory. To illustrate, take two persons, one retired just a day prior and another a day just succeeding the specified date. Both were in the same pay bracket, the average emolument was the same and both had put in equal number of years of service. How does a fortuitous circumstance of retiring a day earlier or a day later will permit totally unequal treatment in the matter of pension? One retiring a day earlier will have to be subject to ceiling of Rs 8100 p.a. and average emolument to be worked out on 36 months' salary while the other will have a ceiling of Rs 12,000 p.a. and average emolument will be computed on the basis of last 10 months' average. The artificial division stares into face and is unrelated to any principle and whatever principle, if there be any, has absolutely no nexus to the objects sought to be achieved by liberalising the pension scheme. In fact this arbitrary division has not only no nexus to the liberalised pension scheme but it is counter-productive and runs counter to the whole gamut of pension scheme. The equal treatment guaranteed in Article 14 is wholly violated inasmuch as the pension rules being statutory in character, since the specified date, the rules accord differential and discriminatory treatment to equals in the matter of commutation of pension. A 48 hours' difference in matter of retirement

would have a traumatic effect. Division is thus both arbitrary and unprincipled. Therefore, the classification does not stand the test of Article 14.

65. That is the end of the journey. With the expanding horizons of socio-economic justice, the Socialist Republic and welfare State which we endeavour to set up and largely influenced by the fact that the old men who retired when emoluments were comparatively low and are exposed to vagaries of continuously rising prices, the falling value of the rupee consequent upon inflationary inputs, we are satisfied that by introducing an arbitrary eligibility criterion: "being in service and retiring subsequent to the specified date" for being eligible for the liberalised pension scheme and thereby dividing a homogeneous class, the classification being not based on any discernible rational principle and having been found wholly unrelated to the objects sought to be achieved by grant of liberalised pension and the eligibility criteria devised being thoroughly arbitrary, we are of the view that the eligibility for liberalised pension scheme of "being in service on the specified date and retiring subsequent to that date" in impugned memoranda, Exs. P-1 & P-2, violates Article 14 and is unconstitutional and is struck down. Both the memoranda shall be enforced and implemented as read down as under: In other words, in Ex. P-1, the words:

"that in respect of the government servants who were in service on March 31, 1979 and retiring from service on or after that date"

and in Ex. P-2, the words:

"the new rates of pension are effective from April 1, 1979 and will be applicable to all service officers who became/become non-effective on or after that date"

> are unconstitutional and are struck down with this specification that the date mentioned therein will be relevant as being one from which the liberalised pension scheme becomes operative to all pensioners governed by 1972 Rules irrespective of the date of retirement. Omitting the unconstitutional part it is declared that all pensioners governed by the 1972 Rules and Army Pension Regulations shall be entitled to pension as computed under the liberalised pension scheme from the specified date, irrespective of the date of retirement. Arrears of pension prior to the specified date as per fresh computation is not admissible. Let a writ to that effect be issued. But in the circumstances of the case, there will be no order as to costs."

7.4 While the aforesaid decision of this Court in the case of *D.S. Nakara (supra)* was relied upon by the appellant herein and as such which came to be considered and followed by the learned Single Judge, the Division Bench considering some of the observations made in the cases of *Hari Ram Gupta (supra); R. Veerasamy (supra); Amar Nath Goyal(supra) and P.N. Menon (supra)*, has observed and held that the decision of this Court in the case of *D.S. Nakara (supra)* is one of the limited application and there is no scope for enlarging the ambit of that decision to cover all schemes made by the retirees or a demand for an identical amount of pension irrespective of the date of retirement. However, by not following the decision of this Court in the case of

D.S. Nakara (supra), considering some of the observations made by this Court in the aforesaid decisions, namely *P.N.Menon(supra) and other decisions,* the Division Bench of the High Court has not at all considered the distinguishable facts in the aforesaid decisions.

7.5 In the case of *P.N. Menon(supra),* the controversy was altogether different one. The factual position that needs to be highlighted insofar as *P.N. Menon (supra) is concerned*, is that the retired employees had never been in receipt of "dearness pay" when they retired from service and therefore the O.M. in question could not have been applied to them. This is how this Court examined the matter. This Court also noticed that prior to the O.M. in question, the pension scheme was contributory and only with effect from 22.9.1977, the pension scheme was made non-contributory. Since the respondent employees in the first cited case were not in service at the time of introducing the same they were held not eligible for the said benefit. Therefore, the said decision shall not be applicable to the facts of the case on hand, more particularly while considering and/or applying the decision of this Court in the case of *D.S. Nakara (supra).*

7.6 In the case of *Amrit Lal Gandhi (supra)*, pension was introduced for the first time for the University teachers based on the resolution passed by the Senate and Syndicate of Jodhpur

University. The same was approved by the State Government with effect from 1.1.1990. Therefore, the controversy was not between one set of pensioners alleging discriminatory treatment as against another set of pensioners. There were no pensioners to begin with. The retirees were entitled to provident fund under the existing provident fund scheme. The question of discrimination between one set of pensioners from another set of pensioners did not arise in the said decision. With the aforesaid facts, this Court observed that financial viability is a relevant issue.

7.7 Similarly, the decision of this Court in the case of *Indian Ex-Services League (supra)* also shall not be applicable to the facts of the case on hand. The facts in this case and the facts in the case of *D.S. Nakara (supra)* are clearly distinguishable. In the case of *Indian Ex-Services League (supra)*, the dispute was with respect to PF retirees and Pension retirees and to that it was held that PF retirees and Pension retirees constitute different classes and

therefore this Court distinguished the decision of this Court in the case of *D.S. Nakara (supra)*. Therefore, the aforesaid decision shall not be applicable to the facts of the case on hand at all.

7.8 Similarly, the decisions of this Court in the cases of *Hari Ram Gupta (supra) and Kallakkurichi Taluk Retired Officials Association, Tamil Nadu (supra)* also shall not be applicable to the facts of the case on hand.

7.9 In view of the above, we are satisfied that none of the judgments, relied upon by the learned Senior Advocate for the respondent – State, has any bearing to the controversy in hand. The Division Bench of the High Court has clearly erred in not appreciating and/or considering the distinguishable facts in the cases of *Hari Ram Gupta (supra); R. Veerasamy (supra); Amar Nath Goyal (supra); P.N. Menon (supra) and Amrit Lal Gandhi (supra)*.

8. Even otherwise on merits also, we are of the firm opinion that there is no valid justification to create two classes, viz., one who retired pre-1996 and another who retired post-1996, for the purpose of grant of revised pension, In our view, such a classification has no nexus with the object and purpose of grant

of benefit of revised pension. All the pensioners form a one class who are entitled to pension as per the pension rules. Article 14 of the Constitution of India ensures to all equality before law and equal protection of laws. At this juncture it is also necessary to examine the concept of valid classification. A valid classification is truly a valid discrimination. It is true that Article 16 of the Constitution of India permits a valid classification. However, a very classification must be based on a just objective. The result to be achieved by the just objective presupposes the choice of some for differential consideration/treatment over others. A classification to be valid must necessarily satisfy two tests. Firstly, the distinguishing rationale has to be based on a just objective and secondly, the choice of differentiating one set of persons from another, must have a reasonable nexus to the objective sought to be achieved. The test for a valid classification may be summarised as a distinction based on a classification founded on an intelligible differentia, which has a rational relationship with the object sought to be achieved. Therefore, whenever a cut-off date (as in the present controversy) is fixed to categorise one set of pensioners for favourable consideration over others, the twin test for valid classification or valid discrimination

therefore must necessarily be satisfied. In the present case, the classification in question has no reasonable nexus to the objective sought to be achieved while revising the pension. As observed hereinabove, the object and purpose for revising the pension is due to the increase in the cost of living. All the pensioners form a single class and therefore such a classification for the purpose of grant of revised pension is unreasonable, arbitrary, discriminatory and violative of Article 14 of the Constitution of India. The State cannot arbitrarily pick and choose from amongst similarly situated persons, a cut-off date for extension of benefits especially pensionary benefits. There has to be a classification founded on some rational principle when similarly situated class is differentiated for grant of any benefit.

8.1 As observed hereinabove, and even it is not in dispute that as such a decision has been taken by the State Government to revise the pension keeping in mind the increase in the cost of living. Increase in the cost of living would affect all the pensioners irrespective of whether they have retired pre-1996 or post-1996. As observed hereinabove, all the pensioners belong to one class. Therefore, by such a classification/cut-off date the equals are treated as unequals and therefore such a classification

which has no nexus with the object and purpose of revision of pension is unreasonable, discriminatory and arbitrary and therefore the said classification was rightly set aside by the learned Single Judge of the High Court. At this stage, it is required to be observed that whenever a new benefit is granted and/or new scheme is introduced, it might be possible for the State to provide a cut-off date taking into consideration its financial resources. But the same shall not be applicable with respect to one and single class of persons, the benefit to be given to the one class of persons, who are already otherwise getting the benefits and the question is with respect to revision.

9. In view of the above and for the reasons stated above, we are of the opinion that the controversy/issue in the present appeal is squarely covered by the decision of this Court in the case of *D.S. Nakara (supra)*. The decision of this Court in the case of *D.S. Nakara (supra)* shall be applicable with full force to the facts of the case on hand. The Division Bench of the High Court has clearly erred in not following the decision of this Court in the case of *D.S. Nakara (supra)* and has clearly erred in reversing the judgment and order of the learned Single Judge. The impugned judgment and order passed by the Division Bench

is not sustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. The judgment and order passed by the learned Single Judge is hereby restored and it is held that all the pensioners, irrespective of their date of retirement, viz. pre-1996 retirees shall be entitled to revision in pension at par with those pensioners who retired post-1996. The arrears be paid to the respective pensioners within a period of three months from today.

10. The instant appeal is allowed accordingly. However, in the facts and circumstances of the case, there shall be no order as to costs.

.....J.
[M.R. SHAH]

NEW DELHI;
JULY 11, 2019.

.....J.
[A.S. BOPANNA]