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

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+ W.P.(C) 2683/2022 & CM APPL. 7672/2022, 48069/2023

YOGESH NIGAM

.....Petitioner

Through: Mr. Vishwendra Verma, Ms. Shivali  
and Mr. Archit Verma, Advocates.

versus

JAMIA MILLIA ISLAMIA

.....Respondent

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

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+ W.P.(C) 17659/2022 & CM APP No. 56428/2022, 48218/2023

YOGESH NIGAM

.....Petitioner

Through: Mr. Vishwendra Verma, Ms. Shivali  
and Mr. Archit Verma, Advocates.

versus

JAMIA MILLIA ISLAMIA

.....Respondent

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

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**04.11.2024**

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1. W.P.(C) 2683/2022 has been filed on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking the following reliefs:-

*“(i) Issue directions to the respondents to grant benefits of old pension scheme alongwith other benefits to the petitioner as he was appointed in the year 1987 and since then he is regularly working with the respondents;*



*(ii) Grant all consequential benefits pertaining to service to the petitioner alongwith interest;”*

2. W.P.(C) 17659/2022 has been filed on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking the following reliefs:-

*“(i) Issue directions to the respondents to grant all benefits of MACP / ACP with all consequential benefits in the interest of justice;*

*(ii) Grant all consequential benefits pertaining to service to the petitioner alongwith interest;”*

3. Common grievance of the Petitioners *inter alia* is that they were appointed by the Respondent in 1987 as Programmers and have been subsequently regularized pursuant to the recommendation of the Executive Council in its Resolution No. 12 dated 05.07.2004 and by virtue of their dates of appointments they are entitled to the benefit of the Old Pension Scheme (‘OPS’) and cannot be covered under the National Pension Scheme (‘NPS’). Stand of the Respondent is that Petitioners are not covered by DOP&T OM dated 17.02.2020, which clarifies that NPS must be mandatorily applied to all Government servants on or after 01.01.2004 and not to those who were declared successful for recruitment before 01.01.2004, since Petitioners were not appointed on regular basis pursuant to a recruitment process before 31.12.2003 nor were they recruited against vacancies arising prior to the said cut-off date.

4. Broadly understood, the controversy in the present case before this Court is whether the Petitioners are covered under the OPS having been appointed prior to 01.01.2004 *albeit* regularized post the said date. Mr. Verma, learned counsel for the Petitioner relies on the provisions of NPS and emphasizes on the expression ‘new entrants’ to contend that petitioners



cannot be treated as new entrants to the University post 31.12.2003 and have to be given pension under OPS. Reliance is placed on the judgments of this Court in ***Shafiqur Rahman Kidwai Association (SRKA) and Another v. Union of India and Others, W.P. (C) 2843/2021***, decided on 17.04.2023, ***Dr. Ravindra Narayan Mishra v. Sri Guru Tegh Bahadur Khalsa College and Others, 2023 SCC OnLine Del 3057*** and ***Dr. Archana Verma v. University of Delhi and Another, 2024 SCC OnLine Del 5778***.

5. Learned counsel for JMI fairly and candidly does not dispute that the issue raised by the Petitioners is squarely covered by the aforesaid judgments *albeit* he points out that an appeal being LPA No. 687/2023 against the judgment in ***Dr. Ravindra Narayan Mishra (supra)*** is pending before the Division Bench though the Division Bench categorically declined to stay the judgment.

6. In my view, the matter requires re-consideration by the Respondent and learned counsel for the Respondent fairly submits that he has no objection to the matter being reconsidered by the Respondent in light of the aforementioned judgments. Accordingly, without entering into the merits of the case, these writ petitions are disposed of with a direction to the Respondent to re-consider the cases of the Petitioners and take a decision whether the Petitioners would be covered under the OPS taking into account their dates of appointments and the factum of their regularization as also the judgments referred to above and relied upon by the petitioners. The decision shall be taken within two months from the date of receipt of this order. Needless to state, if the decision is in favour of the Petitioners, their cases will be processed for pensionary benefits under OPS. If for any reason, the decision is otherwise, a reasoned and speaking order shall be passed, which



shall be communicated to the Petitioners and they will be at liberty to take recourse to legal remedies, if so advised.

7. Pending applications also stand disposed of.

**JYOTI SINGH, J**

**NOVEMBER 04, 2024/shivam**