

CHHATTISGARH SHASKIYA SEVAK (ADHIVARSHIKI-AYU) ADHINIYAM, 1967

THE MADHYA PRADESH SHASKIYA SEVAK (ADHIVARSHIKI-AYU) ADHINIYAM 1967 29 Received the assent of the Governor, on the 22nd Decenaber, 1967 • assent first published in Lhe Madhya Pradesh Ciazette Extraordinarv on the 23rd December, ! 967 An Act to provide for the age of Superannuation Government ervants in the State of Vladhya Pradesh and for certain matttrs connected (herewith, Be it enacted by the Madhya Pradesh Legislature in the Eig\ltecth Year of the Repub}ic of India as follows : 1. Short Act nway be cal}cd the Madhya Pradesh Shaskiya Sevak (Adhivarshihi-Ayu) Adhiniyani, 1967, 2. Amendment of Fundamental Rules.—For rule 56 of the Fundamental R ule applicable to the State of Madhya Pradesh as subs;ituted by section 3 of the Madhya Pradesh Shaskiya Sewak Anivarya Sevanivritti Ka Vidhimanya- takaran Adhiniyam, I % 7 (5 1967) (hereafter referred as the said Act), the rollowiag shall he substituted, narneÉv ' •56. (1) Subject to the provisions of Madhya Pradesh Anivarya Sevo. Nivritti-Ayu) Niyam, 1967 as specified in the to tile Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Adhiuiyam. 1967. 7he date of compulsory retirement of a servant other than class IV Government servant. shall be the dale on which he attains the age of 158 yeats- (2) The date Df compu}sory rtireenent of Class \ V Government servant shall be the dale on 'vhich he atlains lhe age or 60 years

212. Amendment of Fundamental Rule 56 as substituted by Section 2 of the Principal Act.---In seasion ? of the Madhya Pradesh Shaskiya Sevak (Adhivarshiki,, Ayu) Adhiniyanl, 1967 (No. 29 of 1967) (hereinafter referred to as the principal ACI) after sub-rule (1) of Rule 56, the following sub-rule shall be inserted; namely--- (I-a) Subject to the provisions Df sub-rule (3), every Government teacher shall retire fro\kl service on the after noon of the last day of the mouth in which he attains Ille age of sixty years : Provided that a Government teacher whose date of birth is the first of a month Shail retire from service on the afternccn of the last day of the preceding month an attaining the age of sixty years. } . The age has been raised to 58 years vide M.P. Act No. 9 of 1976

2. Inserted by Act No.35 of 1984. Published in MT. Rajpatra (Asadharan) dated 15-11-1984 Page 3065. This amendment shall be deemed to have come imo effect from 5th September 1984. Madhya Pradesh Services Manual Exaplaqation.—For the purpose of this "Teacher" means a Government servant by whatever designatir,n called, engaged in teaching in an educational institution including technical or medical institutions, run by Governmentl

3. Amendment of the Madhya Pradesh District and Session Judgee Death-Cum-Retirement Penett_s) Rüh"::, 1964 —For su b-ruke (1) of ruie 2 Of the Madhya Pradesh Distiict and Sessions Judges (Death-Cum-Retirement Benefits) Rules, 1964 as substituted by 4 of the said Act, the following sub-rule shall be substituted, namelv (1) Subject to the provisions of sub* ule (I -A), the Ail India Services Death-cum-Retirement Benefits) Ru!es, 1958, as amended from time to time hereinafter referred to as the said Rules) shall apply mutatis mutandis to— (a) all permanent District and Sessions Judges drawn from amongst the omcers of the Judicial Service of the former State of Madhya Pradesh in the same manner as they have hitherto applied to them with effect from the 29th October, 1951 by virtue OF rule 7 (2) of the Madhya Pradesh Judicial Services Classification, Recruitment and Conditions of Services) Rules, 1955; (b) all permanent, District and Sessions Judges in the State who are drawn from amongst the officers of the Judicial Services of the former States of Madhya Bharat, Vindhya Pradesh and Bhopal, with effect from the 1st April, 1958 subject to the exercise of option as provided in rule 3 ; (c) all other permanent District and Sessions judges in the State not falling within clauses (a) and (b) above. (I-A). With regard to the age of compulsory retirement the permanent, District and Sessions judge shall be governed by the Madhya Pradesh (Anivarya Seva Nivritti-Ayu) Niyam, 1967 as specified in the Schedule to the Madhya Pradesh Shaskiya Sewak Adhivarshiki-Ayu) Adhiniyam. 1967 and the provisions of Fundamental Rule 56, as substituted by section 2 of the said Act

4. Amendments when to come into force.—Amendynernlts made by section 2 and 3 Shal] come into farce with effect from the k 5th December, 1967

5. Repeal.—The Madhya Pradesh Shaskiya Sevak 'Adhivarshiki-Ayu) Adhyadesh, 1967 (12 of 1967) is hereby repealed. 1 SCHEDULE [See sections 2 and 3] Rules (1) These rules may be cal*ed the Madhya

Pradesh (Anivarya Seva Nivritti-Ayu) Niyam, 1967 They shall come into force with effect from the 15th December, 1967. (2) 2. (k) The age of compulsory retirement of Government servants other than Class I V Government servants shall be 258 years. (2) The age of compulsory retirement of Class IV Government servants shall be 60 years. I. Published in M.P. Rajpatra (Asadharan) dated 12th 1967 Page 3144

2. Substituted by M.P. Act No. 9 of 1976. The M.P. (Anivarya Seva Nivritti-Ayu) Niyam, 1967 3. Those Government Servants who have already attained the age of 58 years on the date mentioned in sub-rule (2) of rule and are in service of the said date shall, as from the said date, be entitled to such leave as may be due (or a period not exceeding 120 days and shall stand retired on the date next following the date of completion of such leave : Provided that the duration of such leave shall, in no case, extend beyond the date of attainment of the age of 58 years. COMMENTS Synopsis (3) Court's declaratory decree is not (1) Order of compulsory retirement monetary decree. on payment of three month's salary. not bad. (4) Raising age of Superannuation. (2) Correction of entry about age. (5) Compulsory retirement. (L) Order of compulsory retirement on payment of three month's salary, not bad. —It is argued that there was a man who took his reversion with ill- grace, did not join on his substantive post for long seven years, went to the High Court four years after the passing of the said reversion order, deprived the State of his services in whatever capacity, and thereby exhibited lack of devotion to duty, used intemperate and offensive language towards the superior officer for which he was charge-sheeted and actually removed from service on that count. If the Government took all these factors into consideration in taking a decision as to whether it would be in public interest to retain him after the age of 55 years. could that decision be called mala fide at all ? And after all, the petitioner was only promoted temporarily as Assistant Engineer. He had no vested right to continue the post and he was also not selected by Public Service Commission. The High Court Madhya Pradesh agreeing with the above argument of Government advocate held that the decision of the Government in compulsorily retiring the petitioner at the age of 55 years, could not be attacked on the ground of 'mala fide'. It was further argued by the petitioner that the order of retirement under the Rule could be effective only if the State Government simultaneously offered payment to him of his three month's salary. Unless the payment of an exact amount accompanied the service of notice, the order of compulsorily retirement would be bad. In the case of the State of Uttar Pradesh Vs. Dinanath Rai, decided on 11th October, 1968 : 1969 Service Law Reporter 647 (SC) the relevant portion of the Rule for interpretation reads thus : .. Provided that in the case of notice of the appointing authority the latter may substitute for the whole or part of this period of notice pay in lieu thereof provided further that it shall be open to the appointing authority to relieve a Government servant without any notice or accept notice for a short period, without requiring the Government servant to pay any penalty in lieu of notice." Their Lordships construed the rule differently and observed : Madhya Pradesh Services Manual 'The rule does not say that pay in cash or by cheque at the time the notice is issued. Knowing the way the Government runs, it would be difficult to ascribe this intention to the rule making. There is doubt that the Governmenter: be entitled to the full pay in lieu of notice but [his would be in the ordinary course. In the present case the language of the rule is akin to the language used in the Rule in Dinanath Rai's case. 1969 L.R. 647 (SC) and would prefer to construe the Rule in the manner it was done in Dinanath's case. The intention is that payment to be made forthwith, simultaneously with the notice: now would the notice be effective only upon payment made, Payment could be in the ordinary course. Even otherwise there was substantial compliance of the rule. The offer of Rs. 1770/- towards three month's salary, was made, presently, on the day notice of compulsory retirement was served or soon thereafter. The petition does not disclose the date of service of notice. The grievance of the petitioner is that the salary offered was calculated on the basis, as if the petitioner was stopped at the Bar. According to him, the question of crossing the Competent authority had to consider the question prior to or on the date the petitioner became entitled to it and that date was 13.1969. If he was not considered on that date for any reason whatsoever, it would be presumed, he says, that the competent authority had no objection to his crossing the efficiency bar, The High Court held that the petitioner cannot claim the sanction to cross the Efficiency Bar simply because he had retired. The sanction could be given or withheld or even after his retirement. If it was given, he could claim if it was withheld, he did not, lose anything, benefits even though retired, because he had already stopped at that stage. It was, therefore held that no punishment inflicted. U.K. Narayanan Vs. State of Madhya Pradesh and 1975 M.P.L.J. 404 : 1975 J.L.J. 760. (2) Correction of entry about age.- The facts of the case are that in the year 1957 when for the first time after

the reorganisation of States, the petitioner was called upon by the Settlement Officer to disclose his date of birth. The year 1917 mentioned in Service Book did not seem proper record as the date and the month of the petitioner's birth were not mentioned and the Service Book indicating nothing EO show that the entry was verified with reference to any confirmatory documentary evidence like the matriculation certificate or the Municipal Birth certificate. The petitioner produced the matriculation certificate and entered the date of birth as 8th April, 1915, not with an idea of creating that the entry was made of the insistence conflict, nor is there is reason to believe of Shri R L. Gupta. Presumably he made the entry having reasons to believe : real intention in the mind that the same shall be acted upon. 'Whatever of the petitioner, any reorganisation would accept the declaration and set on act on it. A duty was cast upon the petitioner to disclose his date of birth along with confirmatory evidence. He chose to produce the certificate. He was therefore debased. He entered the date as shown therein without protest. From producing horoscope instead and asserting that 'the real date of birth was 13th Shukla Savana, 1974 equivalent to 20th August, 1917. He could have agitated the issue then and set the decision on the question of his date of birth. He has come to the High Court thirteen years after when the Government has chosen to act on his own admission, they gave him extension of service for a year and set him with effect from 22nd April, 1971. The M.P. (Anivarya Seva Nivritti-Ayu) Niyam, 1967 137 was held that the petitioner was guilty of acquiescence. He accepted as 8th April, 1915. The case also attracts the doctrine of the date of birth estoppel by negligence. The petitioner allowed the two entries to continue and thereby led the Government to choose the entry which prima facie appeared genuine and had the support of confirmatory evidence. The petitioner cannot now turn round and say that he has been prejudiced. He should have taken the permitted steps to get one of the entries to him scored out. Then to continue and the Government could legitimately act on the entry which was supported by the petitioner's matriculation certificate. It was customary with the Government to rely on the matriculation certificate mostly, for purpose of date of birth. The petitioner's negligence lay in permitting the two entries to continue, and the latter entry in particular to be construed as his own admission in the matter of date of birth. Further it was held that the petitioner was guilty of suppression and mis-statement of facts inasmuch as he did not disclose initially that he had himself entered in Part VI of his Service Book the 8th April, 1915, to be his date of birth. He also did not speak about the declaration he had submitted in February, 1960. If he was forced to make the entry as he later contended, that would be a disputed question of facts on which the High Court would not go in evidence. In so far as the admission in the declaration of February, 1960 is concerned, there is no such plea of undue influence or coercion or misapprehension. Prima facie, however, the two documents were held to be voluntarily executed. *Akshay Singh Vs. State of Madhya Pradesh* and another. 1974 M.P.L.J. 31. (3) Court's declaratory decree is not monetary decree.—In Civil Appeal No. 670 of 1965, *M. Saxena Vs. State of M.P.*, decided on the 14th January, 1967, the Supreme Court held that retirement of a Government servant after he attains the age of 55 years, on three months' notice on the basis of the General Administration Department Memorandum No. 433-258-1 (iii) 763 dated the 28th February, 1963 is invalid in so far as the said memorandum was merely an executive not a rule governing the conditions of service of Government servants. The decision affected a large number of retirements ordered on the basis of the aforesaid memorandum and involved considerable financial burden on the State Exchequer by way of payment of arrears. There were likely to be other complications regarding continuance in service etc. Therefore after the decision of that appeal the Governor had promulgated an Ordinance which was replaced on April 20, 1963 by the M.P. Shaskiya Sevak Anivarya Sevaniyavirita ka Vidhimanyatakarana Vidhyayak Takaram Vidhyayak Adhiniyam, 1967 (5 of 1967) validating the retirement of certain Government servants, including that of appellant, despite the judgment of Supreme Court. By virtue of this Act, the State is vested with a right not to pay the dues of appellant from the date of his retirement (December 13, 1963) onwards. In effect this Act has made provisions of Compulsorily Retirement Rules, 1965 applicable from March 1, 1963. The appellant again moved the High Court challenging the validity of the Act which was dismissed so an appeal was filed to the Supreme Court. It is argued on behalf of the appellant; (i) that a right of property being a judgment-debt, protected by Article 19 (1) (f) of the Constitution, had been by the Supreme Court's Decree dated 30th January, 1967 in favour of the appellant and against the State. Since the impugned Act in effect, seeks to expropriate the appellant of right without providing for any compensation it is ultra vires Article 31 (2) of the Constitution; *Madhya Pradesh Services Manual* (ii) That the impugned Act is ultra vires the Constitution inasmuch as seeks to validate the

retirement of the appellant and like him by changing it! so so doing, the State into their service conditions with retrospective effect. The legislature has overstepped the limits of legislative powers conferred on it by Article 309 of the Constitution. Reliance was placed on the decision of the State of West Bengal Vs. Padanmbhacharya etc. (1966) Supreme Court in the 494. (iii) that the impugned Act, encroaches upon judicial field inasmuch as it overrules and makes unenforceable the decision dated 30th January, 1967 in Supreme Court in Civil Appeal No 670 of 1963, and in so doing, it offends Articles 141, and 144 of the Constitution (iv) Even if the impugned Act is valid, clauses (b) and (c) of section 5 of the Act. on a proper construction, do not vacate the decree of the Supreme Court, requiring the respondent to the appellant to take pecuniary benefits resulting from the success of his earlier appeal (CAA. 670/65) in Supreme Court. Clause (b) of 5 merely bars the maintenance or continuation of any proceeding for any amount as payment, towards salary. The appellant is not seeking to maintain or continue any execution proceeding in Court, for the recovery of any amount towards salary, the decree being a declaratory one. None of these contentions were held to be tenable. On perusal of the Supreme Court decree referred to above would show that it is not a money decree, raising a judgment-debt. It is a declaratory decree declaring that the respondent's order dated September 1963, compulsorily retiring the appellant was invalid, and consequently the appellant would be deemed to have continued in service till he attained the age of 58 years. The further declaration that he will be entitled to such benefits as may accrue to him by virtue of the success of the writ petition was only incidental or ancillary to the main relief and will fall or stand with the same. This being the position the decree did not create an indefeasible right of property in favour of the appellant. The distinction between a 'legislative and a 'judicial act is well known, though in some specific instance the fine which separates one category from the other may not be easily discernible. Adjudication of the parties according to law enacted by the legislature is a judicial function. In the performance of this function the court interprets and gives effect to the intent and mandate of the legislature as embodied in the statute. On the other hand, it is for the legislature to lay down the law prescribing norms of conduct which will govern parties and transactions and to require and to give effect to that. It was therefore, held that in enacting the impugned provisions, the legislature has not exceeded the limits of its legislative powers nor encroached on the judicial field. I. N. Saksena Vs. The State of Madhya Pradesh. 1976 U.J. (SC) 223. and others vs. The King Emperor, 1944 F.C.R. 61 Governor General by Ordinance repealed the Special Criminal Courts Ordinance of 1942. There was a provision in the repealing ordinance for confirmation and continuance of sentences of Special courts and retrial of pending cases. The appellant therein had been convicted and sentenced by Special Criminal Court which was held to have jurisdiction to try the case by an order of a court Section 3 (1) of the Special Criminal Courts (Repeal) Ordinance - The M.P. (Anivarya Seva Flivritti-AYLI) Niyam, 1961 Ordinance, 1943 conferred validity and full effectiveness on sentences passed by Special Criminal Courts by conferring jurisdiction on them with retrospective effect. The Federal Government by promulgating and repealing Ordinance of 1943, the legislative authority had not attempted to do indirectly what it could not do directly or to exercise judicial power in the guise of legislation. It was held that the Ordinance was not invalid on the ground that the authority had validated by respective legislative proceedings held in courts which were void for want of jurisdiction as there was nothing in the Indian Constitution which precluded legislative from doing so. (4) Raising the age of superannuation.—In the case of Nathani Nani Vs. The State of Orissa. A.I.R. 1971 S.C. 1516, reliance was placed on certain observations in the decision of the Supreme Court in Gurdev Singh Sindhu vs. State of Punjab. (1964) SCR 587 A.I.R. 1964 S.C.

1585. There the Supreme Court struck down Article 9.1 of the Pepsu Service Regulations under which the Government sought to retain an absolute right to retire any Government servant after he had completed years qualifying service without giving him any reason. In that case the petitioner who had been appointed as an Assistant Superintendent of Police in the erstwhile Patiala State on February 4, 1942 and confirmed in that rank on the regular vacancy after undergoing a district training course, and after promotion to the rank of Superintendent of Police in an officiating capacity in February 1950 in the said State of Pepsu, was asked to show cause by notice dated 25th March 1963 as to why he should not be compulsorily retired. The petitioner complained that the notice issued to him was invalid on the ground that the article on which it was based was itself ultra vires and inoperative and only question before the Court was whether the impugned article was shown to be constitutionally invalid. Referring to Satish Chandra Anand Vs. The Union of India 1953 SCR 585 : A.I.R. 1953 250. certain dimensions of the major

Judges in *Moli Ram Deka Vs. General Manager, North East Frontier Railway*. A. I.R. 1964 S.C. 600 : (1964) 5 SCR 683, the Supreme Court observed by way of majority judgment took the precaution of explanation that of adding a note of caution that if a rule of compulsory retirement purported to give authority to the Government to terminate the services of a permanent public servant at a very early stage of his career the question about the validity of such a rule may have to be examined. That is how in accepting the view that a rule of compulsory retirement can be treated as valid and as constituting an exception to the general rule that the termination of the services of a permanent public servant would amount to his removal (2), the Supreme Court added a rider and made it perfectly clear that if the minimum period of service which was prescribed by the relevant rules upheld by the earlier decisions was 25 years, it could not be reasonably reduced. In other words, the majority judgment indicates that what inclined the decision was the fact that a fairly large number of years had been prescribed by the rule of compulsory retirement as constituting the minimum period of service after which alone the said rule could be invoked. The Court further observed that the safeguards which Article 311(2) affords to permanent public servants is no more than this that in case it is intended to dismiss, remove or reduce them in rank a reasonable opportunity should be given to them of showing against the action proposed to be taken in regard to them. A claim for security of tenure does not mean security to tenure for dishonest, corrupt, or inefficient public servants. The appellant merely insists that before they are removed, permanent public servants should be given an opportunity to meet the charge which they are sought to be removed. Madhya Pradesh Service Manual provided. Therefore, it means that only a few exceptions can be treated in dealing with the scope and effect of the protection afforded by 311 if a permanent public servant is asked to retire the fact that he has reached age of superannuation which has been reasonably fixed, 311(1) does not apply, because such retirement is neither dismissal nor removal of the public servant. A permanent public servant is compulsorily retired under the rule which prescribes the normal age of superannuation and a reasonable long period of qualified service after which alone retirement can be ordered, that again may not amount to dismissal; under Article 311(2) mainly because that is the effect of a long series of decisions of the Supreme Court. But where while reserving the power to the State to compulsorily retire a permanent public servant, a rule is framed a proper age of superannuation, and another rule is added giving the power to the State compulsorily retire a public servant at the age of 50 years or his service, that cannot be treated as falling outside Article 311(2). The termination of the service of a permanent public servant under such a rule though compulsory retirement, is, in substance removal under Article 311(2). The above observations relied on the counsel do not help the appellant. The above observations show that a rule which permits a Government to ask an officer to retire after an unreasonably short period of service must before the normal age of superannuation would be hit by Article 311. They cannot apply when the period of qualifying service mentioned in the rule reasonably approximates the normal age of superannuation fixed is not unaccountably early. Before May 1963 a Government servant in Government service had retired on attaining the age of 55 years whether he had completed 30 years' qualifying service or not. The fact that the age of retirement was from 55 or 58 while the Government reserved to itself a right to ask any employee to retire at the age of 55 does not violate Article 311. Secondly the order did not cast any aspersions on or on the which attract Article 311. A Government servant has a right to retire at the age of 55 without any reason. The fact that by the notification of 5th February, 1964 certain guidelines were indicated the Heads of Departments in considering whether a servant should continue in service beyond the age of fifty years, one of the factors for consideration being lack of integrity, did not imply that any officer whose continuance in service was not advised lacked in integrity. *Bartikare Jena vs. The Orissa*. A.I.R. SC

1516. It is well known that a law or statutory rule should be so interpreted as that if this provision is confined to make it valid and not valid, argued before the High Court namely that it gives power to the Government to allow a Government servant to remain in service even beyond the age of 55 years for special reasons the rule will not be rendered invalid and its validity of the appellant will not be put in jeopardy. So construed it is apparent that the appellant could not have been retired compulsorily under the Saurashtra Rules before he had attained age of 55 years. By applying the Bombay rule his conditions of service were varied to his disadvantage because he could then be compulsorily retired as soon as he attained the age of 50 years. *State of Gujarat*. 1970 S.C

143. Afitncygev N.-in j{01i Ram DeKa Vs. Generctl (5) Cmpulsory retirement. (5) S.C.R. 1964 L.C.R. 683 • A.i.R. 1964 Raihva.l' Pendu, ihe effect S.C. 600 one of the which came up for consideration fixing the service rule which permitted compulsory retirement. without The M.P. (Anivarya Seva Nivritfi-Ayu) iNiY(€m, Illinimum period of service after which the rule could be invoked. According to the observations of Venkataram Ayyar J. in Slate of Bombay Vs. Saubhag• 1958 S.C.R. : A.K.R. [957 L.c. 892, the application of chaad Nf. Joshi. such a rule would be tantamount iO dismissal under Article 31 (2) of the Constitution. T hek•e were certain other decisions oi the Supreme Court which relevant on this point viz. P. Bal,'ikmaiũh Vs. i:nion of hldia. 1958 S.C.R. 1052 : A I.R. 1958 S-C. 232 and Dali? Singh vs. State OfPunjab. 1961- 1 S.C.R. 88 : A.I.R. 1960 S.C

1305. All these decisions were considered in Motiran: DeKa Vs.General Manag N.E F. Railways, A.I.R. 1964 S.C. 600 and the true legal position was stated in the majority judgment at page 726 of : We think that it' any rule of S.C.R. and at page 617 of A.I.R. l'hus permits the appropriate authority to retire compulsorily a civil servant without imposing a limitation in that behalf that such civil servant should have put in a minimum period of service, that ru'e would be invalid and the so-called retirement ordered under the said Ruic woukd arnounL to renoovat of the civil servant within the meaning of Article 311 (2)" Singh Sidhu vs. of Punjab, 1964 7 S.C.R. A.I.R. 1964 S.C.] 585, it was pointed out that the only two exceptions to the protection afforded by Article 311 (2) (1) wherea petmanent public servaat was asked to retire on the ground that he had reached lbe age of superannuation which was reasonably fixed ; (2) that he was compulsorily retired under the rule which prescribed the normal age Of superannuation provided a reasDna-biy long period of qualified service after which alone compu\sory retirement could be valid. The basis on which this view has procseded is ihat for efficient admiaistration it is necessary that public servants should enjoya sense of seeu., rity of tenure and that the termination of service of a public servant under a rule which does not lay down a reasonably long period of qualified service is in substance remova. under Article 311 (2), The priuciple is that the Tule relating to compulsory retirement of Government servant must not only o:ontain lbe outside limit Di superannuation but there inust also bc a provision for a reasonably long period of qualified service which must bc indicated with suffi- cient clarity. To give an example. if 55 years have been specified as the age of superannuation and if it is sought to retire [he servant even before that period it should be provided in lbe rule that he could be retired arter he has attained the age of 50 years or he has put in service for a period of 25 years Kt is well setied lhat a law or a statutory rule should be so interpreted as 10 make it valid not invalid. It this expression is confined to what was argued - before the 14igh Court, namely thaLit ves power to government to allow a servant to remain in service beyond the age of 55 years For special reasons the rule wilt QOL be rendered invalid and its validity will not be put in jeopardy. So construed it is apparent thäC the appellant could not have been retired compulsorily under Saurashtra Rules be?orc he had attained the age ot' 55 years. By applying the Bombay rule his condition service were varied to his disadvantage because he could then be compuisori[y retired as soon as he attained lbe of 50 As the previous approval of the Central Gover- Illenl was not obtained in accordance with lbe proviso to Section 115 (7) of the Statcs Re-organisation Act, 1956, the Bombay Rule could not be made applicable to the appe13ant. TakhctrarJ.' Shivduffary Mankad Vs. State of Gujarat A.i.R. 1970 S.C. 143 1969 Ser. 572 : (1970) S.C.A. 138 : 11 Guj, L.R. 325 • 0970) S.C.R. 244

4. A GovernmenL servant may given tension of service beyond the age 5S years subject to his physical fitness and outstanding quality of-his work but not beyond the ace of 60 years.Madhya Ffűdes̃ Services Nianual 14-A. Notwithstanding cont:iaed ia rule 4, Servant who had been a freed jm fig\uec may: on production or a the below and subject to his being fit lo b 2 continued in service. extension of service beyond the age o? years for such exceedilig n actual dtencii)il ancililor the period for which such government sc•rvan!. imprisonment including the period uadergone as under iGal connection the freedom movement, subjecl to of (hree y.yars. Explanation.—For the pu •poses of ' 'a freedom {tizh[er" Government servant who •was detained and/or imprisoned of Lis freedom mcvekl,ent durint-r the period political activities in connection wilh from 1919 to \946,] 5. The Madhya Pradesh (Age of Compulsory Retiötr.ent) Rules. i are hereby repealed OF CERTIFICATE CERTIFIED that Shri . .. was imprisoned and" or detai ned canneclion wiilh the freedom movexnent at the pia.ce, far the perind and under f he provisions of the law mentioned betnv.- Place Dated the Period Provisi011 of' under which Disfnit•i Afagisrafe. SCRI #1./505/2000. 350] a 4 (3TqTtTRüt) 14 24, 1922 W Rooo (YI. 3ffufiq•q, Roo o. () 31füfi•qq, R 000. Rooo (() 3{fQfiqq R Rooo 699 721T 700 31fu- Short title and commencement,

Amendment of Fundamental Rule 56 as substituted by Section 2 of the Madhya Pradesh Act No. 29 of 1967. 14 2000 (R) F) 1--9113 Ro fa71 R QOO a;. mzhå, 37f7fÄ1 MADHYA PRADESH AM No 19 2000. THE MADHYA PRADESH SHAKTIYA SEVAK (ADHIVARSHIKI-AYU) SANSHODHAN ADHINIYAM, 2000. Received the assent of the Governor on 31st May, assent first published in the "N Pradesh ((Extra-ordinary)' % dated the 14th June, 2000.1 An Act further to amend the Madhya Pradesh Shaktiya Sevak (Adhivarsiki-A Adhiniyam, 1967. the Repu Be it enacted by the Madhya Pradesh Legislature in the Fifty first Year of India as follows (1) This Act may be called the Madhya Pradesh Shaktiya Sevak (Adhivarsiki-A Sanshodhan Adhiniyagn, 2000). It shall be deemed to have come into (2) January, 2000. of the Madhya Pradesh Shaktiya Sevak (Adhivarsiki-A\11) Adhiniy; 2. In Section 1967 (No. 29 of 1967), for (a) of sub-rule (2) of Rule 56 of the Rules. following clause shall be substituted. namely be retired at '(a) A Government servant may. in the public interest. any time after he has completed 20 years qualifying service, or he attains the age of whichever is earlier, without assigning any reason by in writing. 2000.

