

LIFE INSURANCE CORPORATION OF INDIA & OTHERS A
v.
RETIRED L.I.C. OFFICERS ASSOCIATION AND OTHERS
(Civil Appeal No. 1289 of 2007)

FEBRUARY 12, 2008

(S.B. SINHA AND HARJIT SINGH BEDI, JJ.) B

Life Insurance Corporation of India (Staff) Regulations, 1960:

Regulations 51(1) and 77 – Revision of pay scales – Chairman of Corporation issuing Life Insurance Corporation of India Class I Officers (Revision of Terms and Conditions of Service) Instructions, 1996 fixing cut-off dates as 1.4.1993 for revision of pay and 1.8.1994 for payment of gratuity in terms of revised pay – HELD: An employee is entitled to gratuity – It is not a bounty – If an employee became entitled to revised pay on date of retirement, his revised pay must be taken to be permanent pay for purpose of computation of gratuity. C D

Administrative Law:

Subordinate Legislation – Powers of sub-delegatee – Chairman of LIC issuing instructions in exercise of powers under Regulation 51 fixing different cut-off dates for revision of pay and payment of gratuity in terms of revised pay – HELD: A delegatee cannot act in violation of a statute – A sub-delegatee cannot exercise any power which is not meant to be conferred upon him by reason of statutory provision – Gratuity is not covered under Regulation 51 – Provident Fund and Gratuity are ordinarily governed by the Acts enacted by Parliament subject to conditions contained therein – Regulation 77 provides as to how amount of gratuity is to be calculated – Regulation 51 provides for a rule of measurement – Life Insurance Corporation of India (Staff) Regulations, 1960 – Regulations 51 and 77 – Life Insurance Corporation of India E F G

A *Class I Officers (Revision of Terms and Conditions of Service) Instructions, 1996.*

Words and Phrases:

B *Expression "and other matters connected therewith or incidental thereto" occurring in Regulation 51(2) of Life Insurance Corporation of India (Staff) Regulations, 1960 – Connotation of.*

C **The Chairman of the appellant-Life Insurance Corporation, pursuant to revision of pay of the employees of the Corporation, in exercise of powers under Regulation 51 of the LIC of India (Staff) Regulations 1960, issued Life Insurance Corporation of India Class I Officers (Revision of Terms and Conditions of Service) Instructions, 1996, fixing cut-off dates for grant of different allowances as also the pay. The cut-off date for revision of pay was fixed as 1.4.1993. However, for payment of gratuity, the cut-off date was fixed as 1.8.1994, which was challenged in some of the High Courts. The Gujarat High Court and the Karnataka High Court upheld the validity of the 1996 Instructions whereas the Kerala High Court in the judgment under appeal took a different view.**

F **In the instant appeal filed by the Life Insurance Corporation, it was contended for the respondent-employees that the power of the Chairman of the appellant-Corporation to issue instructions under Regulation 51 being limited to Chapter IV of the Regulations, the 1996 Instructions had no application to payment of gratuity which is covered by Regulation 77.**

G **The question for consideration before the Court was: Whether the expression "the date from which the revision shall apply, and other matters connected therewith or incidental thereto", occurring in Regulation 51 of the Life Insurance Corporation of India Regulations, 1960 would also include the matter relating to payment of gratuity**

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which is otherwise covered by Regulation 77 thereof? A

Dismissing the appeal, the Court

HELD: 1.1 A statutory authority while exercising its jurisdiction would be entitled to exercise incidental power for determination of the principal issue but it, in such matters, cannot be said to have such power which is beyond the scope and purport of the principal provisions. A delegatee cannot act in violation of a statute. A sub-delegatee cannot exercise any power which is not meant to be conferred upon him by reason of statutory provisions. It must conform not only to the provisions of the Regulations and the Act but also other Parliamentary Acts. The Life Insurance Corporation of India (Staff) Regulations, 1960 are subordinate legislation. Chairman of the Corporation is a statutory authority. Power to fix a cut-off date has been conferred upon him by way of statutory provision. The same requires a strict interpretation. [para 22, 28 and 14] [836-H; 839-B-D; 835-A-B] B C D

Kurmanchal Institute of Degree and Diploma and Ors. Vs. Chancellor, M.J.P. Rohilkhand University and Ors. [2007] 6 SCC 35; Kerala Samsthana Chethu Thozhilali Union vs. State of Kerala and Ors. [2006] 4 SCC 327; Bombay Dyeing & Mfg. Co. Ltd. vs. Bombay Environmental Action Group & Ors. [2006] 3 SCC 434; State of Kerala and Ors. Vs. Unni and Anr. [2007] 2 SCC 365; State of Orissa and Anr. Vs. M/s Chakobhai Ghelabhai and Company [1961] 1 SCR 719; and M/s Shroff and Co. vs. Municipal Corporation of Greater Bombay and Anr. [1989] Supp. 1 SCC 347 – relied on. E F

H.E.C. Voluntary Retired Employees Welfare Society and Anr. Vs. Heavy Engineering Corporation Ltd. and Ors. [2006] 3 SCC 708; U.P. Rahavendra Acharya and Others vs. State of Karnataka and Ors. [2006] 9 SCC 630; State of Andhra Pradesh and Anr. Vs. A.P. Pensioners' Association and Ors. [2005] 13 SCC 161; and State of Tamil Nadu vs. Seshachalam G H

A [2007] 11 SCALE 239 – referred to.

1.2 Clause (1) of Regulation 51 postulates grant of pay, dearness allowance and other allowances in the manner as prescribed in the IInd Schedule. The basic pay and other allowances to Class II employees are regulated under the provisions contained in Schedule III thereof. Clause (2) of Regulation 51 confers jurisdiction on the Chairman to regulate the pay as also other matters connected therewith or incidental thereto by issuance of instructions. It may be true that the cut-off dates were fixed upon holding negotiations with the Unions. However, the jurisdiction of the Chairman to fix a cut-off date is in question in terms of sub-regulation (2) of Regulation 51. Revision of pay, dearness allowance and other allowances applicable to the employees of the Corporation *stricto sensu* are not covered by clause (2) of Regulation 51. [para 14, 15, 19 and 20] [835-B-D; 836-A-D]

1.3 Whereas dearness allowance and some other allowances, as for instance 'house rent allowance' and 'city compensatory allowance' are envisaged by IInd Schedule appended to the said Regulations, the payment of other amounts as the 'Provident Fund' and 'Gratuity' have nothing to do therewith. Provident Fund and Gratuity are ordinarily governed by the Acts enacted by the Parliament, subject to the conditions contained therein. Regulation 77 of the Regulations specifies the employees who would be entitled to payment of gratuity. Clause (2) of Regulation 77 provides for the manner in which the amount of gratuity shall be payable. [para 15-16] [835-E-H]

1.4 Neither the payment of Provident Fund nor the payment of Gratuity is thus covered by the provisions contained in Chapter IV of the Regulations. Method of fixation, eligibility for the benefit of revision and the date from which the revisions shall apply are thus only areas

within which the Chairman can exercise jurisdiction. The effect of revision of pay scales on other spheres and which are otherwise governed by another statute or other provisions of the said Regulations would not come within the purview thereof. The terminology used "and other matters connected therewith or incidental thereto" as occurring in clause (2) of Regulation 51 must, therefore, be held to have a direct nexus with any one of the three elements preceding the expression. It has nothing to do with the construction of any other provision of the Regulations. The words "incidental to" cannot be interpreted too broadly. It cannot be read independently of the main provision. It cannot serve some other purpose which is not covered by Regulation 51 of the Regulations. It cannot be permitted to encroach upon an area which is not within the jurisdiction of the Chairman of the Corporation. [para 16, 20 and 21] [835-H; 836-D-E; 836-F-G]

2.1 Revision of scales of pay as also other allowances is technical in nature. When a benefit is extended to a group of employees the effect of such benefit, if otherwise comes within the purview thereof must be held to be applicable to other groups of employees also. An employee is entitled to gratuity. It is not a bounty. It is payable on successful tenure of service. Regulation 77 provides as to how the amount of gratuity is to be calculated. Regulation 51 provides for a rule of measurement. Only because it employed the word "permanent basic pay", the same will not by itself lead to the conclusion that once an employee has retired, he would not be entitled to any revision of the amount of gratuity. [para 25] [837-F-H]

2.2 The Chairman of the Corporation has himself given retrospective effect to revision in scales of pay. Such a retrospective effect has also been given so as to benefit a class of employees. The employees, irrespective of the

A fact whether they had superannuated or not, were given
the benefit of arrears of pay from 1st August, 1993. By
reason of grant of such benefit both to serving employees
as also the superannuated employees, both the class of
employees became entitled thereto as of right. If by reason
B thereof, an employee became entitled to the benefit of the
revised scale of pay as on the date of retirement, the same
for all intent and purpose must be taken to be the
permanent basic pay, apart from other allowances, if any,
which are required to be taken into consideration for the
purpose of computation of the amount of gratuity.
C [para 26] [838-A-C]

Indian Bank and Anr. Vs. N. Venkatramani [2007] 10
SCALE 475 – relied on.

D 2.3 It cannot be said that the Chairman of the
Corporation having power even to fix the cut-off dates
for different purposes, has also jurisdiction to do so for
payment of gratuity, which has a direct nexus with the
revised pay of scale. Once the Chairman fixes a cut-off
date for the purpose of giving effect to the agreement vis-
E à-vis the payment of arrears in terms thereof, he cannot
exercise further jurisdiction in respect of a matter which
is not controlled by Chapter IV but is controlled by other
provisions of statutes and Parliamentary Acts governing
the field. [para 28] [838-H; 839-A-B]

F CIVILAPPELLATE JURISDICTION : Civil Appeal No. 1289
of 2007.

From the Judgment and Order dated 29.09.2005 of the
High Court of Kerala at Ernakulam in W.A. No. 32 of 2004.

G P.S. Patwalia, S. Rajappa, H. Jairaman, Tania Walia and
Devish Tripathi for the Appellants.

P.S. Narasimha, Sridhar Potaraju, D. Julius Diamei and
Mandakani for the Respondents.

H The Judgment of the Court was delivered by

S.B. SINHA, J. 1. Jurisdiction of the Chairman of the Life Insurance Corporation of India (Corporation) to issue instructions in terms of Regulation 51 of the Life Insurance Corporation of India Class-I Officers (Revision of Terms and Conditions of Service) Instructions, 1996 is in question in this appeal which arises out of a judgment and order dated 29th September, 1995 passed by a Division Bench of the Kerala High Court in Writ Appeal No. 32 of 2004. A B

2. We may notice only the admitted facts herein.

Respondent No.1 is an Association of officers who have retired from the services of the appellant-Corporation which is a statutory authority constituted and incorporated under the Life Insurance Corporation Act, 1956. C

During the period of 1st August, 1992 and 31st July, 1994 a revision of scales of pay of the offices and employees of the Corporation took place. Different cut off dates were fixed for grant of different nature of allowances as also pay by the Chairman of the Corporation in purported exercise of his power under Regulation 51 of the Regulations. Whereas 1st April, 1993 was the cut off date for revision of pay; 1st August, 1994 was fixed as the cut off date for the purpose of payment of gratuity on the basis of revised pay. However, so far as those employees who had retired prior to 1st August, 1994 are concerned, they were directed to be entitled to reduce gratuity based on the reduced scale of pay with effect from 1st April, 1993 only. The arrears of pay were directed to be paid only w.e.f. 1st April, 1993. D E F

3. Indisputably, whereas the Gujarat and Kerala High Court upheld the validity of the instructions issued by the Chairman of the appellant-Corporation, the Karnataka High Court took a different view. G

4. The claim of Respondent No.1 was allowed in part by a learned Single Judge of the High Court by his order dated 8th July, 2003 holding :- H

A "A reading of Ext.P.3 (instructions issued by the Chairman
for supplementary of Revisionist in respect of class I
officers and claimed IV will definitely go to show that it
cannot operate as far as the claims for gratuity is
concerned. It is admitted that at least certain officers,
B represented by the petitioner Association were deemed
as having revised salary from April, 1993 onwards. In that
view, at the time of retirement, they were deemed as
getting a salary which alone could have been taken notice
of for computing gratuity, if Regulation No.77 has any
application. It is definite that the restriction in Ext. P.3 and
C benevolence in Regulation No.77 could not have co-
existed because the Corporation is offering gratuity at the
rate less than the amount an employee had notionally drawn
at the time of their respective retirement. It is also pertinent
D to note that when powers were conferred on the Chairman
under Regulation No.51(2), specific reference was there
about the incidents of DA and other allowances. There is
no reference to any alteration permissible in respect of
gratuity. It leads to the position that the regulation did not
E permit the Chairman to disturb criterion for gratuity payment
by exercise of powers under Regulation No.51 (2)."

It was further held :-

F "There was no power on the part of the Bank Management
in that case to disturb the settlement, and the gratuity was
to be paid on the basis of last drawn pay. Likewise, in the
present case, it would not have been permissible for the
Chairman to unsettle the benefits that had been spoken to
by Regulation No.77 while issuing Ext.P.3 order."

G 5. A Division Bench of the said High Court on an intra court
appeal preferred by the appellants herein upheld the said
findings.

H 6. Mr. Patwalia, learned senior counsel appearing on
behalf of the appellants, in support of this appeal, submitted :-

- i) Pension and Gratuity having two different concepts, the High Court committed a serious error in holding that the Chairman of the Corporation had no jurisdiction to issue the instructions. A
- ii) Sub-regulation (2) of Regulation 51 being of wide amplitude, the jurisdiction of the Chairman to fix cut off dates was not only applicable in respect of pay and allowances covered by Schedule II of the Regulations but also included "gratuity" as envisaged under Regulation 77, as the quantum thereof has a direct nexus with the payment of salary. B
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- iii) An employer, subject to the applicability of the doctrine of reasonableness and non-arbitrariness, can fix a cut off date for the implementation of the revised pay and allowances. D
- iv) The amount of gratuity payable has to be calculated upon the permanent pay and once the gratuity has been paid, no further amount is payable only because the salary has been revised. E

7. Mr. P.S. Narasimha, learned counsel appearing on behalf of the respondents, on the other hand, contended that the power of the Chairman of the Corporation to issue instructions being limited to Chapter IV of the Regulations, it has no application in relation to the payment of gratuity as provided for in Regulation 77 thereof. F

8. Appellant-Corporation in exercise of its powers conferred upon it by clauses (b) and (bb) of sub-section (2) of Section 49 of the Life Insurance Corporation Act, 1956, with the previous approval of the Central Government, made Regulations known as "Life Insurance Corporation of India (Staff) Regulations, 1960 (in short 'the Regulations'). Chapter IV of the said Regulations deal with "Pay and Allowances". Regulation 51 thereof reads as under :- G

"Scales of Pay :

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A *51.(1) The scales of pay, dearness allowance and other allowances (wherever payable) applicable to the employees of the Corporation in India shall be as prescribed in Schedule II hereto.*

B *(1A) The basic pay and other allowance admissible from time to time to an employee belonging to Class II shall be regulated in accordance with the provisions contained in Schedule III.*

C *(2) Whereas the scales of pay, dearness allowance or other allowances applicable to the employees of the Corporation or any class of them are revised in pursuance of any award, agreement or settlement, or otherwise, the method of fixation of pay in the new scales, the eligibility for the benefit of revision, the date from which the revision shall apply, and other matters connected therewith or incidental thereto shall be regulated by instructions issued by the Chairman in this behalf."*

(Emphasis supplied)

E 9. Chapter VII of the said Regulations deals with Miscellaneous Matters. Regulation 76 deals with Provident Fund. Regulation 77 deals with Gratuity. Regulation 78 deals with Superannuation Fund. Regulation 79 deals with Travelling Allowance Rules. There are other provisions also dealing with some other benefits which are to be granted to the employees of the Corporation.

F 10. Regulation 51 indisputably confers power upon the Chairman to fix a date from which the revision in pay shall apply. It applies to pay, dearness allowance and other allowances applicable to the employees of the Corporation. The question, as would appear from the discussions made hereinafter, is as to whether the expression "the date from which the revisions shall apply, and other matters connected therewith or incidental thereto", would also include the matter relating to payment of

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gratuity which is otherwise covered by Regulation 77 thereof. A

11. Although Mr. Patwalia has relied upon a large number of decisions of this Court for the purpose of making a distinction between the terms "pension" and "gratuity" as also the jurisdiction of the employer to fix a cut off date, it may not be necessary to deal with all of them. B

12. We may, however, note some precedents operating in the field. Recently in *H.E.C. Voluntary Retired Employees Welfare Society and another vs Heavy Engineering Corporation Ltd. and others* : (2006) 3 SCC 708 this Court observed :- C

"24. In *State of A.P. v. A.P. Pensioners Assn.* this Court categorically held that the financial implication is a relevant criterion for the State Government to determine as to what benefits can be granted pursuant to or in furtherance of the recommendations of a Pay Revision Committee. A fortiori while taking that factor into account, an employer indisputably would also take into consideration the number of employees to whom such benefit can be extended." D

{See also *U.P. Rahavendra Acharya and others vs. State of Karnataka and others* [(2006) 9 SCC 630]} E

13. It is also interesting to notice a decision of this Court in *State of Andhra Pradesh and another vs. A.P. Pensioners' Association and others* : (2005) 13 SCC 161 wherein it was opined :- F

"28. Computation of retirement gratuity payable to a government servant is, therefore, required to be done on the basis of the formula laid down therein. A bare perusal of the aforementioned Rule clearly shows that for the purpose of computation either 1/4th of the emoluments for each completed six-monthly period of service, or 3/16th of emoluments for each completed six-monthly period of service, is to be taken into consideration. Such emoluments necessarily were payable either immediately before the H

A date of retirement or the date of death. On 1-4-1999, in
view of the clear expressions contained in the
B aforementioned GO No. 114, those employees who retired
between the period 1-7-1998 and 1-4-1999 would have
received the actual benefit calculated in terms of the said
Rule. The submission of Mr Lalit to the effect that they
C became entitled to enhanced pay and, therefore, to
enhanced gratuity from 1-7-1998 is not wholly correct. They
became entitled thereto but only notionally for the purpose
of calculation of such recurring liability of the State which
D became payable with effect from 1-4-1999. The High Court
has heavily relied upon the purported legal fiction created
in the said Rule to the effect that the same would come
into force with effect from 1-7-1998. The legal fiction
undoubtedly is to be construed in such a manner so as to
enable a person, for whose benefit such legal fiction has
been created, to obtain all consequences flowing
therefrom." It was further observed :-

E "30. The case at hand indeed poses a different problem.
Although like Gurupad Khandappa Magdum a notional
revision of pay was to be considered as if the same took
effect from 1-7-1998, but the Rules went further and stated
that the actual monetary benefit thereof shall be given with
effect from 1-4-1999. The Rules, therefore, not only create
F a legal fiction but also provide the limitations in operation
thereof. If the effect of the legal fiction is extended in the
manner suggested by Mr Lalit, clause (4) (sic Rule 4) of
the Rules will become otiose. In other words, all the
consequences ordinarily flowing from a rule would be given
effect to if the rule otherwise does not limit the operation
G thereof. If the rule itself provides a limitation on its operation,
the consequences flowing from the legal fiction have to be
understood in the light of the limitations prescribed. Thus,
it is not possible to construe the legal fiction as simply as
suggested by Mr Lalit."

H [See also *State of Tamil Nadu vs. Seshachalam* : 2007

(11) SCALE 239].

14. The Regulations are subordinate legislation. Chairman of the Corporation is a statutory authority. Power to fix a cut off date has been conferred upon him by way of statutory provision. The same requires a strict interpretation. Chapter IV of Regulations envisages scales of pay. It also talks of dearness allowance and other allowances as envisaged under the IIInd Schedule thereof. Clause (2) of the said Regulation, as indicated hereinbefore, confers jurisdiction on the Chairman of the Corporation to regulate the same as also other matters connected therewith or incidental thereof by issuance of instructions.

15. It may be true, as was contended by Mr. Patwalia, that the cut off dates were fixed upon holding negotiations with the Unions.

However, the jurisdiction of the Chairman to fix a cut off date is in question in terms of sub-regulation (2) of Regulation 51. Instructions have been issued under the said provision alone. Instructions not only cover the scales of pay from a particular date but different dates have been fixed for different types of allowances. We have noticed hereinbefore that whereas dearness allowance and some other allowances, as for instance 'house rent allowance' and 'city compensatory allowance' are envisaged by IIInd Schedule appended to the said Regulations, the other allowances, and for instance, the 'Provident Fund' and 'Gratuity' have nothing to do therewith. Provident Fund and Gratuity are ordinarily governed by the Acts enacted by the Parliament, subject to the conditions contained therein.

16. Regulation 77 of the Regulations, specifies the employees who would be entitled to payment of gratuity. Clause (2) of Regulation 77 provides for the manner in which the amount of gratuity shall be payable. Neither the payment of Provident Fund nor the payment of Gratuity is thus covered by the provisions contained in Chapter IV of the Regulations.

A 19. Clause (1) of Regulation 51 postulates grant of pay,
dearness allowance and other allowances in the manner as
prescribed in the IInd Schedule. The basic pay and other
B allowances to Class II employees are regulated under the
provisions contained in Schedule III thereof. Revision of pay,
dearness allowance and other allowances applicable to the
employees of the Corporation stricto sensu are not covered by
clause (2) of Regulation 51. It merely states that when a revision
takes place pursuant to or in furtherance of any award,
agreement or settlement or otherwise, the Chairman of the
C Corporation will have the jurisdiction in regard to :-

- a) the method of fixation of pay in the new scales ;
- b) the eligibility for the benefit of revision ; and
- c) the date from which the revision shall apply.

D 20. Method of fixation, eligibility for the benefit of revision
and the date from which the revisions shall apply are thus, the
only areas within which the Chairman can exercise jurisdiction.
The effect of revision of pay scales on other spheres and which
E are otherwise governed by another statute or other provisions
of the said Regulations would not come within the purview
thereof.

F 21. The terminology used "and other matters connected
therewith or incidental thereto" must, therefore, be held to have
a direct nexus with any one of the aforementioned three
elements. The same has nothing to do with the construction of
any other provision of the Regulations. The words "incidental
to" cannot be interpreted too broadly. It cannot be read
independently of the main provision. It cannot serve some other
purpose which is not covered by Regulation 51 of the
G Regulations. It cannot be permitted to encroach upon an area
which is not within the jurisdiction of the Chairman of the
Corporation.

H 22. It is one thing to say that the court while exercising its
jurisdiction would be entitled to exercise such incidental power

for determination of the principal issue but it is another thing to say that a statutory authority in such matters would be held to have such power which is beyond the scope and purport of the principal provisions.

23 The word "Incidental" has been defined in Advanced Law Lexicon 3rd (2005) Edition, Book 2 at 2275 to mean :-

"According to Stroud's Judicial Dictionary, a thing is said to be incidental to another when it appertains to the principal thing. According to the ordinary Dictionary meaning, it signifies a subordinate action. *Hukumchand Jute Mills Ltd. vs. Labour Appellate Tribunal*, AIR 1958 Cal. 68, 70. (Industrial Disputes Act (14 of 1917), S. 10(4)).

The word "incidental" does not imply any casual or fortuitous connection. In a legal sense as applied to powers, it means a power which is subsidiary to that which has been expressed, and of an instrumental nature in relation thereto, which is both necessary and proper for the carrying into execution of the main power which has been expressly conferred. (*Dunichand and Co. vs. Narain Das and Co.* (1947) 17 Comp. Cas. 195 (FB)."

24. Each word employed in a statute must take colour from the purport and object for which it is used. The principle of purposive interpretation, therefore, should be taken recourse to.

25. Revision of scales of pay as also other allowances is technical in nature. When a benefit is extended to a group of employees the effect of such benefit, if otherwise comes within the purview thereof must be held to be applicable to other groups of employees also. An employee is entitled to gratuity. It is not a bounty. It is payable on successful tenure of service. Regulation 77 provides as to how the amount of gratuity is to be calculated. Regulation 51 provides for a rule of measurement. Only because it employed the word "permanent basic pay", the same will not itself lead to the conclusion that once an employee has retired, he would not be entitled to any revision of the amount of gratuity.

A 26. The Chairman of the Corporation has himself given a
retrospective effect to revision in scales of pay. Such a
retrospective effect has also been given so as to benefit a class
of employees. The employees, irrespective of the fact whether
they had superannuated or not, were given the benefit of arrears
B of pay from 1st August, 1993. By reason of grant of such benefit
both to serving employees as also the superannuated
employees, both the class of employees became entitled thereto
as of right. If by reason thereof, even a retired employee, as on
the date of retirement, became entitled to the benefit of the
C revised scale of pay, the same for all intent and purpose must
be taken to be the permanent basic pay, apart from other
allowances, if any, which are required to be taken into consi-
deration for the purpose of computation of the amount of gratuity.

D 27. In *Indian Bank and another vs. N. Venkatramani* : 2007
(10) SCALE 475 : this Court gave effect to the beneficial
provision in the light of the rule of measurement, stating :-

E "13. It may be true that various provisions of the
Regulations as for example Regulations 16, 17, 19, 23,
etc. provided for qualifying service. Regulation 18 is not
controlled by any of the said provisions. It does not brook
any restrictive interpretation. It only provides for a rule of
measurement. An employee, as noticed hereinbefore, was
entitled to pension provided he has completed the
specified period of service. How such a period of service
F would be computed is a matter which is governed by the
statute. It is one thing to say that a statute provides for
completion of fifteen years of minimum service, but if a
provision provides for measurement of the period, the
same cannot be lost sight of. Provision of the Regulations
G which are beneficial in nature, in our opinion, should be
construed liberally."

H 28. Contention of Mr. Patwalia that the Chairman of the
Corporation having power even to fix the cut off dates for different
purposes, the jurisdiction exercised by him to do so for payment

of gratuity, which has a direct nexus with the revised pay of scale cannot be accepted. Once he fixes a cut off date for the purpose of giving effect to the agreement vis-à-vis the payment of arrears in terms thereof, he cannot exercise further jurisdiction in respect of a matter which is not controlled by Chapter IV but is controlled by other provisions of statutes and Parliament Acts governing the field. A delegatee must exercise its powers within the four-corners of the statute. The power of a sub-delegatee is more restricted. A delegatee cannot act in violation of a statute. A sub-delegatee cannot exercise any power which is not meant to be conferred upon him by reason of statutory provisions. It must conform not only to the provisions of the Regulations and the Act but also other Parliamentary Acts. [See *Kurmanchal Inst. of Degree and Diploma and Ors. vs. Chancellor, M.J.P. Rohilkhand Univ. and Ors.* (2007) 6 SCC 35, *Kerala Samsthana Chethu Thozhilali Union vs. State of Kerala and Ors.* (2006) 4 SCC 327 *Bombay Dyeing & Mfg. Co. Ltd. vs. Bombay Environmental Action Group & Ors.* (2006) 3 SCC 434, *State of Kerala and Ors. vs. Unni and Anr* (2007) 2 SCC 365, *State of Orissa and another vs. M/s. Chakobhai Ghelabhai and Company* : 1961 (1) SCR 719 and *M/s. Shroff and Co. vs. Municipal Corporation of Greater Bombay and another* : (1989) Supp. 1 SCC 347].

29. We, however, do not intend to lay down the law that the expression "incidental" or "connected" would be matters which are of a casual nature only, but, we reiterate that the same must have something to do with the nature of power granted to the authority concerned.

30. Unfortunately before the Gujarat High Court and the Karnataka High Court, both the counsels have missed in bringing to the Court's notice this aspect of the matter.

31. We, therefore, do not find any merit in this appeal which is accordingly dismissed with costs. Counsel's fee assessed at Rs.25,000/-.

R.P.

Appeal dismissed. H