

Neutral Citation No. - 2023:AHC:231723

Reserved on 17.11.2023

Delivered on 07.12.2023

Court No. - 35

Case :- WRIT - A No. - 5537 of 2023 (Leading writ petition)

Petitioner :- Nand Lal Yadav

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Alok Kumar Yadav,Brijesh Kumar Yadav

Counsel for Respondent :- C.S.C.,Hritudhwaj Pratap Sahi,Sankalp Narain

With

Case :- WRIT - A No. - 9669 of 2018 (Connected C1 writ petition)

Petitioner :- Vir Singh And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Gulrez Khan,Pramod Kumar Shukla,Sr. Advocate W.H. Khan

Counsel for Respondent :- C.S.C.

With

Case :- WRIT - A No. - 13783 of 2020 (Connected C2 writ petition)

Petitioner :- Poonam Mishra

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Ramesh Chandra Dwivedi

Counsel for Respondent :- C.S.C.,Anil Kumar Singh

With

Case :- WRIT - A No. - 2643 of 2021 (Connected C3 writ petition)

Petitioner :- Dr. Subhangi Sharma

Respondent :- State Of U P And 3 Others

Counsel for Petitioner :- Vinod Kumar Singh,Adarsh Singh,Indra Raj Singh

Counsel for Respondent :- C.S.C.

With

Case :- WRIT - A No. - 8503 of 2023 (Connected C4 writ petition)

Petitioner :- Anita Tiwari

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Grijesh Tiwari

Counsel for Respondent :- C.S.C.,Praveen Kumar Giri

With

Case :- WRIT - A No. - 13005 of 2023 (Connected C5 writ petition)

Petitioner :- Dr. Sudhakar Sharma

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Indra Raj Singh, Adarsh Singh

Counsel for Respondent :- C.S.C.

With

Case :- WRIT - A No. - 15780 of 2023 (Connected C6 writ petition)

Petitioner :- Virendra Pal Dwivedi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Man Mohan Singh

Counsel for Respondent :- C.S.C., Rohit Upadhyay

Hon'ble Vikas Budhwar, J.

1. Writ A 5537 of 2023 (Nand Lal Yadav & Others Vs. State of U.P. & 6 Others) (leading writ petition), Writ A No. 9669 of 2018 (Veer Singh & Others Vs. State of U.P. & Others) (connected C1 writ petition), Writ A No. 13783 of 2020 (Poonam Mishra Vs. State of U.P. & Others) (connected C2 writ petition), Writ A No. 2643 of 2021 (Dr. Subhangi Sharma Vs. State of U.P. & Others) (connected C3 writ petition), Writ A No. 8503 of 2023 (Anita Tiwari Vs. State of U.P. & 4 Others) (connected C4 writ petition), Writ A No. 13005 of 2023 (Dr. Sudhakar Sharma Vs. State of U.P. & Others) (connected C5 writ petition) and Writ A No. 15780 of 2023 (Virendra Pal Dwivedi Vs. State of U.P. & Others) (connected C6 writ petition).

2. Heard Sri Alok Kumar Yadav, learned counsel for the writ petitioner in the leading writ petition, Sri Gulrez Khan in connected C1 writ petition, Sri R.C. Dwivedi in connected C2 writ petition, Sri Vinod Kumar Singh in connected C3 writ petition, Sri Girijesh Tiwari in connected C4 writ petition, Sri Adarsh Singh in connected C5 writ petition and Sri Man Mohan Singh in connected C6 writ petition as well as Sri Neeraj Tripathi, learned Additional Advocate General assisted by Sri Shailendra Singh, learned Standing Counsel who

appears for the State official respondents and Sri Sankalp Narayan, learned counsel who appears for private respondents in leading writ petition.

3. The leading writ petition along with connected C1-C5 writ petitions were heard on various dates and on 17.11.2023, judgment was reserved. In the meantime, since in the connected C6 writ petition, the issues involved are the same which is in the leading writ petition, thus, consequent to reserving of judgment on 21.11.2023, the same is being decided by a common order.

Factual Matrix:

Writ A No. 5537 of 2023 (Nand Lal Yadav Vs. State of U.P.) (Leading writ petition):-

4. The facts of the case as worded in the leading writ petition are that an advertisement was published by the U.P. Secondary Education Selection Board, Advertisement No. 1 of 2002 for filling up various posts of Assistant Teacher including subject “Science”. The writ petitioner claiming himself to be belonging to other backward class category and handicapped applied for selection and appointment on the post of Assistant Teacher in subject “Science”. Interviews are stated to have been conducted on 29.11.2004 and result was declared on 24.12.2004 wherein the name of the writ petitioner found place at serial No. 14 Roll No. 020610131 while according placement in the institution, Sri Shri Krishnand Janta Inter College, Bankatai, Deoria. Since as per the writ petitioner, the said institution, Sri Shri Krishnand Janta Inter College, Bankatai, Deoria did not allow the writ petitioner to join the said institution so the third respondent, District Inspector of Schools, Bhadoi issued a communication addressed to the Secretary, U.P. Secondary Education Service Selection Board, Allahabad/Prayagraj on 26.10.2005 requiring adjustment of the writ petitioner in any other institution. Pursuant to the said letter, the

Deputy Secretary of the Board by virtue of a letter dated 02.04.2005 allotted the sixth respondent-institution, Kashi Raj Mahavidyalaya Inter College, Orai, Sant Ravi Das Nagar which is an aided institution upto class XII. Consequently, the third respondent, District Inspector of Schools, Bhadoi issued a letter to the Manager of Sri Kashi Raj Mahavidyalaya Inter College, Orai, Sant Ravi Das Nagar on 04.04.2005 for according joining to the writ petitioner. The sixth respondent-institution vide its resolution No. 3 dated 10.04.2005 resolved to issue appointment order to the writ petitioner and accordingly, an appointment order dated 11.04.2005 was issued and the said fact was intimated to the third respondent, District Inspector of Schools, Bhadoi. Ultimately, the writ petitioner joined on the post of Assistant Teacher "Science" on 15.04.2005 and thereafter, he claims to have been accorded promotion on the post of Lecturer. The writ petitioner further claims to have superannuated on the post of Lecturer in the subject "Science" on 31.03.2023.

Writ A No. 9669 of 2018 (Veer Singh & Others Vs. State of U.P. & Others) (connected C1 writ petition):-

5. An advertisement is stated to have been published by the U.P. Secondary Education Service Selection Board, Allahabad/Prayagraj No. 1 of 2003 in the month of May, 2003 inviting applications for appointment of Assistant Teacher L.T. Grade in private recognized and aided secondary institutions including the posts of Lecturer also in different subjects, the writ petitioners who are two in number claimed to have applied for the post of Lecturer "Physics" and Lecturer "History" respectively. The selections were conducted by the Service Selection Board on 04.12.2004 and 15.12.2004. Appointment orders were issued on 16.02.2005 and 01.02.2005 to the writ petitioners. Consequent to the issuance of the appointment orders, the petitioner No. 2 was issued a communication on 10.02.2005 by the sixth respondent-institution, R.M.S. Inter College, Bhanpur, Bijnor to join

the post. As per the petitioner No. 2 when he went to join the said institution, he was not permitted to join so the petitioner No. 2 claims to have sent a letter dated 15.02.2005 to the District Inspector of Schools complaining about the said conduct of the Committee of Management of the institution in question. Accordingly, on 26.02.2005 the District Inspector of Schools, Bijnor show caused the sixth respondent-institution with respect to the said conduct.

6. As per the assertions contained in para 10 of the writ petition, the sixth respondent-institution showed its inability to accord joining to the petitioner No. 2 on the premise that the post of Lecturer “History” is already occupied and there is no post is available, thus, the District Inspector of Schools, Bijnor vide a communication dated 01.03.2005 intimated the same to the Service Selection Board for adjustment of petitioner No. 2 in some other institution, in pursuance of the letter dated 01.03.2005, the Secretary, Service Selection Board adjusted the petitioner in the seventh respondent-institution, Shankar Dev Adarsh Inter College, Jamal, Bulandshahr. A letter to the said extent was issued on 23.04.2005 by the District Inspector of Schools, Bulandshahr to the seventh respondent Committee of Management for joining of the writ petitioner pursuant to the adjustment made by the Service Selection Board. Thereafter, on 27.04.2005 the writ petitioner was accorded joining. Likewise, in the case of petitioner No. 1, he approached the Principal/Management of Maharaja Agrasen Inter College, Deoria, respondent No. 8 for joining on 22.02.2005, 11.03.2005 and 24.03.2005 in pursuance of the appointment order dated 16.02.2005 but the petitioner No. 1 was not accorded joining by the respondent No. 8-institution, on the matter being communicated to the District Inspector of Schools a show cause is stated to have been issued on 02.04.2005 to the respondent No. 8-institution, Maharaja Agrasen Inter College for joining. The respondent No. 8-institution thereafter, on 05.04.2005 issued a communication to the writ

petitioner No. 1 for joining but when the writ petitioner presented himself for joining on 21.04.2005 the respondent No. 8 again did not permit the writ petitioner No. 1 to join, faced with the circumstances, the petitioner No. 1 approached the Service Selection Board for adjustment in any other institution which was acceded to by the Service Selection Board vide letter 22.07.2005 according joining in the respondent No. 9-institution, P.V.A.S. Inter College, Mahamayanagar, Hathras. On 01.8.2005 the District Inspector of Schools, Mahamayanagar, Hathras issued a letter to the Management of the respondent No. 9-institution for joining of the petitioner, however, unfortunately, the writ petitioner was not allowed to join in the said institution, thus, the District Inspector of Schools, Mahamayanagar, Hathras issued another communication letter dated 16.09.2005 to the Selection Board for adjustment of the writ petitioner to some other institution. Since the petitioner No. 1 in the said writ petition was not accorded joining so he preferred Writ A No. 1926 of 2006 (Veer Singh Vs. State of U.P.) which came to be disposed of on 06.04.2006 with a direction to the Director, Secondary Education to consider the adjustment of the writ petitioner in Inter College, Jaitpura, Mukimpur, Bulandshahr consequently, on 30.06.2006 the writ petitioner was adjusted in the institution, Inter College Jaitpura. The District Inspector of Schools, accordingly, issued a letter dated 12.09.2006 requiring joining to the writ petitioner and the writ petitioner eventually joined on 25.09.2006 and thereafter, he was made Ad hoc Principal in the concerned institution on 01.07.2012.

Writ A No. 13783 of 2020 (Poonam Mishra Vs. State of U.P. & Others) (connected C2 writ petition)

7. The facts of the case are that an advertisement was published bearing No. 1 of 2002 by the Uttar Pradesh Madhyamic Shiksha Chayan Board for filling up various posts. The writ petitioner participated in the said selections and she was selected pursuant to the

recommendation of the Selection Committee by the Board and a letter was issued by the Secretary of the Board to the District Inspector of Schools, Bulandshahr wherein the writ petitioner was accorded placement in the institution, Munni Lal Inter College, Bhola Bagapawl in District Bulandshahr as Assistant Teacher L.T. Grade on 09.11.2004. However, as per the writ petitioner, the institution, Munni Lal Inter College, Bhola Bagapawl in District Bulandshahr was not in existence, thus, there was no question of joining of the writ petitioner in the said institution, thus, the District Inspector of Schools, Bulandshahr issued a communication on 17.11.2004 mentioning the said fact to the Secretary of the Board. Since the writ petitioner was not being accorded joining so he preferred a representation/request letter before the Secretary of the Board on 09.11.2004. It is also the case of the writ petitioner that on 24.03.2005 the Manager of the institution, Gyan Prakash Inter College, seventh respondent, Deoria had notified the vacancy on the post of Assistant Teacher (Hindi) L.T. Grade so in the light of the requisition dated 24.03.2005 as received by the Secretary of the Board an order is stated to have been passed on 09.08.2005 according placement to the writ petitioner as Assistant Teacher “Hindi” L.T. Grade in Gyan Prakash Inter College, Bhalauni, Deoria and a consequential letter is stated to have been issued by the District Inspector of Schools, Deoria. Thereafter, the writ petitioner claims to have been accorded joining in the seventh respondent-institution on 07.09.2005 and thereafter, he was considered for promotion as Lecturer “Hindi” and approval whereof was accorded on 13.02.2013.

Writ A No. 2643 of 2021 (Dr. Subhangi Sharma Vs. State of U.P. & Others) (C3 writ petition):-

8. Here also an advertisement was published by the Board, Advertisement No. 1 of 2022 for filling up the post of Teachers, the writ petitioner claims to have applied in pursuance of the said

advertisement, post qualifying the written examination a letter is stated to have been issued on 29.05.2004 to appear before the Interview Board on 14.06.2004 and a select panel was notified by the Board on 24.07.2004 wherein the writ petitioner was accorded placement in the institution, P.A.V.A.S. Inter College, Modi Nagar, Ghaziabad. Despite the fact that the writ petitioner was accorded placement in the said institution but the writ petitioner was not allowed to join in the said institution. A communication is stated to have been issued by the District Inspector of Schools, Ghaziabad to the Secretary of the Board on 23.12.2004 mentioning therein that there was no post available in the institution, P.A.V.A.S. Inter College, Modi Nagar, Ghaziabad, thus, the writ petitioner could not be accorded joining and, thus, the writ petitioner be adjusted in some other institution. In pursuance of the communication dated 23.12.2004 of the District Inspector of Schools, Ghaziabad the name of the writ petitioner was recommended on 04.03.2005 in the fourth respondent-institution, Dr. K.M. Modi Science and Commerce College, Modi Nagar, Ghaziabad.

9. In para 8 of the writ petition, it is asserted that the writ petitioner approached the fourth respondent-institution for joining, however, neither any appointment order was issued nor joining was accorded within the reasonable period, however, the appointment order for the first time was issued in favour of the writ petitioner on 29.03.2005 providing that the writ petitioner is to join within a period of 10 days. The writ petitioner claims to have joined on 02.04.2005.

Writ A No. 8503 of 2023 (Anita Tiwari Vs. State of U.P. & 4 Others)
(C4 writ petition):-

10. The facts of the case are that an advertisement was published bearing No. 1 of 2002 for making selections on various posts of Assistant Teacher in High School, Intermediate Colleges including the

subject “Hindi”. The writ petitioner claims to have applied in pursuance of the said selection, he was allotted Roll No. 040110308 by the Secretary, U.P. Secondary Education Service Selection Board, Prayagraj. Interview letter was issued on 28.05.2004 requiring the writ petitioner to appear on 10.06.2004 and the writ petitioner claims to have been selected pursuant to the result declared on 02.09.2004 and was accorded placement to Sri Bholaram Maskara Inter College, Gahasadh Sahjanawa, Gorakhpur, however, despite the fact that placement was accorded in the said institution on 15.10.2004 when the writ petitioner reported for joining on 27.10.2004 before the Management of the said institution, he was not accorded joining, resulting to the fact that the writ petitioner approached the District Inspector of Schools, Gorakhpur who in turn issued a communication on 04.12.2004 to the Committee of Management of the institution in question to accord joining. As inspite of the communication made by the District Inspector of Schools, Gorakhpur requiring the said institution to accord joining to the writ petitioner when the writ petitioner was not allowed to join then communications are stated to have been issued on 10.12.2004, 07.01.2005, 12.01.2005 thereafter, on 04.07.2005 the writ petitioner was issued an appointment order and he joined the institution in question on 05.07.2005. Post completion of 10 years as Assistant Teacher, the writ petitioner claims to have been promoted as Lecturer “Hindi” on 19.03.2015.

Writ A No. 13005 of 2023 (Dr. Sudhakar Sharma Vs. State of U.P. & Others) (connected C5 writ petition):-

11. The facts are that an advertisement was published by Uttar Pradesh Higher Education Service Commission, bearing No. 32 of 2002 on 10.07.2002 inviting applications for selection and appointment on the post of Lecturer in various subjects including subject “Bachelor of Education” the writ petitioner claims to have applied in pursuance of the said advertisement and a select panel was

issued on 24.11.2004 wherein the writ petitioner's name found place at serial No. 20. Thereafter, Uttar Pradesh Higher Education Service Commission, Prayagraj issued a letter dated 04.01.2005 recommending the name of the writ petitioner for appointment on the post of Lecturer "Bachelor of Education" and Director of Higher Education, U.P., Prayagraj proceeded to issue necessary orders for appointment and posting of the writ petitioner. Accordingly, a letter is stated to have been issued on 02.04.2005 under the signatures of the Director of Higher Education, U.P., Prayagraj to the institution, Nehru Memorial Shiv Narayan Das Inter College, Budaun. The writ petitioner claims to have been issued appointment order on 29.04.2005 and the writ petitioner assumed the charge on 25.05.2005. Since the case of the writ petitioner was treated to be under new pension scheme and not under old pension scheme so the writ petitioner preferred Writ A No. 15288 of 2019 which came to be disposed of on 26.02.2019 requiring the Director of Higher Education to decide the claim of the writ petitioner which according to the writ petitioner has been rejected on 31.10.2022. The writ petitioner is stated to have retired on 30.06.2022.

Writ A No. 15780 of 2023 (Virendra Pal Dwivedi Vs. State of U.P. & Others) (connected C6 writ petition):-

12. The facts are that an advertisement was published bearing No. 1 of 1999/2000 by the U.P. Secondary Education Service Selection Board, Allahabad for appointment on the posts of Principal in various institutions, the writ petitioner claims to have applied and the Secretary, U.P. Secondary Education Service Selection Board, Allahabad/Prayagraj issued an interview letter in favour of the petitioner on 31.03.2001 requiring him to appear for interview on 19.04.2001, the writ petitioner claims to have been selected and he was empanelled for the institution being Sri Sri Bhagwat Rashtriya Inter College, Patiyali, Etah at serial No. 2.

13. In para 13 of the writ petition, it is further stated that in the select panel for Sri Bhagwat Rashtriya Inter College, Patiyali, Etah at serial No. 1 the name of Sri Banwari Lal Sharma found place and a placement order was accorded to him on 10.09.2003. Sri Banwari Lal Sharma after receipt of the letter dated 10.09.2003 submitted an application on 16.09.2003 before the District Inspector of Schools, Etah/Manager of the institution showing his inability to join the institution due to family reasons.

14. In para 15 of the writ petition, it is further asserted that the Advertisement No. 1 of 1999/2000 was subject matter of challenge by T.G.T. Teachers/Officiating Principals by means of a writ petition before this Court, the said writ petitions were dismissed by this Court vide order dated 14.02.2001. The order of the learned Single Judge dated 14.02.2001 was put to challenge by the Officiating Principals by filing special appeal before the Division Bench of this Hon'ble Court. Several appeals on the said issue were consolidated together wherein an order is stated to have been passed on 29.09.2003 whereby the order dated 14.02.2001 of the learned Single Judge was set aside. Since Sri Banwari Lal Sharma had shown his inability to join the institution in question, therefore, the writ petitioner who was second in number was issued a letter so the District Inspector of Schools, Etah issued a communication dated 14.01.2004 to the Authorized Controller of the said institution intimating that the appointment letter be issued in favour of the writ petitioner. The writ petitioner in compliance of the letter dated 14.01.2004 of the District Inspector of Schools, Etah approached the Authorized Controller of the said institution and thereafter the Authorized Controller of the said institution issued an appointment order on 15.01.2004 in favour of the writ petitioner requiring him to join the institution within a period of 15 days. The writ petitioner who was already working in the erstwhile institution, Sri Sanatan Dharm Higher Secondary School, Bharatpur,

Rajasthan after being relieved on 16.01.2004 approached the said institution for joining on 17.01.2004. A joining letter was issued on 17.01.2004, however, when the writ petitioner required the Officiating Principal to make available the attendance register for putting signature thereon and hand over the charge of the Principal to him but the Officiating Principal did not hand over the charge and the next day i.e. 18.01.2004 was Sunday and on 19.01.2004 the District Inspector of Schools issued a letter to the Authorized Controller of the institution that against the order dated 29.09.2003 of the Division Bench of this Court passed in Special Leave Petition (C) No. 22980 of 2003 had been filed before the Hon'ble Supreme Court in which on 09.12.2003 passed an order of status quo so the joining of the writ petitioner be kept in abeyance. That thereafter, on 16.05.2008 a Special Leave Petition (C) No. 22980 of 2003 had been finally decided by the Hon'ble Supreme Court which got connected with other Civil Appeals Balbir Kaur Vs. State of U.P. reported in 2008 AIR (SCW) 6672 whereby the Hon'ble Supreme Court set aside the order dated 29.09.2003 passed by the Special Appellate Bench in the case of Anand Narayan Singh Vs. State of U.P. Pursuant to the order passed by the Hon'ble Supreme Court on 25.06.2008 a communication was issued by the Secretary of the U.P. Secondary Education Service Selection Board, Allahabad to the District Inspector of Schools, Etah to accord joining to the selected candidates. A consequential letter to the said extent has been issued 16.07.2008 by the District Inspector of Schools, Kashinagar addressed to the fifth respondent-institution in question. Since the writ petitioner was not accorded joining so another communication was issued to the District Inspector of Schools, Kashinagar on 05.08.2008 to the institution in question. As the writ petitioner was not accorded joining so on 23.08.2008 the District Inspector of Schools, Kashinagar issued a communication to the fifth respondent-institution that, in case, joining is not accorded to the writ

petitioner then appropriate action will be taken. Ultimately on 25.09.2008 proceedings purported to be under Section 3 of the Payment of Salary Act, 1971 was also initiated. Thereafter, the writ petitioner was allowed to join on 31.07.2010 the institution in question and he retired on 31.03.2022.

Reliefs:-

15. The principal relief sought in the leading, connected C1, connected C2, connected C3, connected C4 writ petitions is for a mandamus to the State official respondents is to treat the case of the writ petitioner under the old pension scheme as they were selected prior to the proclamation of the new pension scheme which came into effect from 01.04.2005 and, thus, they should be made admissible to the payment of pension under the old pension scheme. Insofar as the connected C5 writ petition is concerned the same relates to a challenge raised to the order dated 31.10.2022 passed by the Director of Higher Education, U.P., Prayagraj whereby the claim of the writ petitioner for being accorded pension under the old pension scheme has been negated on the ground that he has joined the institution in question on 25.05.2005 pursuant to the appointment order dated 29.04.2005. Insofar as the connected C6 writ petition is concerned the same assails the order dated 30.06.2023 passed by the Regional Deputy Director of Education, Secondary, Aligarh on the premise that the joining of the writ petitioner as Principal was post 01.04.2005 i.e. after the enforcement of the new pension scheme, thus, he is not entitled to be accorded pension as per the old pension scheme.

Service upon the respondents

Serial No. of the writ petition	Writ Petition No.	Date of the order	Date of the service report	Remarks
Leading	5537/2023	09/08/23	26.08.2023	Confirmed

Connected C1	9669/2018	10/04/18	01/05/23	Deemed served
Connected C2	13783/2020	09/08/23	26.08.2023	Not delivered. Addressee left without instructions
Connected C3	2643/2021	09.08.2023	12/08/23	Deemed served
Connected C4	8503/2023	09/08/23	26.08.2023	Confirmed
Connected C5	13005/2023	09/08/23	26.08.2023	Confirmed
Connected C6	15780/2023	27.09.2023	26.10.2023	Confirmed

16. A joint statement has been made by the learned counsels for the writ petitioners in individual writ petitions as well as Sri Neeraj Tripathi, learned Additional Advocate General assisted by Sri Shailendra Singh, learned Standing Counsel as well as the counsel for the private respondents that they do not propose to file any further affidavits and whatever affidavits are available in the individual writ petitions they are self-sufficient for disposal of the writ petitions, thus, on their specific statement made by the counsel for the parties in the writ petitions, the Court is proceeding to finally decide the matter.

17. Learned counsels for the writ petitioners have sought to argue that the entire basis of negating the claim of the writ petitioners for being treated and paid pension under the old pension scheme is per se illegal besides being arbitrary inasmuch as once the selection of the writ petitioners had been made pursuant to the advertisement published prior to the enforcement of the new pension scheme on 01.04.2005, then they are entitled to be treated under the old pension scheme.

18. Elaborating the said submission, it is being submitted that so far as the advertisement in the leading writ petition, connected C2, connected C3 and connected C4 writ petitions are concerned they same relate to the Advertisement No. 1 of 2002 wherein selections were conducted in the year 2004 and the writ petitioners therein were selected prior to the enforcement of the new pension scheme. Insofar as the connected C1 writ petition is concerned the same also relates to the Advertisement No. 1 of 2003 wherein selection was held in the year 2004 and the writ petitioners who were two in number were declared selected in the year 2004 and so far as the connected C5 writ petition is concerned the same relates to the Advertisement No. 32 of 2002 wherein final select list was issued on 04.01.2005 prior to the enforcement of the new pension scheme but the appointment orders were issued on 29.04.2005 post enforcement of new pension scheme and so far as the C6 writ petition is concerned here the advertisement is dated 24.12.1999, Advertisement No. 1 of 1999/2000 wherein a select panel was issued on 13.08.2003 but the writ petitioner therein was accorded joining in the institution in question post enforcement of new pension scheme

19. The submission of the learned counsels for the writ petitioners are that once the selections had been conducted pursuant to the advertisement issued prior to the enforcement of the new pension scheme and selected list was also published prior to 01.04.2005 being the appointed date from the when the new pension scheme was to be implemented though the appointment orders in some cases might have been issued subsequent thereto or where the appointment orders were issued prior to 01.04.2005 but for no fault of the writ petitioners they were not allowed to join then the writ petitioners are entitled to be considered under the old pension scheme and not new pension scheme. In order to buttress the said submission, reliance has been placed upon the judgments in the cases of *Firangi Prasad Vs. State of*

U.P. reported in 2011 (84) ALR 115, Mahesh Narayan Singh and others Vs. State of U.P. (2020) 2 ALJ 518, Government of National Capital Territory of Delhi and Others Vs. Ajay Kumar & Others, Writ Petition (C) No. 838 of 2016, Inspector Rajendra Singh Vs. Union of India (2017) SCC online Delhi 7879, Kamlesh Kumar Sonkar & Others Vs. State of U.P., Writ A No. 55607 of 2008 decided on 19.12.2019, Bageshwari Prasad Srivastava & Others Vs. State of U.P., Writ A No. 28543 of 2013 decided on 11.10.2022, Tanaka Ram & Others Vs. Union of India & Others (2019) SCC online DL 6962, Parineet & Others Vs. State of U.P. & Others, Writ A No. 4191 of 2021 decided on 09.07.2021 as well as the recent judgment in the cases in Writ A No. 18197 of 2021 (U.P. Lekhpal Sangh through its Treasurer Vinod Kumar Kashyap Vs. State of U.P. & Others) along with the connected writ petition decided on 26.10.2023 and the judgment in Writ A No. 67274 of 2015 (Nirupama Malviya Vs. State of U.P. & 5 Others) decided on 19.10.2023.

20. While driving force from the said judgments, the writ petitioners have submitted that once the selections had been made prior to the enforcement of the new pension scheme and the candidates were selected, however, for the delay, lethargy and apathy and, of course, due to any legal impediment, appointment orders and joining could not be accorded without there being any fault of the applicants/petitioners then it would be highly unjustifiable to accord consideration to their claim under new pension scheme.

21. Learned counsel for the writ petitioners have further submitted that State of Uttar Pradesh had adopted the new contributory pension scheme following the new pension scheme implemented by Union of India as apparent from the notification dated 28.03.2005. However, pursuant to the judgment of the Delhi High Court which came to be affirmed by the Hon'ble Supreme Court later on a notification was issued on 17.02.2020 whereby option was given to the Central

Government employees whose selection for the appointment of the post in question was finalized before 01.01.2004 but they were accorded joining on or after 01.01.2004 to opt either for old pension scheme or new pension scheme. They in this regard seek to rely upon paragraph No. 3 of the notification dated 17.02.2020.-

“3. From the representations of the Government employees and the references received from Ministries/Departments, it has been observed that in many of the cases referred to this Department, selection process (including written examination, interview and declaration of result) for recruitment had been completed before 01.01.2004 but the employee joined the Government service on or after 01.01.2004. A few illustrations where the selection was finalized before 01.01.2004 but actual joining took place on or after 01.01.2004 are as under:-

(i). The result for recruitment was declared before 01.01.2004 but the offer of appointment and actual joining of the Government servant was delayed on account of police verification, medical examination etc.

(ii). Some of the candidates selected through a common selection process were issued offers of appointment and were also appointed before 01.01.2004 whereas the offers of appointment to other selected candidates were issued on or after 01.01.2004 due to administrative reasons/constraints including pending Court/CAT cases.

(iii). Candidates selected before 01.01.2004 through a common competitive examination were allocated to different Departments/organization. While recruitment process was completed by some Department(s)/organizations appointment to the candidates allocated to the other Departments/organization were issued on or after 01.01.2004.

(iv). Offers of appointment to selected candidates were made before 01.01.2004 with a direction to join on or after 01.01.2004.

(v). Offers of appointment were issued to selected candidates before 01.01.2004, and many/most candidates joined service before 01.01.2004. However, some candidates(s) were allowed extension of joining time and they joined service on or after 01.01.2004. However, their seniority was either unaffected or was depressed in the same batch or to a subsequent batch, the result for which subsequent batch was declared before 01.01.2004.

(vi). The result for recruitment was declared before 01.01.2004 but on or more candidates were declared disqualified on the grounds of medical fitness or verification of character and antecedents, caste or income certificates.

Subsequently, on review, they were found fit for appointment and were issued offers of appointment on or after 01.01.2004.

In all the above illustrative cases, since the result for recruitment was declared before 01.01.2004, denial of the benefit of pension under CCS (Pension) Rules, 1972 to the affected Government servants is not considered justified.”

22. According to the learned counsel for the writ petitioners a notification is stated to have been issued on 03.03.2023 by the Central Government whereby it has extended the benefit of old pension scheme to those Central Government employees who were recruited against the post/vacancy advertised/notified recruitment on or before 22.12.2023. Clause 3 and 4 of the said notification is being incorporated as under:-

“3. Representations have been received in this Department from the Government servants appointed on or after 01.01.2004 requesting for extending the benefit of the pension scheme under Central Civil Services (Pension) Rules, 1972 (now 2021) on the ground that their appointment was made against the posts/vacancies advertised/notified for requirement prior to notification for National Pension Scheme, referring to court judgements of various Hon'ble High Courts and Hon'ble Central Administrative Tribunals allowing such benefits to applicants.

4. The matter has been examined in consultation with the Department of Financial Services, Department of Personnel & Training, Department of Expenditure and Department of Legal Affairs in the light of the various representations/references and decisions of the Courts in this regard. It has now been decided that, in all cases, where the Central Government civil employee has been appointed against a post or vacancy which was advertised/notified for recruitment/appointment prior to the date of notification for National Pension Scheme i.e. 22.12.2003 and is covered under the National Pension Scheme on joining service on or before 01.01.2004, may be given one-time option to be covered under the CCS (Pension) Rules, 1972 (now 2021). This option may be exercised by the concerned Government servants latest by 31.08.2023.”

23. Submission is that the said glaring infirmity and discrimination despite being noticed in the order dated 18.04.2023 in the case of U.P. Lekhpal Sangh (supra) has not been rectified.

24. Countering the submission of the learned counsels for the writ

petitioners, Sri Neeraj Tripathi, learned Additional Advocate General assisted by Sri Shailendra Singh, learned Standing Counsel submits that the writ petitioners are not entitled to be paid pension under the old pension scheme as in exercise of the powers conferred under proviso to Article 309 of the Constitution of India a notification was issued on 28.03.2005 amending the U.P. Retirement Benefit Rules, 1961 known as U.P. Retirement Benefit (Amendment) Rules, 2005 wherein according to Rule 2(3) the rules it would not apply to the employees entering service and post on or after April 1, 2005 in connection with the affairs of the State borne on pensionable establishment whether temporary or permanent. Since there is no challenge raised to the amendments made to Rule 2(3) of the 1961 Rules as amended in the year 2005, thus, the writ petitioners are not entitled to the said benefits. He submits that though in the case of certain writ petitioners that they have not accorded appointment orders prior to the enforcement of the new pension scheme but the same would not be any aid or assistance as they were accorded joining subsequent to the amendment in the 1961 Rules. According to them, issuance of appointment order is one thing and joining is another thing and the appointment is an incomplete chain which stands concluded when joining is accorded. Submission is that once joining was post enforcement of the new pension scheme then the scheme was in existence on the date of joining would apply and not the scheme which was prior to the enforcement of the new pension scheme i.e. old pension scheme. Reliance has been placed upon the judgments in the case of *Satyesh Kumar Mishra and Others Vs. State of U.P.* 2016 (6) ADJ 408, *Ram Nakul Vs. State of U.P. & Others*, Writ A No. 15392 of 2012 decided on 03.09.2019, *Manoj Kumar Singh & others Vs. State of U.P.* reported in 2020 (10) ADJ 479 and *Ravi Raj Vs. State of U.P.* 2020 (3) ADJ 408.

25. Learned counsel for the Committee of Management of the

institution in question impleaded as party respondent in the respective writ petitions have supported the case of the writ petitioners.

26. I have heard the learned counsel for the parties and perused the record carefully.

27. Before delving into the legality and the tenability of the judgments of the rival parties, it would be apposite to have a quick survey of the statutory provisions governing the field. The Uttar Pradesh Legislature in order to establish Secondary Education Service Selection Board for selection of teachers in the institution recognized under the Intermediate Education Act, 1921 enacted an Act by the name of Uttar Pradesh Secondary Education Service Selection Board Act, 1982 (U.P. Act No. 5 of 1982). Section 10 of the 1982 Act provides for the procedure of selection by direct recruitment according to which for the purposes of making appointment of teacher by Direct Recruitment the Management shall determine the number of vacancies existing or likely to fall vacant during the year of recruitment or in the case of vacancies to be reserved for Schedule Caste, Schedule Tribe and Other Backward Class, the provisions of Uttar Pradesh Public Services (Reservation for Schedule Caste, Schedule Tribe and Other Backward Class) Act, 1994 would apply and notify the vacancy to the Board in the manner provided therein. Section 11 of the 1982 Act provides for the panel of the candidates and a duty has been cast upon the Board who after the vacancies notified shall hold examinations and prepare a panel. Section 16 further provides that for appointment of selected teachers according to which notwithstanding anything to the contrary contained in the Intermediate Education Act, 1921 and the Regulations made thereunder every appointment of the teachers shall be on or after the date of the commencement of the Uttar Pradesh Secondary Education Service Selection Board (Amendment) Act, 2001 shall be made by the Management on the recommendation of the Board. Section 17

provides for the inquiry by the Board according to which where any person is entitled to be appointed as a Teacher in any institution in accordance with Chapter II but he is not so appointed by the Management within the time provided, therefore, he may apply to the Director or an Officer authorized by him for direction under sub-section (2) Sub-section (2) of Section 17 which provides for holding of an inquiry and, in case, if the Director or the Officer Authorized by it is satisfied that the Management failed to appoint the applicant as teacher in contravention of the provisions he may by order direct the Management to appoint the applicant as a teacher forthwith and to pay him salary from the date specified in the order and the head of the institution concerned to take work as a teacher.

28. Insofar as the provisions relating to Higher Education is concerned, the same stands regulated by the Uttar Pradesh Higher Education Service Commission Act, 1980 (U.P. Act No. 16 of 1980) wherein Section 12 provides for the procedure for appointment of the teacher wherein appointment is to be made by the Committee of Management in accordance with the provisions on the basis of the recommendations of the Commission and Section 14 provides for the duty of the Management according to which the Management shall within a period of one month from the date of receipt of the intimation under sub-section (3) or sub-section (4) or sub-section (5) of Section 33 which relates to the panel being sent to the Management by the Commission for making appointment shall make appointment. Section 15 of the 1980 Act provides that where any person is entitled to be appointed as teacher in a college in accordance with Sections 12 to 14 and he/she is not so appointed by the Management within the time provided, therefore, the aggrieved candidates may apply the Director for a direction under sub-section (2) of Section 15 and sub-section (2) provides that the Director may hold inquiry and if he satisfied in the Management has failed to appoint the applicant as a teacher in

contravention of the provision of the Act, he may require the Management to appoint a teacher or a Principal and direct it to take work.

29. The provisions contained under the U.P. Act No. 5 of 1982 as applicable to intermediate institutions recognized under the U.P. Intermediate Education Act, 1921 as well as the U.P. Act No. 16 of 1980 applicable to Degree Colleges, the sections may be different but the import and the impact of the provisions are the same.

30. Net analysis of the aforesaid provisions goes to show that it is the vacancies which is to be notified by the Committee of Management of the institution, selections is to be conducted by the Board or Commission as the case may be and placement orders are to be issued by the Board/Commission and appointment orders are to be issued by the Committee of Management while according joining to the selected candidates. The statutory scheme further provides the consequences of non-according of joining of the candidates by the Management in the light of the aforesaid statutory scheme.

31. Now in the aforesaid factual backdrop, the present cases are to be decided.

32. The facts of the case are not in dispute between the parties, the only legal question which falls for consideration before this Court is as to which of the pensionary schemes either old pension scheme or new pension scheme would stand applicable.

33. Notably, earlier the pension of the teachers and the staff was regulated under the provisions of U.P. Retirement Benefit Rules, 1961 which came to be amended by virtue of a notification dated 28.03.2005 known as U.P. Retirement Benefit (Amendment) Rules, 2005 which came into effect from 01.04.2005 and Rule 2(3) as discussed above provided that the said rule shall not apply to the

employees entering service on or after April 1, 2005 in connection with the affairs of the State or on pensionable establishment, whether temporary or permanent. It is admitted to the parties that the advertisements were issued prior to enforcement of new pension scheme which came into effect from 01.04.2005, it is also not in dispute that the selections were conducted by the Board/Commission and they were selected prior to the new pension scheme.

34. Nonetheless, it has not been disputed by the respondents that the writ petitioners were selected and they were accorded placement order prior to the enforcement of the new pension scheme, however, the dispute arose, when in some cases though appointment orders were issued but the Management did not allow the writ petitioners to join and in the other cases the appointment orders were issued subsequent to the new pension scheme. It is also not the case of the respondents before this Court that deliberately the writ petitioners did not join, however, on the other hand, the position is even otherwise that they were illegally restrained from joining by the Committee of Management despite issuance of communications by the Education Authorities requiring the respective Committee of Management to accord joining and thereafter the writ petitioners were accorded joining. So far as the judgment so relied upon by the learned counsel for the respondents in the case of ***Satyesh Kumar Mishra (supra)***, ***Ram Nakul (supra)*** is concerned, the same was taken note in the case of ***Ravi Raj (supra)*** while holding that the appointees who had been appointed or accorded joining subsequent to the introduction of the new pension scheme would not be covered under the old pension scheme. In the judgment of ***Ravi Raj (supra)***, it was held that the judgment in the case of ***Mahesh Narayan Singh (supra)*** was per incuriam. The judgment in the case of ***Mahesh Narayan Singh (supra)*** supports the case of the writ petitioners as according to same the writ petitioners are to be considered for payment of pension under the old

pension scheme. It has come on record that the judgment of **Mahesh Narayan Singh (supra)** has been affirmed in ***Special Appeal (D) No. 117 of 2021*** decided on 19.02.2021. Apart from the same, a ***Special Leave to Appeal (C) No. 8195 of 2021*** was preferred by the State of U.P. which was also dismissed on 28.02.2022. So far as the judgment in the case of **Kamlesh Kumar Sonkar (supra)** is concerned which also supports the case of the writ petitioners against which a ***Special Appeal No. 116 of 2021 (State of U.P. Vs. Kamlesh Kumar Sonkar)*** was preferred which came to be dismissed on 19.02.2021. On top of it, a judgment of the Hon'ble Apex Court in the case of ***P. Ranjitraj Vs. State of Tamil Nadu, Civil Appeal No. 3176-3177 of 2022*** decided on 25.04.2022 had the occasion to deal with the contingency wherein there was a delay in appointments. The Hon'ble Apex Court held that the appointees on account of no fault of theirs could not be deprived of the benefits of old pension:-

“4. The undisputed facts manifest from the record are that 53 vacancies of Assistant Public Prosecutor Grade II (hereinafter referred to as "APP Grade II") came to be advertised by the Tamil Nadu Public Service Commission (hereinafter referred to as "the Commission") by advertisement dated 9th November, 2001. After undertaking the process for selection, the final select list was sent by the Commission to the State Government, pursuant to which 51 persons, including those who are lower in order of merit to the appellants herein, were appointed on the post of APP Grade II by the Government by order dated 24th September, 2002.

5. So far as the present appellants are concerned, their names at the given point of time were withheld for want of further verification and clearance from the Commission. The Commission on verification granted clearance to both the appellants and intimated to the State Government by its communication dated 3rd September, 2002 (much before the appointments made by order dated 24th September, 2002). Despite all the formalities being completed, without any reasonable cause or justification, the State Government withheld the appointments of the appellants and finally both the appellants were appointed on the post of APP Grade II on 23rd August, 2005 and 23rd April, 2004 respectively.

6. In the meanwhile vide notification dated 6th August, 2003, an amendment was made under the Tamil Nadu Pension Rules, 1978 which came into force w.e.f. 1st April, 2003 and following proviso was added to Rule 2:

"Provided that these rules shall not apply to Government Servants appointed on or after 1st April, 2003, to services and posts in

connection with the affairs of the State which are borne on pensionable establishments, whether temporary or permanent."

7. Accordingly, the State Government introduced a new Contributory Pension Scheme applicable to the Tamil Nadu State Government employees who are recruited on or after 1st April, 2003.

8. The grievance of the appellants is that advertisement was published by the Commission on 9th November, 2001 for the block year 1998-2002, pursuant to which after selection 51 candidates out of 53 (except the appellants) were appointed by order dated 24th September, 2002 and before these appointments could be made, the names of the appellants were also cleared by the Commission after due verification on 3rd September, 2002, but the State Government failed to include their names while appointments of other selected candidates, including those who are lower in order of merit, were made on 24th September, 2002 and without any reasonable cause/justification, their appointments were withheld for two/three years and finally they were appointed on 23rd August, 2005 and 23rd April, 2004 respectively and the delay in appointments in no manner could be attributable to the appellants and because of their later appointments, the Government has denied them to avail the benefit and become a member of the Scheme, 1978 which was applicable to the employees who were appointed on or before 1st April, 2003.

9. The counsel for the appellants further submits that in terms of their placement in order of merit in the select list despite later appointments in the year 2004 and 2005, still all benefits, including seniority, promotion, etc. were extended to the appellants. In the given circumstances, merely because there is delay in appointment would not deprive the appellants of their right to become a member of the Pension Scheme, 1978 claiming parity with the other candidates who had participated in the common process of selection held by the Commission pursuant to advertisement dated 9th September, 2001 and the High Court has committed a manifest error to proceed blindly on the premise that since they were appointed after 1st April, 2003, are not entitled to become member of Pension Scheme, 1978, which was applicable to the employees appointed on or before 1st April, 2003 and the same needs to be interfered with by this Court.

10. Learned counsel for the respondents, on the other hand, while supporting the finding recorded by the High Court under the impugned judgment, submits that the Scheme of Rules 1978 which has been amended by the notification dated 6th August, 2003, is not under challenge and that clearly demonstrates that it will be applicable only to such of the employees who were appointed on or before 1st April, 2003, to draw the benefits of the Tamil Nadu Pension Rules, 1978. Admittedly, the present appellants were appointed much after the new Contributory Pension Scheme was introduced, which was applicable to the employees recruited on or after 1st April, 2003, which alone will be applicable to the present appellants and this what the High Court has observed in the impugned judgment and needs no further interference by this Court.

11. After we have heard counsel for the parties and with their assistance perused the material proceeded not sustainable for the reason that the appellants along with other applicants had participated in the self-same selection process pursuant to advertisement dated 9th September, 2001

held for the post of APP Grade II and verification was made by the Commission in the case of the present appellants on 3rd September, 2002.

12. In the given circumstances, when those who are lower in order of merit to the appellants were appointed by an order dated 24th September, 2002, the appellants have no right of say in the matter of appointment and no justification has been tendered by the State respondent as to why their names were withheld for two/three years, when their names were cleared by the Commission on 3rd September, 2002 and sent to the State Government and finally appointments were made of the appellants on 23rd August, 2005 and 23rd April, 2004 respectively and the delay indeed in making appointments in the case of the present appellants in no manner could be attributable to them.

13 In the given circumstances, when all other candidates who had participated along with the appellants pursuant to advertisement dated 9th November, 2001, on the recommendations made by the Commission were appointed on 24th September, 2002 including those who are lower in the order of merit, there appears no reason for withholding the names of the present appellants and merely because they were appointed at a later point of time, would not deprive them from claiming to become a member of Tamil Nadu Pension Rules, 1978, which is applicable to the employees who were appointed on or before 1st April, 2003.

14 In the facts and circumstances, the finding recorded by the High Court qua the present appellants is not sustainable and deserves to be set aside.

15 The appeals are accordingly allowed and the judgment and order dated 19th June, 2014 and 2nd November, 2018 of the High Court qua the appellants are set aside. The respondents are directed to treat the present appellants to be a member of the Tamil Nadu Pension Rules, 1978 for all practical purposes and benefits as member of the Rules, 1978 to which the appellants are entitled, including retiral benefits, be made available to them. No costs."

35. After considering the law on the said subject recently, a Coordinate Bench of this Court in the case of **U.P. Lekhpar Sangh (supra)** had the occasion to consider the issue in detail which is being raised in the present writ petition and had held that the applicants who have been selected pursuant to the exercise undertaken prior to the enforcement of the new pension scheme on account of issuance of the appointment order post new pension scheme would be covered under the old pension scheme. The said view also finds presence in the case of **Nirupama Malviya (supra)**. So far as the issue with regard to the delay in approaching the Court is concerned which has been raised by the learned counsel for the respondents, this Court finds that the said issue has already been decided by a Coordinate Bench of this Court in

the case of **U.P. Lekhpal Sangh (supra)** wherein in para 133 and 134 has observed as under.-

"133. So far as the submission of the learned Additional Advocate General that petitioners have been appointed in the year 2005 and have raised the grievance for not extending them the benefit of Old Pension Scheme after inordinate delay is concerned, the similar objection was raised by the Central Government in the case of Inspector Rajendra (supra) before the Delhi High Court and the Delhi High Court in paragraph 39 of the judgement repelled the said contention holding that if delay has resulted in unsettling things already settled, the relief may be declined on the ground of delay, but in the instant case, the grant of relief would not result in unsettling things already settled and the judgement of Delhi High Court in the case of Inspector Rajendra (supra) has been affirmed by the Apex Court as Special Leave to Appeal preferred against the said judgement has been dismissed.

134. Even otherwise, the benefit of pension will accrue to the employees after they retire, therefore, the writ petitions are not liable to be dismissed on the ground of delay in raising the grievance by the petitioners with regard to their claim for Old Pension Scheme. The law is also settled that the pension is a recurring cause of action, and for this reason, also, the writ petitions cannot be dismissed on the ground of delay and laches."

36. This Court in the leading writ petition by virtue of the order dated 09.05.2023 had also required the learned Advocate General to explore the possibility of one time opportunity to be granted to the appointees whose selection was prior to enforcement of new pension scheme though appointment or joining was made subsequent thereto without their fault, however, despite umpteen number of times being accorded nothing is forthcoming.

37. Insofar as the argument raised by Sri Neeraj Tripathi, learned Additional Advocate General assisted by Sri Shailendra Singh, learned Standing Counsel who appears for the State respondents that the writ petitioners cannot be granted relief particularly in view of the existence of the provisions Section 2 (3) of the 2005 Pension Rules, though, the said argument appears to be attractive at the first blush but it may not detain the Court any more particularly in view of the statutory scheme as discussed above whereby duty is cast upon the Education Authorities under the relevant statutory provisions for taking appropriate steps for joining of the writ petitioners, since,

nothing has been brought on record that there was any fault on the part of the writ petitioners approaching the institution for issuance of appointment orders or joining, thus, for the fault so attributed to the Committee of Management which is to be regulated by appropriate measures to be taken by the Educational Authorities, the writ petitioners cannot be said to be on a disadvantageous position. Reference in this regard may also be placed upon the judgment in the case of **Manoj Kumar Singh** (supra) relied upon by learned Additional Advocate General wherein a Coordinate Bench of this Court in para 20 had observed as under:-

“20. It is only where right to be considered for appointment after selection had crystallized in favour of candidate but the selected candidate was arbitrarily denied appointment during the applicability of previous pension scheme that the Court while granting relief may also extend such service benefits including pension which were available on the date when such right was denied.”

38. Viewing the case from the four corners of law this Court does not find any good reason to differ from the view taken in the above noted judgments relied upon by the learned counsels for the writ petitioners and accordingly, the writ petitions are decided in the following terms:

- (a) the orders dated 31.10.2022 passed by the Director of Higher Education, U.P., Prayagraj in C5 writ petition (Writ A No. 13005 of 2023) as well as the order dated 30.06.2023 passed by the Regional Deputy Director of Education (Secondary), Aligarh in C6 writ petition (Writ Petition No. 15780 of 2023) are set aside;
- (b) a mandamus in each writ petition is issued to each of the respondent commanding them to treat the writ petitioners governed by General Provident Fund-cum-Pension Scheme that was in vogue prior to the enforcement of the Contributory Pension Scheme and to ensure

deductions, payment of contribution towards retiral benefits to the writ petitioners, accordingly, after verifying the factual aspects relating to their working in the respective institutions putting to notice the institutions where at the writ petitioners are claiming to have worked and also attained retirement within a period of four months from the date of production of certified copy of the order.

39. Resultantly, all the writ petitions stand allowed.

Order Date:- 07.12.2023

Rajesh