HIGH COURT OF TRIPURA
AGARTALA
WA No.226 of 2022

All Tripura EPS Pensioners' and Employees' Association, having its registered office near Krishnanagar Club, Pragati Road, Agartala, West Tripura, subsequently shifted to Bipan Bitan Complex, Room No.344 (2nd floor), Durga Chowmuhoni, P.O. Ramnagar, Agartala-799001 represented by its Secretary namely Sri Durgesh Ranjan Choudhury.

……**Appellant**(**s**)

Versus

1. **The State of Tripura**,
represented by the Secretary, Finance Department to the Government of Tripura, Civil Secretariat, P.O. New Capital Complex, Agartala- 799010, District- West Tripura.

2. **Tripura Jute Mills Ltd.**
(A Government of Tripura Undertaking), ONGC, Hapania, Agartala, District- West Tripura, represented by its Managing Director.

……..**Respondent**(**s**)

For the Appellant(s) : Mr. DC Saha, Advocate.

For the Respondent(s) : Mr. S.S. Dey, Advocate General.
Mr. Kohinoor N. Bhattacharya, G.A.
Ms. Ayantika Chakraborty, Advocate.

Date of hearing and delivery of Judgment & Order : 05.03.2024.

Whether fit for reporting : Yes

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R(ORAL)

[T. Amarnath Goud, J]

Heard Mr. DC Saha, learned counsel for the appellant. Also heard Mr. S.S. Dey, learned Advocate General assisted by Ms. Ayantika Chakraborty, learned counsel for the State-respondent.

[2] This present writ appeal has been filed under Rule 2 of Chapter V-A of the Gauhati High Court Rules, as adopted by the High Court of Tripura read with Article 226 of the Constitution of India, against the impugned Judgment & Order dated 06.09.2022, passed in WP(C) No.670 of 2022 whereby the learned Single Judge has dismissed the said writ petition.

[3] The brief fact of this case is that the petitioner-appellant herein earlier approached this Court by filing a writ petition bearing number WP(C) 1084 of 2019 claiming its reliefs. On 13.09.2019, the Division Bench of this Court disposed of the said writ petition with the following directions upon the respondents as well as to the petitioner- organisation:

> ".....Without going into the technicalities and the prayer made by the learned counsel being innocuous in nature, which the State in any case is duty bound to decide, we dispose of the instant writ petition with the following directions:
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> (a) The petitioners shall submit their fresh representation(s) before the appropriate authority(s).
>
> (b) Upon receipt thereof, the authority shall consider and decide the same, expeditiously, in accordance with law.
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> (c) Preferably, such representation shall be considered and decided within a period of six months from the date of receipt thereof.
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> (d) Needless to add, if the petitioners are still aggrieved, it shall be open for them to take recourse to such remedies as are otherwise available in accordance with law.
>
> (e) All issues including the maintainability of the writ petition in its present form, are left open.
>
> With these observations and directions, the present writ petition stands disposed of.
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> Pending application(s), if any, also stands disposed of."

[4] In compliance with the above directions, the State-respondents had constituted an expert committee. The expert

committee had taken personal hearing of the petitioners through their representative i.e. the Secretary of the petitioners' organization. The committee had considered the case of each of the Corporation and the constituted expert body finds that the petitioners have already retired from service, and are drawing pension under EPF scheme. After taking into consideration of various factors, the committee ultimately came to conclusion that the claim of the petitioner(s) in the writ petition vide No. WP(C) 1084/2019 cannot be agreed to.

[5] The petitioner association, being aggrieved, filed writ petition before learned Court bearing case No. WP(C) 270 of 2021. Learned Single Judge disposed of the said petition on 17.03.2022 with the direction to file separate writ petition organization-wise. Thereafter, accordingly, the Secretary of the Petitioner Association made separate writ petition(s) bearing case No. WP(C) 643 of 2022, WP(C) 644 of 2022, WP(C) 645 of 2022, WP(C) 646 of 2022, WP(C) 647 of 2022, WP(C) 648 of 2022, WP(C) 670 of 2022, WP(C) 671 of 2022, WP(C) 672 of 2022 and WP(C) 673 of 2022. Learned Single Judge by a common judgment dated 06.09.2022, dismissed the said writ petitions with the following observation:

> "……10. In this situation, in my opinion, the employees of these statutory organizations cannot claim, as a matter of right, the pensionary benefits, as provided to few of the corporations who have been able to generate their own funds with one-time support from the state government. Furthermore, the employees of the present batch of writ petitions cannot be treated equally to the employees of those organizations whose pension schemes have been introduced under different schemes with the assistance of some other organizations like LICI, bank, etc., while the pension

of the members of the petitioner's organization is determined on the basis of the pension scheme subscribed by each of them during his/her service tenure in the respective organization and are primarily controlled and regulated by EPFO. As such, the petitioners cannot complain of discrimination having regard to the equity clause enshrined under Article 14 of the Constitution of India.

11. Providing grants or other benefits to any of the organizations is a matter of policy decision of the government, and in the opinion of this court, the court cannot direct the State or its instrumentalities to formulate certain policy because it would have a scaring effect having huge financial implication. For this reason, it should be left to the expert body, which, in this case was duly constituted in compliance with a direction of this court, as stated above, and accordingly, the committee submitted its report after taking due hearing from the petitioners.

12. Needless to say, grant of pensionary benefit is not a one-time payment. Extension of such benefit is a recurring expenditure and liability would be continuous involving huge government exchequer. In this scenario, it is ultimately the state government and the corporation to take a policy decision as to whether such benefits should be provided to its employees or not. It is outside the court's jurisdiction to make a roving enquiry as regards the fund status of the respective corporation or to chose a scheme suitable to the employees of such corporation without the aid and advice of the expert body. It is settled proposition of law that the interference of the judiciary to such a policy matter having serious financial implication and/or having a cascading effect is not at all warranted and justified.

13. Added to it, the writ court while exercising the power of judicial review under Article 226 of the Constitution of India will not as a court of appeal sit over the well-reasoned report of the expert body following the well-neigh principle of self-restraint in the matter of policy decisions of the government. As a logical corollary, both the questions set out here-in-above for decision have been answered in negative.

14. In the light of above discussion and the reasons thereof, this court is unable to accept the contentions raised and reliefs claimed by the petitioner, and accordingly, all these batch of writ petitions stand dismissed.

However, there shall be no order as to costs. Pending application(s), if any, also stands disposed."

[6] Aggrieved by the above order of the learned Single Judge dated 06.09.2022, the petitioner association (appellant herein) approached this Court seeking following reliefs:

"i. Admit this Appeal;

ii. Call for the records of Case No. W.P.(C) 670/2022;

> iii. After hearing the parties, set aside the Judgment & Order dated 06/09/2022 passed in Case No. W.P.(C) 670/2022 and allow the Case No. W.P.(C) 670/2022……"

[7] Mr. D.C. Saha learned counsel for the appellant submits that the learned Single Judge has failed to understand that the impugned order dated 28.08.2020 passed by the State Government in its Finance Department is illegal, arbitrary and completely unconstitutional. Learned counsel therefore, urges this Court to allow the writ appeal setting aside the order dated 06.09.2022 passed by the learned Single Judge.

[8] Mr. Saha, learned counsel further contends that learned Single Judge has also failed to appreciate that the Committee constituted did not provide natural justice denying personal hearing neither for the petitioner nor for the individual members of the Association and the appellant herein was subjected to discrimination by the State. To support his submission, learned counsel has placed reliance on the order dated 08.04.2011 passed by the then Gauhati High Court, Agartala Bench in WA No.74 of 2003, the contents of the said order as referred by Mr. Saha, learned counsel is quoted herein-below:

> "50. The learned single Judge has also held that there cannot be any formation of opinion that the employees of TJM and the employees of other PSUs belonged to and constitute the same class. While holding so, the learned single Judge has taken note of the aforementioned fact relating to the exclusion of TJM from the purview of 3rd Pay Commission at the instance of the Managing Director of TJM, unmindful of the fact that the Govt. itself considered the recommendation of the 4th Pay Commission in respect of TJM with the distinction of making the effective date differently. The learned single Judge has also held that the petitioners have failed to discharge their burden to establish that they and for that matter the employees of TJM and their counterparts in other PSUs belonged to same class and that the

employees of TJM have been subjected to hostile discrimination for non-payment of revised pay scale w.e.f. 1.1.1996 or DA, CAS, HRA and CA to them.

51. The petitioners-appellants have clearly demonstrated that they have been discriminated in the matter of granting the said benefits. They have also demonstrated that they stand on equal footing like that of other PSUs. It was never the contention of the respondents that the petitioners are a class apart and cannot be equated with that of the other PSUs. Their plea before the amendment of the writ petition and after the amendment, has been noted above, from which it cannot be said that the petitioners failed to discharge their burden relating to their claim of discrimination in the matter of pay and allowances.

52. The learned single Judge while shifting the burden to the petitioners to prove that the payment of revised pay scales and other allowances would be available from the income/ profit generated by operating the manufacturing units of TJM, failed to take note of the fact that in respect of other PSUs, it is the State Govt. which took the burden to provide additional fund required for the said benefits. If the TJM is a loss incurring unit, as has been held by the Apex Court in *Haryana State Minor Irrigation (Supra)*, it is the bounden duty of the State Govt. to take remedial measures and the same cannot be a ground to deny the claim of revision of pay scales.

53. The petitioners having clearly demonstrated that if not all, many PSUs are running at a loss and the Govt. has implemented the recommendation of the 4th Pay Commission by providing revised pay scales to their employees and other allowances, the learned single Judge ought to have considered that aspect of the matter instead of singling out the petitioners and for that matter the employees of TJM, shifting the burden to them to prove that they are at par with their counterparts in other organizations. The fact of the matter is that the petitioners clearly demonstrated the disparity in the matter of revision of pay and allowances, which the respondents tried to defend with their shifting pleas in the original counter affidavit and the subsequent affidavits filed after the amendment of the writ petition.

54. For all the aforesaid reasons, we are of the considered opinion that writ appeal and for that matter the writ petition deserves to be allowed and consequently we set aside and quash the impugned judgment and order dated 28.10.2003 passed by the learned single Judge in Civil Rule No. 139/1997. As a consequence, direction is issued to the respondents to treat the petitioners and for that matter the officers and employees of the TJM at part with their counterparts in other 32 organizations, entitling them to the revised pay scales w.e.f. 01.01.1996 and other allowances, such as, HRA, CA, CAS and DA etc.

55. The writ appeal is allowed and consequently, the writ petition also stand allowed, without however, any order as to costs."

[9] Mr. S.S. Dey, learned Advocate General for the State on the other hand, opposes the submission made by the learned counsel for the appellant contending that the reference cited by the learned counsel on order dated 08.04.2011 passed by the then Division Bench of the Gauhati High Court, Agartala Bench

is not relevant to the fact and circumstances of this case as the same was only for revised pay scale of the TJM employees under 4th Pay Commission. He submits that learned Single Judge observing all the facts and circumstances of the case and on perusal of the order passed by the State on 28.8.2020, decided the matter dismissing the writ petitions filed by the petitioner (appellant herein) and thus, the judgment and order of the learned Single Judge should not be interfered with. He further contends that the petitioners of the association (appellant herein) withdrawing pension as they are entitled to as per particular pension policy and they have not explained how they are subjected to discrimination though the learned Single Judge by the order dated 06.09.2022 has already examined their case on the point of discrimination. Learned Advocate General, draws attention of this Court on paragraph-5, 6 & 10 of the order dated 06.09.2022 passed by the learned Single Judge, which is reproduced as under:

> "….5. Having gone through the report, it appears that the expert body of the State-respondents took note of the financial status of each of the Corporation. The committee also had taken into account the circumstances under which some of the autonomous bodies like Tripura Board of Secondary Education, the government aided school and educational institutions, the Agartala Municipal Corporation and Tripura Social Welfare Advisory Board are being paid pension benefit at par with the retired government employees. It is found that provision of providing pension benefit to these organizations has been made either by adopting the Civil Services (Pension) Rules, 1972 or introducing separate pension scheme.
>
> 6. It further comes to fore that these autonomous bodies had created separate scheme and had been able to generate own funds from their own contribution and opened subscriber accounts with specified schemes of the organization like LICI, banks etc. On the other hand, the constituted expert body finds that the petitioners have already retired from service, and are drawing pension under EPF scheme. After taking into consideration of various factors, the committee ultimately came to the following conclusion, which has been reproduced here-in-below in verbatim, for convenience:

"Whereas, after examination of the information provided by the concerned organisation, the Committee found that in case of majority of the organisations the State Government provides financial support in the form of "Grants to PSUs or Share Capital or Other grants". These organisations are utilizing 90% of those financial support towards meeting up the expenses on salaries and other retirement benefits of their employees and retirees. Some organisations are utilizing even upto 100% of the fund they receive from State Government. The committee also observed that most organisations were supposed to be profit-making but instead they have been incurring loss since long years. The accumulated loss of many organisations is huge and such loss have been increasing with each passing day. In such situation, most of the organisations have informed that they are not in a position to bear the burden of additional expenditure, consequent upon consideration of the claim of the petitioners, if any, unless the State Government provides them additional financial support for the purpose. The Committee also examined the details of financial resources of the State based on the State budget of 2020-21. The observation of Committee are as follows:-

- For the financial year 2020 21, the total budget of Rs.19891.60 crores.

- During financial year 2020-21, the tentative earnings from State Own Revenue is Rs. 2743.00 crores.

- The total expenditure on State Head for payment of salary, pension etc., is Rs. 15120.29 crores. The deficit of the expenditure is to be met up from Central Government assistance.

- Out of the total expenditure on State Head, the expenditure on pension and other retirement benefits is Rs. 2740.44 crores which is about 18% of the total expenditure of State Head.

- The pension expenditure itself is almost equal to the State Own Revenue predicted during the financial year.

- The Budget deficit for the year 2020-21 is Rs.511.41crores.

- The Fiscal Deficit of the Budget for the year 2020-21 is Rs.2149.07Crores.

In such a situation, any further increase in the pension liabilities would further degrade the economy of the State. Hence it is neither possible to consider the claim of the petitioners nor to bear any additional liabilities on the pensionary matters.

And

Whereas, in addition to the above, the Committee also observed that pension of the retirees of the aforesaid organisations is dependent on pension scheme subscribed by the each of them during his/ her service tenure in the respective organisation. During the service tenure, an employee has to subscribe to Pension Fund as per the Scheme as in force in the organisation. Therefore, a pensioner is basically a subscriber of pension benefit. Upon his/her retirement, a retiree is entitled to quantum of pension based on the fund accumulated by him/her in the Subscriber account. Since the pension of the employees other than

State Government organisation is primarily controlled by EPFO, therefore, the quantum of the pension cannot be altered by the State Government. It has to be at par with the rules/ guidelines as laid down by EPFO. Hence, the Committee observed that the State Govt. cannot be directed to provide additional fund for retrospective revision of pension under EPFO. So, there is no question of revising EPF pension at higher rates on retrospective basis.

And

Whereas, the Committee further observed that till June, 2018 the State Government followed the policy of "Defined benefit" mode of pension payment under erstwhile CCS(Pension) Rules 1972 as adopted in Tripura. Under that mode, there had been substantial increase in pension expenditure over last several financial years as compared to decline of revenue receipts. To cope up with this expenditure scenario, the State Government opted to introduce New Pension Scheme with effect from 1st July, 2018. The New Pension Scheme is based on "Defined Contribution" mode which is synonymous with pension system under the EPS. The Committee observed that it would neither be logical nor possible to revert back to the policy of "Defined Benefit" mode of pension for already retired employees of PSUs etc., alike the petitioners.

And

Whereas, the Committee also considered the legal concerns associated with the claim of the petitioners. In this regard, Supreme Court judgement dated 25.04.2003 in A.K. Bindal vs Union of India has been perused by the Committee. The Committee observed that the Hon'ble Apex Court has observed that the legal status of a Govt. Company is not different from any other company registered under the Act. The fact that the majority of shares of a Govt. company are held by the State Govt. does not make any difference. As such employees of Government company are not employees of the State Govt. Being employees of the company it is the responsibility of the company to pay them salary and if the company is sustaining losses continuously over a period and does not have the financial capacity to revise or enhance the pay scale, the employees cannot claim any legal right to ask for a direction to the Govt. to meet the additional expenditure which may be incurred on account of revision of pay scales. The Committee observed that pension being a derivative of pay, it is not feasible to allow revised pension to the retirees of PSUs etc. retrospectively in violation of the guidelines laid down by EPFO.

The Committee also observed that in a similar matter relating to WP(C) 160/2019 filed by Sri Hiranmoy Bagchi, an employee retired from TRTC, the Hon'ble High Court has observed that-

"…. though the committee did suggest framing of the pension scheme for the employees of TRTC, it was clearly provided that the corporation is not in a position to weigh to burden of any such pension liability. In other words the surplus funds required for making such additional responsibility must come from the Government.

The Finance Department examined the scheme and made two pertinent observations. Firstly, it was pointed out that even in

the existing condition nearly 90% of the funds of the corporation come from Government and only 10% is generated through its own revenue. Any further responsibility to pay pension would put burden on the Government exchequer which the Government is unwilling to carry. Second pertinent observation was that the Government of Tripura itself had replaced old pension scheme by new pension scheme envisaging contribution from the employer as well as employee.

It was therefore, not found feasible to introduce the pension scheme in the original format for the employees of the TRTC. Reasons cited by the Government for not been able to frame a pension scheme for the petitioners and other employees of TRTC cannot be faulted. In absence of some other valid reasons directions contrary to such informed consideration and decision making process cannot issued.

Thus, the Committee does not consider the claim of the petitioners.

Now, therefore, in compliance to Order dated 13-09-2019 of the Ld. Division Bench of the Hon'ble High Court in WP(C) 1084/2019 followed by the representation submitted by the petitioners and basing on the Report of the 5-Member Committee as constituted by the State Government, the claim of the petitioner(s) in the writ petition vide No. WP(C) 1084/2019 cannot be agreed to."

7…….

8……

9……..

10. In this situation, in my opinion, the employees of these statutory organizations cannot claim, as a matter of right, the pensionary benefits, as provided to few of the corporations who have been able to generate their own funds with one-time support from the state government. Furthermore, the employees of the present batch of writ petitions cannot be treated equally to the employees of those organizations whose pension schemes have been introduced under different schemes with the assistance of some other organizations like LICI, bank, etc., while the pension of the members of the petitioner's organization is determined on the basis of the pension scheme subscribed by each of them during his/her service tenure in the respective organization and are primarily controlled and regulated by EPFO. As such, the petitioners cannot complain of discrimination having regard to the equity clause enshrined under Article 14 of the Constitution of India……"

[10] Learned Advocate General to support his case on behalf of the State, placed reliance on the judgment passed by the Hon'ble Supreme Court in ***State of Maharashtra and another vs.***

Bhagwan and others reported in ***(2022) 4 SCC 193***, the relevant portion of the said judgment is quoted herein-below:

> "....23. In view of the above factual scenario, the question posed is:
>
> > "whether the employees of WALMI, which is an independent autonomous entity registered under the Societies Registration Act, are entitled to the pensionary benefits on par with the State Government employees?"
>
> 24. While answering the aforesaid question, few decisions of this Court on the inference of the Courts in the policy decision having financial implications and whether the employees of the board/societies, who are autonomous bodies can claim parity in the pay-scale and/or other benefits which may be available to the Government employees, are required to be considered.
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> 25. In T.M. Sampath v. Ministry of Water Resources [(2015) 5 SCC 333], the employees of National Water Development Agency (NWDA), an autonomous body under the aegis and control of Ministry of Water Resources claimed the pensionary benefits on par with the Central Government employees. Refusing to allow such pensionary benefits to the employees of NWDA on par with the Central Government employees, in paragraphs 16 and 17, it was observed and held as under:-
>
> > "16. On the issue of parity between the employees of NWDA and Central Government employees, even if it is assumed that the 1982 Rules did not exist or were not applicable on the date of the OM i.e. 1-5-1987, the relevant date of parity, the principle of parity cannot be applicable to the employees of NWDA. NWDA cannot be treated as an instrumentality of the State under Article 12 of the Constitution merely on the basis that its funds are granted by the Central Government. In Zee Telefilms Ltd. v. Union of India [(2005) 4 SCC 649], it was held by this Court that the autonomous bodies having some nexus with the Government by itself would not bring them within the sweep of the expression "State" and each case must be determined on its own merits. Thus, the plea of the employees of NWDA to be treated on a par with their counterparts in the Central Government under sub-rule (6)(iv) of Rule 209 of the General Financial Rules, merely on the basis of funding is not applicable.
> >
> > 17. Even if it is presumed that NWDA is "State" under Article 12 of the Constitution, the appellants have failed to prove that they are on a par with their counterparts, with whom they claim parity. As held by this Court in UT, Chandigarh v. Krishan Bhandari [(1996) 11 SCC 348], the claim to equality can be claimed when there is discrimination by the State between two persons who are similarly situated. The said discrimination cannot be invoked in cases where discrimination sought to be shown is between acts of two different authorities functioning as State under Article 12. Thus, the employees of NWDA

> cannot be said to be "Central Government employees" as stated in the OM for its applicability."

26. As per the law laid down by this Court in a catena of decisions, the employees of the autonomous bodies cannot claim, as a matter of right, the same service benefits on par with the Government employees. Merely because such autonomous bodies might have adopted the Government Service Rules and/or in the Governing Council there may be a representative of the Government and/or merely because such institution is funded by the State/Central Government, employees of such autonomous bodies cannot, as a matter of right, claim parity with the State/Central Government employees. This is more particularly, when the employees of such autonomous bodies are governed by their own Service Rules and service conditions. The State Government and the Autonomous Board/Body cannot be put on par.

27. In *Punjab State Cooperative Milk Producers Federation Ltd. v. Balbir Kumar Walia,* [(2021) 8 SCC 784], in para 32, it is observed as under:

> "32. The Central or State Government is empowered to levy taxes to meet out the expenses of the State. It is always a conscious decision of the Government as to how much taxes have to be levied so as to not cause excessive burden on the citizens. But the Boards and Corporations have to depend on either their own resources or seek grant from the Central/ State Government, as the case may be, for their expenditures. Therefore, the grant of benefits of higher pay scale to the Central/State Government employees stand on different footing than grant of pay scale by an instrumentality of the State."

28. As per the settled proposition of law, the Court should refrain from interfering with the policy decision, which might have a cascading effect and having financial implications. Whether to grant certain benefits to the employees or not should be left to the expert body and undertakings and the Court cannot interfere lightly. Granting of certain benefits may result in a cascading effect having adverse financial consequences.

29. In the present case, WALMI being an autonomous body, registered under the Societies Registration Act, the employees of WALMI are governed by their own Service Rules and conditions, which specifically do not provide for any pensionary benefits; the Governing Council of WALMI has adopted the Maharashtra Civil Services Rules except the Pension Rules. Therefore, as such a conscious policy decision has been taken not to adopt the Pension Rules applicable to the State Government employees; that the State Government has taken such a policy decision in the year 2005 not to extend the pensionary benefits to the employees of the aided institutes, boards, corporations etc.; and the proposal of the then Director of WALMI to extend the pensionary benefits to the employees of WALMI has been specifically turned down by the State Government. Considering the aforesaid facts and circumstances, the High Court is not justified in directing the State to extend the pensionary benefits to the employees of WALMI, which is an independent autonomous entity.

> 30. The observations made by the High court that as the salary and allowances payable to the employees of WALMI are being paid out of the Consolidated Fund of the State and/or that the WALMI is getting grant from the Government are all irrelevant considerations, so far as extending the pensionary benefits to its employees is concerned. WALMI has to run its administration from its own financial resources. WALMI has no financial powers of imposing any tax like a State and/or the Central Government and WALMI has to depend upon the grants to be made by the State Government.
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> 31. Now, so far as the observations made by the High Court that the amount available with WALMI and deposited with E.P.F. towards the employee's contribution itself is sufficient to meet the financial liability of the pensionary benefits to the employees and, therefore, there is no justification and/or reasonable basis for the State Government to refuse to extend the benefit of pension to the retired employees of WALMI is concerned, it is to be noted that merely because WALMI has a fund with itself, it cannot be a ground to extend the pensionary benefits. Grant of pensionary benefits is not a one-time payment. Grant of pensionary benefits is a recurring monthly expenditure and there is a continuous liability in future towards the pensionary benefits. Therefore, merely because at one point of time, WALMI might have certain funds does not mean that for all times to come, it can bear such burden of paying pension to all its employees. In any case, it is ultimately for the State Government and the Society (WALMI) to take their own policy decision whether to extend the pensionary benefits to its employees or not. The interference by the Judiciary in such a policy decision having financial implications and/or having a cascading effect is not at all warranted and justified.
>
> 32. In view of the above discussion and for the reasons stated, the impugned common judgment and order passed by the High Court directing the State to extend the pensionary benefits to the employees of WALMI is unsustainable, both in law and on facts. Accordingly, the impugned common judgment and order passed by the High Court deserves to be quashed and set aside and is accordingly quashed and set aside. It is held that the employees of WALMI, which is an independent autonomous body registered under the Societies Act are not entitled to the pensionary benefits.
>
> 33. All these appeals are accordingly allowed. However, in the facts and circumstances of the case, there shall be no order as to costs. Pending application(s), if any, also stands disposed of."

[11] Heard learned counsel for the parties. Perused the record.

[12] Upon hearing the submissions made by the learned counsel appearing for the parties and on perusal of record, this Court is of the view that violation of doctrine of recording

(opportunity of personal hearing not been given) and violation of principles of natural justice as pointed out by the appellant is not applicable in the present case since no right of the appellant has been infringed by the respondent in passing an order dated 28.08.2020 and thus, the question of issuing a notice before passing an adverse order does not arise to the facts of this case as the same is passed considering the representation of the pensioners as per the direction of this Court. On the point of discrimination, Article 14 of the Constitution of India will not have a role to play since the pensioners before this Court belong to different associations/corporate bodies and it is not the case that they all are maintaining the equality with all other organizations under the State government. It is not the case of the appellant that some employees in one of their organizations are being extended the benefit of pension and some were denied. Hence, the case of the appellant does not come under the Article 14 of the Constitution of India and it is not a case of discrimination.

[13] This Court cannot compel the Government in issuing a mandamus to frame any policy or a scheme as the same is not in the domain of Article 226 of the Constitution of India but, it is purely on the welfare State to frame any such policy.

[14] The argument made by the appellant that the proceedings dated 28.08.2020 passed by the respondent-State is arbitrary in nature and the policy of the government is bad, cannot

be accepted since no policy has been framed and the question of challenging any such policy is not before this Court. The appellant has also contended that an arbitrary, completely fabricated order has been passed by the respondent-State rejecting the claims of the pensioners, but, the appellant have not made out a case to prove that the proceedings dated 28.08.2020 are fabricated and insofar as other points on discrimination are concerned, it has already been answered by the learned Single Judge. We find no infirmity in the judgment and order passed by the learned Single Judge on 06.09.2022.

[15] In view of the above observation, the judgment and order dated 06.09.2022 passed by the learned Single Judge is confirmed and this present appeal stands dismissed.

As a sequel, stay if any, stands vacated. Pending application(s), if any, also stands closed.

B. PALIT, J **T. AMARNATH GOUD, J**

Sabyasachi G.

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