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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10044/2024**

ASLAM RASHEED AND ANR

.....Petitioners

Through: Ms Sriparna Chatterjee, Mr. Soumitra Chatterjee and Mr. Manish, Advocates.

versus

JAMIA MILLIA ISLAMIA AND ANR

.....Respondents

Through: Mr. Pritish Sabharwal, Standing Counsel for JMI.

Mr. Syed Abul Haseeb, Central Government Standing Counsel for UOI/ R-2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

23.07.2024

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1. This writ petition has been preferred on behalf of the Petitioners under Articles 226 and 227 of the Constitution of India seeking the following relief:-

“i) Issue an order/direction/writ in the nature of mandamus directing the Respondents to treat the Petitioners as covered under the Old Pension Scheme and for that purpose, if required, permit the Petitioners to exercise their option in terms of the OM dated 03.03.2023 of the Government of India for opting the CCS Pension Rules 1972 (2021)/Old Pension Scheme; and/or”

2. Petitioner No. 1 was appointed as Computer Operator with Respondent No.1 on *ad hoc* basis w.e.f. 01.10.1990. Upon selection by the Selection Committee, Petitioner was offered appointment to the post of Computer Operator in the Department of Physics vide letter dated 03.03.1993, where he joined and his services were confirmed vide letter



dated 09.07.1994. Petitioner No. 2 was offered appointment vide letter dated 15.03.1993 to the post of Store Keeper (Bio-Sciences) and his services were confirmed w.e.f. 15.03.1994. Case of the Petitioners in brief is that on 22.08.2003, Government of India approved the proposal to implement the Budget announcement 2003-04 relating to introduction of new restructured Defined Contribution Pension Scheme for new entrants in the service of Government of India, save and except, Armed Forces, in the first stage replacing the existing system of Defined Benefit Pensions Scheme. On 13.11.2003, Ministry of Finance issued an O.M., vide which all new entrants in the Central Autonomous Bodies under Central Ministries/Departments recruited on or after 01.01.2004 were to be governed by New Pension Scheme (NPS). NPS (now called as National Pension Scheme) was finally notified on 22.12.2003 and thereafter all new recruits w.e.f. 01.01.2004 in the Central Government service were governed by the Scheme, save and except, the Armed Forces. In 2012, Pension Cell of Respondent No. 1 asked the Petitioners to sign several papers for pension purposes, which the Petitioners did under wrong guidance and did not realise that they were being made to opt for switching over from CPF Scheme to NPS.

3. It is further averred that on 17.02.2020, Government of India issued an O.M. giving one time option to the Central Government employees, who were declared successful in the results declared on or before 31.12.2003, against vacancies occurring before 01.01.2004 and were covered under NPS on joining service on or after 01.01.2004 to be covered under CCS (Pension) Rules, 1972. In this light, Petitioner No. 2 made a representation dated 01.11.2022 requesting for conversion. While the representation was pending, DoPT issued another O.M. on 03.03.2023, whereby all civil



employees who were appointed against a post or vacancy advertised/notified for recruitment/appointment prior to 22.12.2003 and were covered by NPS, on joining on or after 01.01.2004, have been given one time option again to be covered under CCS Pension Rules. Pursuant to this, several organisations have implemented the O.M. and Petitioners also gave representations on 16.05.2023 and 22.05.2023 but there was no response, in fact, the UGC also addressed a letter dated 06.07.2023 to the Registrars of all Central Universities and UCMS Principals for implementation and Respondent No. 1 also in the meeting of the Executive Council held on 04.08.2023 approved the adoption of the O.M. dated 03.03.2023. This again prompted the Petitioners to represent for conversion from NPS to GPF but both representations dated 25.08.2023 and 28.08.2023 are pending.

4. Issue notice.

5. Mr. Prithish Sabharwal, learned Standing Counsel accepts notice on behalf of Respondent No. 1.

6. Mr. Syed Abul Haseeb, learned Central Government Standing Counsel accepts notice on behalf of Respondent No. 2.

7. Having heard the learned counsels for the respective parties, this Court finds merit in the plea of the Petitioners that their case requires to be re-considered and re-visited for exercising option for pension under the Old Pension Scheme/CCS (Pension) Rules, in terms of OM dated 03.03.2023 issued by the Government of India, in light of the provisions of OM dated 03.03.2023, letter of the UGC dated 06.07.2023 and the decision of the Executive Council taken in the meeting convened on 04.08.2023, adopting the OM dated 03.03.2023 as well as in light of the judgment of this Court in W.P. (C) No. 2843/2021, titled '*Shafiqur Rahman Kidwai Association*



(SRKA) and Another v. Union of India and Others, decided on 17.04.2023, which according to Mr. Sabharwal has been implemented.

8. Accordingly, this petition is disposed of directing Respondent No. 1 to treat the present petition as a representation and decide the same in accordance with law within six weeks from today. While deciding the representation, Respondent No. 1 shall take into account the DoPT O.M. dated 03.03.2023 as also the fact that Respondent No. 1 has adopted the said O.M. as well as the observations of this Court in the aforesaid judgment. A reasoned and speaking order shall be passed by Respondent No. 1 which shall be communicated to the Petitioners, who will be at liberty to take recourse to legal remedies, in case of any surviving grievance.

JYOTI SINGH, J

JULY 23, 2024/shivam