

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.107 of 2023

Sri Biman Behari Goswami
S/o- Lt. Banabehari Goswami,
Resident of Dreamz Exotica,
Flat No.1A8, VIP Road,
Agartala, West Tripura
PO-Kunjaban, Pin-799006,
District- West Tripura

---Appellant(s)

Versus

1. The State of Tripura
Represented by the Secretary,
Higher Education Department,
Government of Tripura,
New Secretariat Complex,
PO- Secretariat, Pin- 799010,
Agartala, District- West Tripura

2. The Director of Higher Education
Government of Tripura,
Shiksha Bhawan, PO- Agartala, Pin-799001,
District- West Tripura

---Respondent(s)

For the Appellant(s)	:	Mr. C. S. Sinha, Advocate
For the Respondent(s)	:	Mr. D. Bhattacharya, G.A. Mr. S. Saha, Advocate
Date of hearing	:	21.09.2023
Date of delivery of Judgment & Order	:	13.12.2023
Whether fit for reporting	:	Yes

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

JUDGMENT & ORDER

(Arindam Lodh, J.)

The instant *intra-court* appeal has been preferred by the appellant-writ petitioner for assailing the judgment and order dated 23.05.2023 passed by the learned Writ Court in WP(C) No.183 of 2022, whereby and whereunder the writ petition seeking fixation of pension of

the appellant-writ petitioner in the Revised Pay Scale under the 7th Central Pay Commission with retrospective effect from 01.01.2016 was dismissed.

2. It may be relevant to note that this is the third round of litigation at the instance of the appellant-writ petitioner in approaching before the learned Writ Court as well as the Appellate Court on almost similar cause of action and for almost identical reliefs.

2.1. First round of litigation was set in motion when the appellant-writ petitioner had approached the learned Writ Court by way of filing writ petition numbered as WP(C) No.323 of 2020 urging for issuance of directions upon the State-respondents to fix the '*cut-off date*' of implementation of the Revision of Pay Scale of the appellant-writ petitioner *w.e.f.* '01.01.2016', i.e. the '*cut-off date*' as approved by the University Grants Commission(*UGC*, in short) and the Ministry of Human Resource Development Department (*MHRD*, in short), Government of India on the recommendations of the 7th Central Pay Commission(7th CPC, in short), instead of the '*cut-off date*' i.e. *w.e.f.* '01.10.2017' as notified by the State-respondents, vide Notification dated 25.06.2019(*Annexure-3* to the writ petition).

2.2. First round of litigation came to an end when the said writ petition was disposed of by the learned Writ Court vide order dated 02.03.2021 remitting the matter back to the State-respondents with a direction to take a conscientious decision as regards to the scheme approved by the MHRD without taking a view in the name of fiscal management, with liberty to the appellant to approach before the learned Writ Court, if he is aggrieved by any action of the State-respondents.

2.3. In terms of the directions passed by the learned Writ Court in WP(C) No.323 of 2020 vide order dated 02.03.2021, the appellant-writ

petitioner had approached the competent authority of the State-respondents with representation, which came to be rejected vide order dated 01.09.2021 stating, *inter alia* that they found no sufficient ground in the claim of the appellant-writ petitioner to implement the ‘*cut-off date*’ of the UGC Scheme retrospectively, i.e. *w.e.f.* ‘01.01.2016’.

2.4. Second round of litigation was set in motion when the appellant-writ petitioner, being aggrieved by and dissatisfied with the final order of the State-respondents dated 01.09.2021 had again approached the learned Writ Court by way of filing another writ petition numbered as WP(C) No.183 of 2022 praying for fixation of pension of the appellant-writ petitioner in the revised pay scale as recommended by the 7th CPC effecting the same from ‘01.01.2016’ and for declaring Notification dated 25.06.2019 as arbitrary and contrary to the scheme in respect of fixing the ‘*cut-off date*’ as on ‘01.10.2017’.

2.5. Second round of litigation also however ended with dismissal of the writ petition by the learned Writ Court vide judgment and order dated 23.05.2023.

2.6. The appellant-writ petitioner, being aggrieved by the findings of the learned Writ Court returned in WP(C) No.183 of 2022, had filed the instant intra-court appeal, which is before us in the form of third round of litigation, as *neat legal nodus*.

3. Succinctly stated, the facts of the case are as under:

3.1. The appellant-writ petitioner(here-in-after referred to as the “*appellant*”) entered into service on 24.09.1988 under the Government of Tripura in Higher Education Department as Assistant Professor of Economics. After rendering about twenty eight years of service as Assistant Professor as well as Associate Professor in various Degree Colleges of the

State, he retired from service on 31.07.2017 on attaining the age of superannuation.

3.2. It has been averred by the appellant that during his service tenure he was being paid salary as per pay scales recommended by the UGC and accepted by the State Government from time to time. On his retirement his pension is however governed by the relevant Pension Rules of the State of Tripura.

3.3. It has also been averred by the appellant that the UGC framed its own revised pay structure to extend the benefits of 7th CPC to the Universities and Colleges and other Higher Educational Institutions under the purview of the State Legislature, which was accepted by the MHRD vide its letter dated 02.11.2017 and thereafter the UGC vide its letter dated 30.01.2018 directed the Universities to implement the Scheme of Revision of Pay fixing the '*cut-off date*' as on '*01.01.2016*', but the State respondents, though adopted the said scheme vide Notification dated 25.06.2019, but most illegally, arbitrarily and without following the provisions laid down in the scheme of revision of pay in true perspective, had given the '*effective date*' of implementation of the scheme as on '*01.10.2017*'. As a consequence thereof, the appellant was denied of the benefits of the scheme of 7th CPC at the verge of his retirement and also after his retirement on 31.07.2017.

3.4. It is the further case of the appellant that depriving of the benefits of the Scheme of 7th CPC on the ground that he had retired from service before the '*cut-off date*' as notified by the State-respondents in implementing the Scheme of Revision of Pay, i.e. with effect from '*01.10.2017*' is nothing but an erroneous interpretation of the provisions of

the scheme as approved by the MHRD as well as the UGC, on the part of the State-respondents.

3.5. To get the benefit of the Scheme of 7th CPC w.e.f. '01.01.2016', the appellant had initially filed representation dated 07.01.2020 before the competent authority of the State-respondents, which came to be rejected vide communication dated 24.03.2020.

3.6. Feeling aggrieved by the decision of the State respondents, the appellant had filed writ petition before the learned Writ Court which was numbered as WP(C) No.323 of 2020, and the learned Writ Court vide judgment dated 02.03.2021 remitted the matter to the State-respondents with the following observations:-

*“10. Having observed thus, the matter is remanded for reconsideration by the Government of Tripura in the Finance Department whether the date of effect can be preponed to 01.01.2016 from 01.10.2017. Such exercise shall be completed by the respondents within a period of three months from the day when they would receive a copy of this order. In this regard, this court is persuaded to observe that setting up of the abrupt date, even if, the same is within the authority under the scheme can be judicially reviewed by the writ court following the principles as laid down in **Bihar Pensioners Samaj**(supra)¹. The date of effect has been recommended under the scheme from 01.01.2016 to reduce the inflation effects. The earlier scheme as stated by Mr. Biswas, learned senior counsel was effected from 01.01.2016. It is thus legitimately expected by the petitioner that the said date will be the date of effect in the state of Tripura, as it has happened elsewhere in the country and he would get the benefit of revision w.e.f. 01.01.2016. But the state government having made a casual reference to the fiscal deficit has denied the benefits from 01.01.2016. Thus, this court has been persuaded to remand the matter for a conscientious decision, having due regard to the scheme as approved by MHRD, Government of India without taking a view in the name of the fiscal management for the reasons as referred above. The decision that would be taken will be communicated to the petitioner. The petitioner is granted liberty to approach this court if he is aggrieved by any action from such exercise.*

¹ State of Bihar & Ors. vs. Bihar Pensioners Samaj, (2006) 5 SCC 65

In terms of the above, this writ petition stands allowed to the extent as indicated above.”

3.7. In terms of the order passed by the learned Writ Court, the appellant when approached the State respondents with representation, the same was rejected vide order dated 01.09.2021 stating *inter alia* that they found no sufficient ground in the claim of the appellant to implement the ‘cut-off date’ of the UGC Scheme retrospectively from ‘01.01.2016’. Operative part of order dated 01.09.2021 reads as under:-

“

Whereas, as per the Departmental Notification issued vide no.F.1(499)-DHE/Estt(G)/2019(L-1) dated 27.12.2019, Assistant/Associate Professors enjoying 7th CPC UGC Pay Scales 2016 w.e.f. 01.10.2017, the maximum limit of pension is Rs.1,12,050/- and minimum limit is Rs.28,850/- per month.

AND

Whereas, the matter has been examined in consultation with the Finance Department on the basis of the judgment, as aforesaid.

AND

Whereas, the decision of the State Government to implement the UGC pay scales from 01-10-2017 is within the ambit of the guidelines laid down in the scheme. Any alteration in the existing guidelines may do away with the existing fabric of the scheme. Hence, the existing system cannot be altered.

AND

Whereas, under Para 16(iv)(h) of Notification dated 02-11-2017, the Scheme mentions that-to avail the scope of central assistance, the regulations and other guidelines has to be implemented by the State Govt. Colleges coming under their jurisdiction as a composite scheme without any modification except in regard to the date of implementation and pay scales mentioned above. The Scheme, therefore, gives independence to the States to alter the date of implementation of the Scheme.

AND

Whereas, it is not mandatory for the States to adopt the date of implementation as mentioned in the Scheme(i.e., 01-01-2016). Taking this point into consideration, the State Government has taken a policy

decision to adopt the scheme in Tripura from 01-10-2017. A policy decision is taken into consideration keeping many parameters in view. At this stage, therefore, it is not possible to further alter the date of implementation of the UGC Scheme retrospectively w.e.f. 01-01-2016.

AND

*** *** ***
*** *** ***

AND

Whereas, further, the plea of the petitioner that similar benefit was granted with effect from 01-01-2006 during the erstwhile period for revision of pay scales, is not a valid ground to extend the benefit of the Scheme from 01-01-2016. The financial condition of the State during 2006 is not comparable with the financial condition of the State at present. Also during 2006, the central assistance was to the tune of 80% of the additional burden of arrears, whereas under the present Scheme it is only 50% of the additional burden of arrears. So, both these scenarios cannot be equated. If so done, it would cost heavily on the State and is likely to dismantle the settled fabric of the Scheme.

AND

Whereas, it is also not a case where the in-service faculties are getting pay scale from 01-01-2016 whereas the petitioner being a retired person is getting pay scale from 01-10-2017. UGC Revised pay scales has been allowed uniformly from 01-10-2017 for all the faculties of General Degree Colleges under the Higher Education Department irrespective of whether in-service or retired. There is no discrimination with respect to the date of implementation with regard to pay of in-service faculties of the General Degree Colleges and the pension of retired faculties. Since, this is not a case where two classes have been created within a class, so, there is no violation of Article 14 or Article 16 of the Constitution of India. Hence, the question of changing the date of implementation of the Scheme from existing 01-10-2017 to 01-01-2016(as claimed by the petitioner) does not arise.

AND

Whereas, in the case of Union of India versus S R Dhingra & Ors vide Transfer Case(Civil) No 106 of 2006, the

Hon'ble Supreme Court has observed that—"It is well settled that when two sets of employees of the same rank retire at different points of time, one set cannot claim the benefit extended to the other set on the ground that they are similarly situated. Though they retired with the same rank, they are not of the same class or homogeneous group. Hence Article 14 has no application. The employer can validly fix a cut-off date for introducing any new pension/retirement scheme or for discontinuance of any existing scheme. What is discriminatory is introduction of a benefit retrospectively(or prospectively) fixing a cut-off date arbitrarily thereby dividing a single homogenous class of pensioners into two groups and subjecting them to different treatment(vide Col B.J. Akkara(Retd) vs. Govt of India, (2006) 11 SCC 709, D.S. Nakara vs. Union of India(1983) 1 SCC 305, Krishna Kumar vs. Union of India (1990) 4 SCC 207, Indian Ex-Services League vs. Union of India (1991) 2 SCC 104, V. Ksturi vs. Managing Director, State Bank of India (1998) 8 SCC 30 and Union of India vs. Dr. Vijayapurapu Subbayamma (2000) 7 SCC 662)."

AND

*Whereas, in the instant case, neither the State Government has created two different groups of pensioners nor has the petitioner been subjected to differential treatments. **The petitioner got his pension from the same date as that of other in-service faculties or other retired faculties.** Therefore, there is no question of any deprivation on the part of the petitioner in framing the Scheme by the Education(Higher) Department, giving it a date of implementation from 01-10-2017.*

Now, therefore, given the above and after careful examination of the matter, it appears that there is no sufficient ground in the claim of the petitioner to implement the date of UGC Scheme retrospectively from 01-01-2016. Hence the claim of the petitioner can not be accepted."

[emphasis supplied]

3.8. Being aggrieved by the decision of the State-respondents, the appellant had again approached the learned Writ Court wherein the core issue for decision before the learned Writ Court was that *'whether the*

appellant is entitled to get the benefits of revision of pay scale under 7th CPC effecting from 01.01.2016’.

However, the learned Writ Court having gone through the pleadings of the parties and having heard the learned counsel of both side and considering the merit of the case, had dismissed the writ petition observing thus:

“[10] During the course of the argument on the point of arbitrariness, Mr. Sinha, learned counsel appearing for the petitioner has contended that the action of the State of Tripura in implementing its scheme w.e.f. 01.10.2017 instead of 01.01.2016 as adopted by UGC is arbitrary, contrary and inconsistent to the main scheme of the UGC. He further contended that the benefit which has been extended to the other employees in pursuance to the scheme adopted by the state of Tripura vide notification dated 25.06.2019 has not been extended to the petitioner herein and as such it is in violation of natural justice and discriminatory.

[11] This court is not inclined to appreciate the argument on the point of arbitrariness since the scheme as adopted by UGC categorically indicates that it “may be” extended and not “shall be” extended to the universities, colleges and other higher educational institutions coming under the purview of the state legislatures. If the option had been given to the state for exercising its discretion, it cannot be said that the state shall implement the scheme in toto. For the reasons mentioned in the scheme, the state government has indicated its compliance of the scheme and the commencement of its date i.e. 01.10.2017.

[12] The argument as advanced by Mr. Sinha, learned counsel for the petitioner regarding the discrimination faced by the employees of the state of Tamil Nadu and West Bengal, this court is not inclined to consider the argument on the point of discrimination faced by the employees in the other states. It is evident from the records that the Government of India has categorically mentioned in its scheme adopted by UGC on 01.01.2016 that the option to implement the scheme of UGC in each state depends on its administration. Therefore, this court feels that no arbitrariness is made out and the petitioner has failed to make out his case regarding discrimination.

[13] In view of the above discussion, this court has no hesitation to hold that the petitioner has failed to make out his case. Therefore, for the reasons as stated above, this writ petition stands dismissed being devoid of merit.”

3.9. The appellant, being aggrieved by and dissatisfied with the findings arrived at by the learned Writ Court, had filed the instant *intra-court* appeal praying for the following relief(s):

*“a. admit the appeal;
b. call for the records;
c. after hearing both the parties, set aside the judgment and order of the Ld Single Judge passed on 23-05-2023 passed in WP(C):183 of 2022 and direct the respondents to provide the benefit of UGC pay scale as per 7th CPC.”*

4. On the aforementioned background facts and circumstances of the case, we have heard Mr. C.S. Sinha, learned counsel appearing for the appellant as well as Mr. D. Bhattacharya, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the State respondents.

5. Mr. Sinha, learned counsel at the very outset has submitted that the appellant is entitled to get the benefits of 7th CPC with effect from 01.01.2016 as the 7th CPC came into force effect from 01.01.2016 and on being received communication dated 02.11.2017 from the MHRD, the State Government had adopted the scheme of Revision of Pay vide Notification dated 25.06.2019 notifying the effective date of implementation of the scheme from ‘01.10.2017’, which is an erroneous decision on the part of the State respondents. Learned counsel has however contended with vehemence that as the date of effect of implementation of the scheme is meant only for monetary benefits, the State Government by issuing the said notification cannot overlap/bypass the date of effect, as recommended by the UGC as well as the MHRD.

5.1. Learned counsel further has contended that Notification dated 25.06.2017 did not speak about fixation of pay in case of an employee who retired from service in between ‘01.01.2016 to 30.09.2017’. Since the

appellant retired from service on 31.07.2017, fixation of his pay under 7th CPC from '01.01.2016 to 01.10.2017' will get notional fixation. As the fixation of pay of the appellant has not been placed in the revised pay of 7th CPC, he is getting pension less than that of his actual pension he was entitled to, and such deprivation was continuing from 01.10.2017 without providing him the benefit of 7th CPC.

5.2. Further contention of learned counsel for the appellant is that the pensioners who retired on or before 31.03.2017 are getting the benefit of 7th CPC as per Revised Pension Rules of Government of Tripura and at the same time, the pensioners who retired on or after 01.10.2017 are also getting the benefit of 7th CPC, as those categories of pensioners fall both under the Revised Pension Rules of Government of Tripura and Revised Pay Scale of 7th CPC. But, the pensioners alike the appellant who retired in between '01.04.2017 to 30.09.2017' placed under Pension Rules of 6th CPC as their pay has not been revised since the UGC Pay Revision under 7th CPC has been implemented in the State of Tripura with effect from '01.10.2017' instead of '01.01.2016'.

5.3. Finally, it is contended by Mr. Sinha, learned counsel for the appellant that the date of effect of the scheme as notified by the State as on '01.10.2017' cannot be to the exclusions of '01.01.2016', being the date of effect of 7th CPC.

5.4. Learned counsel therefore prayed for allowing the appeal setting aside the judgment of the learned Writ Court and to direct the State respondents to provide the benefit of UGC pay scale to the appellant as per 7th CPC with notional pay fixation.

6. Per contra, learned GA opposing the contentions of the learned counsel appearing on behalf of the appellant prayed for upholding the findings returned by the learned Writ Court dismissing the writ petition.

7. Having considered the rival submissions of the learned counsel appearing for the parties and having gone through the findings of the learned Writ Court, the core issue which falls for consideration before us is whether the learned Writ Court arrived at a wrong finding while dismissing WP(C) No.183 of 2022. In other words, the finding returned by learned Writ Court observing that the appellant is not entitled to get the benefit of revision of pay scale under 7th CPC effecting from 01.01.2016, is in consonance with the communication dated 02.11.2017 issued by the MHRD in consultation with the UGC and also in view of the Notification dated 25.06.2019 issued by the State respondents.

7.1. Since the central issue revolves around the communication dated 02.11.2017 issued by the MHRD, it would be apposite to reproduce here-under para 16 of the communication dated 02.11.2017, which deals with the *applicability of the scheme*. Relevant portion of para 16 reads as under:

“16. Applicability of the Scheme:

(i) This Scheme shall be applicable to teachers and other equivalent academic staff in all the Central Universities and Colleges there-under and the Institutions Deemed to be Universities whose maintenance expenditure is met by the UGC. The implementation of the revised scales shall be subject to the acceptance of all the conditions mentioned in this letter as well as Regulations to be framed by UGC and amendments thereof in this behalf. Universities implementing this Scheme shall be advised by UGC to amend their relevant statutes and ordinances in line with the UGC Regulations within three months from the date of issue of this letter.

(ii) ### ### ##.

(iii) ### ### ##..

(iv) This Scheme may be extended to universities, Colleges and other higher educational institutions coming under the purview of State legislatures, provided State Governments wish to adopt and implement the Scheme subject to the following terms and conditions:

- (a) Financial assistance from the Central Government to State Governments opting to revise pay scales of teachers and other equivalent cadre covered under the Scheme shall be limited, by way of reimbursement, to the extent of 50%(fifty percent) of the additional expenditure involved in the implementation of the pay revision, for the universities, colleges and other higher educational institutions funded by the State Government.*
- (b) The State Government opting for revision of pay shall meet the remaining 50%(fifty percent) of the additional expenditure from its own sources.*
- (c) The proposal for reimbursement on account of pay revision in State funded universities, colleges and other higher educational institutions shall be submitted in the prescribed format by the State Governments. **The state bills preferred by the State Governments for reimbursement during 2017-18 and 2018-19 would be met to the extent of 50% of additional financial impact during these two years. There would be no central assistance thereafter.***
- (d) Financial assistance referred to in sub-clause (a) above shall be provided for the period from 01.01.2016 to 31.03.2019.*
- (e) **The entire liability on account of revision of pay scales etc. of university and college teachers shall be taken over by the State Government opting for revision of pay scales with effect from 01.04.2019.***
- (f) Financial assistance from the Central Government shall be restricted to revision of pay scales in respect of only those posts which were in existence and had been filled up as on 01.01.2016.*
- (g) **State Governments, taking into consideration other local conditions, may also decide in their discretion,** to introduce pay higher than those mentioned in this Scheme, and shall give effect to the revised bands/scales of pay from 01.01.2016; however, in such cases, the details of modifications proposed shall be furnished to the Central Government and Central assistance shall be restricted to the Pay as approved by the Central Government and not to any higher pay fixed by the State Government(s).*
- (h) Payment of Central assistance for implementing this Scheme is also subject to the condition that the entire Scheme of revision of pay*

*scales, together with all the conditions to be laid down by the UGC by way of Regulations and other guidelines shall be implemented by State Governments and Universities and Colleges coming under their jurisdiction as a composite scheme **without any modification except in regard to the date of implementation and pay scales mentioned herein above.***

[emphasis supplied]

7.2. On bare reading of the *proviso (i)* of para 16 of the scheme, it comes to fore that the scheme shall be applicable to teachers and other equivalent academic staff in all the Central Universities and Colleges there-under and the institutions deemed to be universities whose maintenance expenditure is met by the UGC. *Proviso (iv)* of para 16 of the scheme deals with certain terms and conditions following which the State Governments may adopt and implement the Scheme to Universities, Colleges and other Higher Educational Institutions coming under the purview of State Legislatures. Under the *proviso (iv)* of para 16, it is, however, clearly stated that it is the wisdom of the State Governments whether to adopt and implement the scheme taking into consideration other factors and local conditions.

Further, under the *proviso of clause (iv)(h)* of para 16, it is clearly mentioned that to avail the scope of central assistance, the *regulations and other guidelines have to be implemented by the State Government Colleges coming under their jurisdiction as a composite scheme **without any modification except in regard to the date of implementation and pay scales mentioned above.***

The above proviso, therefore, authorizes independence to the States to alter/modify the date of implementation of the scheme as mentioned in the communication dated 02.11.2017.

7.3. We also feel it appropriate to reproduce hereunder the relevant provisions of the Notification dated 25.06.2019 issued by the Secretary to the Government of Tripura, Higher Education Department, which reads as under:

*“Government of Tripura
Education (Higher) Department*

No. F.1(499)-DHE/Estt (G)/2017/728

Dated 25th June, 2019

NOTIFICATION

Subject:- Revision of pay scales of teachers in the State Universities, General Degree Colleges and Institute of Advance studies in Education, College of Teacher Education(CTE), Government Music College, Government Law College under the University Grants Commission on the recommendation of 7th Central Pay Commission (CPC).

The Government of India, Ministry of Human Resource Development Department of Higher Education vide their letter No. No.1-7/2015-U.II(1) dated 2nd November, 2017 has communicated the new scheme of revision of pay of teachers and equivalent cadres in universities and colleges following the revision of pay scale of Central Government employees on the recommendations of the 7th Central Pay Commission (CPC) to the University Grants Commission(UGC) with a copy to all the State Governments. In the said letter it has been indicated that the revision of pay scales of teachers and equivalent academic staff shall be subject to various provisions of the Scheme of revision of pay scales as contained in the letter and Regulations issued by UGC and amendments thereof from time to time in this behalf.

*After careful consideration of the matter, in order to attract and retain talent in teaching profession, the Government of Tripura has decided to introduce this scheme of revised pay structure as recommended by the Government of India for the teachers in all State Universities, General Degree Colleges, Institute of advance studies in Education/College of Teacher Education(CTE), Government Music College, Government Law Collage of the State **with few modifications**. This scheme shall be applicable to teachers who were/are recruited in the regular scale of pay through prescribed recruitment process.*

The revised pay structure and other provisions of the scheme adopted are as under:

- | | | | |
|-----|-----|-----|-----|
| “1. | xxx | xxx | xxx |
| 2. | xxx | xxx | xxx |
| 3. | xxx | xxx | xxx |
| 4. | xxx | xxx | xxx |

5. **Date of effect:**

The date of implementation of the revision of pay shall be 1st October, 2017.

6.	xxx	xxx	xxx
7.	xxx	xxx	xxx
8.	xxx	xxx	xxx
9.	xxx	xxx	xxx

10. **Applicability of the scheme**

(a).	xxx	xxx	xxx
(b).	xxx	xxx	xxx
(c).	xxx	xxx	xxx
(d).	xxx	xxx	xxx
(e).	xxx	xxx	xxx

(f) Financial assistance from the Central Government shall be restricted to revision of pay scale in respect of only those posts which were in existence and had been filled up as on 01.10.2017.

(g) Payment of Central assistance for implementing this scheme is also subject to the condition that the entire Scheme of revision of pay scales, together with all the conditions to be laid down by the UGC by way of Regulations and other guidelines shall be implemented by State Governments and Universities and Colleges coming under the jurisdiction as a composite scheme without any modification except in regard to the date of implementation any pay scales mentioned herein above.

11.	xxx	xxx	xxx
12.	xxx	xxx	xxx
13.	xxx	xxx	xxx
14.	xxx	xxx	xxx
15.	xxx	xxx	xxx
15.	xxx	xxx	xxx
17.	xxx	xxx	xxx

(Saumya Gupta)
Secretary

To the Government of Tripura
25-06-2019”

7.4. A bare perusal of the **proviso of 10(g)** of the above notification it is crystal like clear that the State respondents taking recourse of the **proviso of clause (iv)(h)** of para 16 of the communication dated 02.11.2017 issued by the MHRD had modified the date of effect of implementation of the Scheme of Revision of Pay effecting the same as on 01.10.2017 as the above **proviso** itself authorized the State to alter/modify the date of implementation of the scheme.

In view of the above authorization in the scheme itself, we find no error or arbitrariness in the policy decision of the Government fixing the date effect of implementation of the scheme from 01.10.2017 instead of 01.01.2016.

7.5. Almost similar question arose and decided by the same Bench in the case of *Dr. Soma Sarkar(Bhattacharya) vs. State of Tripura & Ors.*[WA No.94 of 2023, decided on 31.08.2023] and had an occasion to consider the issue of power of the State Governments and while addressing the issue the Court had considered the ratio laid down in *Jagdish Prasad Sharma & Ors. Vs. State of Bihar & Ors.* reported in (2013) 8 SCC 633 where the Hon'ble Supreme Court held that there can be no automatic application of regulations/scheme framed by UGC, in a State, without any conscious decision having been taken by a State Government in that regard on account of financial implications and other consequences attached thereto. Again, in *State of Uttarakhand vs. Sudhir Budakoti & Ors*, reported in 2022 SCC OnLine SC 420, the Apex Court held that a mere differential treatment on its own cannot be termed as an "anathema to Article 14 of the Constitution". When there is a reasonable basis for a classification adopted by taking note of the exigencies and diverse situations, the Court is not expected to insist on absolute equality by taking a rigid and pedantic view as against a pragmatic one. It was further held that there is no way, courts could act like appellate authorities especially when a classification is introduced by way of a policy decision clearly identifying the group of beneficiaries by analysing the relevant materials. It is now well settled that the doctrine of "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a court of law, but

equal pay must be for equal work of equal value. The equation of posts and determination of pay scales is the primary function of the executive and not the judiciary. The Courts therefore should not enter upon the task of job evaluation which is generally left to the expert bodies like the Pay Commissions which undertake rigorous exercise for job evaluation after taking into consideration several factors like the nature of work, the duties, accountability and responsibilities attached to the posts, the extent of powers conferred on the persons holding a particular post, the promotional avenues, the Statutory rules governing the conditions of service, the horizontal and vertical relativities with similar jobs etc.

7.6. Furthermore, the classification of posts and the determination of pay structure, thus falls within the exclusive domain of the Executive, and the Courts or Tribunals cannot sit in appeal over the wisdom of the Executive in prescribing certain pay structure and grade in a particular service. There should not be any quarrel at the bar that the powers of judicial review in the matters involving financial implications are also very limited. The wisdom and advisability of the Courts in the matters concerning the finance, are ordinarily not amenable to judicial review unless a gross case of arbitrariness or unfairness is established by the aggrieved party.

8. In the instant case, we find that the Scheme itself authorized the States to modify the date of effect of implementation of Revision of Pay on the basis of which the State of Tripura had implemented the Scheme with effect from 01.10.2017 instead of 01.01.2016. According to us, alteration/modification or fixing of the date of giving effect of the

implementation of the Scheme with effect from 01.10.2017 was absolutely within the domain of the State Government, and in such a case, the Courts must be sloth to interfere with the policy decision of the Government, particularly, when the matter involved financial implications, and in the situation, the powers of judicial review are very limited. It is settled proposition of law that the Court's powers in the matters concerning the finance are ordinarily not amenable to judicial review unless a gross case of arbitrariness or unfairness is established by the aggrieved party. Here, we already have observed that the MHRD itself had given liberty to the State Governments to alter/modify the date of implementation of the Scheme as regards the making of provision of salary structure of the academic staff and teachers. In view of this, we find, no grave error had crept in while determining the date of effect of implementation of the scheme of Revision of Pay with effect from 01.10.2017 altering/modifying the date mentioned in the communication dated 02.11.2017 issued by the MHRD.

9. For the reasons stated and discussed here-in-above on the points of facts and also on the points of law and the decisions as referred to *supra*, we find absolutely no reason to interfere with the findings arrived at by the learned Writ Court dismissing the writ petition filed on behalf of the appellant-writ petitioner.

10. Accordingly, the instant appeal stands dismissed.

(ARINDAM LODH, J)

(APARESH KUMAR SINGH, CJ)