



2026:DHC:5756-DB



\$~6

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision: 17.07.2026

+

LPA 508/2026

DEBASIS DAS GUPTA & ORS.

.....Appellants

Through: Mr. S.P. Saxena, Advocate.

versus

MINISTRY OF COMMERCE INDUSTRY & ORS. Respondents

Through:

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (ORAL)****CM APPL. 43558/2026(Exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CM APPL. 43559/2026(Delay)

3. This is an Application filed by the Appellants seeking condonation of delay of 36 days in re-filing the present Appeal.
4. For the reasons stated in the Application, the same is allowed. The delay of 36 days in re-filing the present Appeal is hereby condoned.
5. Accordingly, the Application stands disposed of.

**LPA 508/2026**

6. The present Letters Patent Appeal has been preferred assailing the judgment dated 13.03.2026 (“**Impugned Judgment**”) passed by the learned Single Judge in Writ Petition being W.P.(C) 6807/2021 (“**Writ Petition**”), whereby the Writ Petition came to be dismissed.

7. The brief facts relevant to the present Appeal are that the Appellants, who are former employees of the Export Inspection Council (“**EIC**”) and its Export Inspection Agencies (“**EIAs**”), or their legal heirs, were denied pensionary benefits under the Central Civil Services (Pension) Rules, 1972 (“**CCS (Pension) Rules**”). It is the case of the Appellants that they held pensionable posts and were paid from funds routed through the Consolidated Fund of India (“**CFI**”). The EIC and EIAs are statutory bodies constituted under Section 7 of the Export (Quality Control and Inspection) Act, 1963 (“**Export Act**”), functioning under the administrative control of the Ministry of Commerce, Government of India.

8. Being aggrieved by the dismissal of the Writ Petition, the Appellants have preferred the present Appeal. The learned Single Judge held that the Appellants possessed no enforceable right to the *mandamus* sought.

9. Learned Counsel for the Appellants submitted that the learned Single Judge erred in accepting the Respondents’ contention that employees of the EIC / EIAs are not Government servants, notwithstanding that Sections 3 and 7 of the Export Act contemplate that their service conditions and pensionary framework be maintained at par with those applicable to Central Government employees.



10. It was further submitted by learned Counsel for the Appellants that the learned Single Judge failed to appreciate the Cabinet policy dated 18.02.1994, framed under Article 309 of the Constitution of India, 1950 (“**Constitution**”), whereby the Ministry of Commerce was directed not to retrench surplus staff, one-time budgetary support of ₹32.13 crores was sanctioned, and a revised Cabinet proposal was contemplated, which was never placed before the Cabinet, resulting in denial of pensionary benefits. Reliance was also placed on behalf of the Appellants on the Cabinet Note dated 04.04.1994, which recorded that the EIC / EIAs were established under the Export Act, funded through the CFI, and that retrenchment benefits had been approved for employees who did not opt for redeployment.

11. It was contended on behalf of the Appellants that the deviation from the prescribed procedure was arbitrary, inasmuch as rules framed under Article 309 of the Constitution have the force of law and are binding upon the Respondents. Reliance, in this regard, was placed upon the decision in *State of Arunachal Pradesh v. Nezone Law House*, (2008) 5 SCC 609.

12. Learned Counsel for the Appellants submitted that the transfer orders dated 06.08.1991, which required the employees either to join their transferred postings or face termination, were issued without inquiry and in violation of the applicable service rules, thereby rendering them illegal. It was further submitted that the Appellants relied upon approvals relating to retirement benefits dated 05.04.1991, retrenchment compensation and pension commutation dated 13.11.1991, and the Department of Personnel



and Training (“DOPT”) approval dated 27.11.1991. The Appellants also invoked the DOPT Notification dated 28.02.1990, which prescribed a period of 90 days for implementation of Cabinet decisions, as well as Rule 88 of the CCS (Pension) Rules, which empowers relaxation of the rules in cases of hardship.

13. Learned Counsel for the Appellants submitted that the Ministry of Finance notification dated 13.11.1991 was merely a proposal and was never approved by the Cabinet. In contrast, the subsequent Cabinet decision dated 18.02.1994 directed that surplus staff should not be retrenched and should be extended retirement benefits, including pension, under Article 309 of the Constitution.

14. The Appellants also referred to the revision of pay scales under the 4th Central Pay Commission (“CPC”), with effect from 01.01.1986, subsequent DOPT Office Memoranda, and the recommendations of the 7th CPC implemented through the Matrix Tables dated 06.07.2017 and 18.07.2017, revising pension and family pension.

15. It was submitted by learned Counsel for the Appellants that the Respondents deliberately failed to implement the Cabinet decision dated 18.02.1994 and, instead, retrenched the employees under the CCS (Temporary Service) Rules, 1965, thereby denying them pensionary benefits despite their pay scales having been revised under the CCS (Revised Pay) Rules, 1986, which, according to the Appellants, rendered them eligible for benefits under the 4th CPC.



16. It was further submitted on behalf of the Appellants that the Respondents relied only upon incomplete extracts of option forms under the Office Memorandum dated 01.05.1987 (“OM”), whereas Section 17(3) of the Export Act, as amended in 1984, repealed the EIC / EIAs Contributory Provident Fund (“CPF”) Rules and continued the EIC Pension Rules, 1981 (“EIC Rules”). The Appellants, therefore, claimed entitlement to pension, along with revision under the 7th CPC on the basis of notional pay fixation.

17. Learned Counsel for the Appellants submitted that Mr. B.G. Mazumdar, who was similarly situated, was granted pension under the EIC Rules, whereas the Appellants were denied the same benefit, amounting to discrimination under Article 14 of the Constitution. Reliance was placed on *Ram Chandra Singh v. Savitri Devi*, (2003) 8 SCC 319, to contend that suppression and misrepresentation vitiated the actions of the Respondents.

18. On the issue of delay and laches, the Appellants submitted that the cause of action arose only upon obtaining certified documents under the Right to Information Act, 2005, which disclosed material facts that had previously been withheld by the Respondents. It was submitted that such non-disclosure prevented the Appellants from asserting their rights at an earlier stage. The denial of pensionary benefits, according to the Appellants, constitutes a continuing wrong giving rise to a recurring cause of action, notwithstanding the lapse of time since retirement, retrenchment, or voluntary retirement.

19. The Appellants claimed parity with employees who were granted relief in *Amita Ajit Desai & Ors. v. Union of India & Ors.*, W.P.



1331/2017, and sought pensionary benefits under the CCS (Pension) Rules, together with consequential benefits, also relying upon communications furnished by the Respondents dated 31.01.2014.

20. We have considered the submissions advanced by learned Counsel for the Appellants and have perused the material placed on record.

21. The Appeal proceeds on the assumption that all the Appellants stand on a uniform footing and are entitled to common relief. Upon a closer examination of the record, however, such an assumption is not borne out. The claims of the Appellants arise from markedly different service histories; some were retrenched, some retired in the ordinary course upon superannuation, and others exited under the Special Voluntary Retirement Scheme of 1994. Each category carries distinct legal consequences, and the learned Single Judge was correct in insisting upon such distinction rather than treating the matter as a single, undifferentiated grievance.

22. Sections 3 and 7 of the Export Act do not, by themselves, have the effect of importing the CCS (Pension) Rules into the service framework governing employees of the EIC / EIAs. Even proceeding on the assumption most favourable to the Appellants, namely that the pension regime extended in principle to this cadre, it was necessary for each Appellant to establish that he had not elected to continue under the CPF scheme. The record, however, indicates otherwise, as the option forms produced by the Respondents, each bearing the name, designation, and signature of the concerned employee, show that several of the Appellants had, in fact, elected to remain under the CPF scheme pursuant to the OM. In the face of



such contemporaneous and individualised documentation, a general denial cannot suffice.

23. The presumption under Section 17(3) of the Export Act, as amended, on which the Appellants seek to rely, operates only in favour of an employee who exercised no option whatsoever. However, it can have no application where an option was, in fact, exercised. Further, the fact that one employee sought a changeover from CPF to pension in 1991, which request was declined, is inconsistent with the Appellants' broader submission that none of them remained under the CPF scheme after 1987. These two positions cannot logically coexist.

24. A Cabinet decision that was never brought into effect cannot, by itself, confer an enforceable right. On the Appellants' own showing, the revised Cabinet proposal contemplated under the decision dated 18.02.1994 was never formulated or submitted. The decision in *Nezone Law House (supra)*, relied upon by the Appellants, does not advance their case, since it was decided under Article 309 of the Constitution, and not a policy that was never implemented, which carry the force of law.

25. The challenge to the transfer orders dated 06.08.1991 is belated to such an extent that it is not fit for consideration by this Court. Those orders, together with the terminal benefits offered under the connected communication, which expressly distinguished between employees governed by the CPF scheme and those governed by the pension regime, were accepted by the Appellants at the relevant time and have consequently attained finality more than three decades ago. No explanation, much less a



satisfactory one, has been placed before this Court to account for such extraordinary delay.

26. The position of those Appellants who exited under the Special Voluntary Retirement Scheme of 1994 is even more untenable. Each of them accepted a one-time quantified settlement in full and final discharge of all claims arising out of their employment. Having done so, it is not open to them to recast such exit, decades thereafter, as an ordinary retirement wrongly denied the benefit of pension. The Courts have consistently declined to reopen settlements of this nature at the instance of employees who have already received and appropriated benefits thereunder.

27. The Right to Information Act, 2005, is a statutory mechanism for securing access to records, which cannot give rise to a fresh cause of action, nor does it revive a claim that has become stale by efflux of time. The grievance, if any, crystallised at the point of each Appellant's exit from service, variously between 1991 and 1994, and subsequent representations cannot operate to reset the period of limitation. The present claim cannot be characterised as a continuing wrong, as that doctrine presupposes an underlying entitlement already established in law, which the Appellants have failed to satisfy.

28. The claims founded on the principle of parity are equally unsustainable. The circumstance that pension may have been extended to a single similarly situated employee does not sustain a claim under Article 14 of the Constitution as there is no concept of negative equality. In ***Amita Ajit Desai & Ors.*** (*supra*), it concerned employees who had exercised no option



2026:DHC:5756-DB



whatsoever under the OM, whereas in the present case the options were, in fact, exercised. It is well settled that parity cannot be claimed between persons who are not, either in fact or in law, similarly circumstanced.

29. Accordingly, the Appellants have failed to make out any ground warranting interference with the Impugned Judgment. The Appeal is, therefore, dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

JULY 17, 2026/N