

Ms. Shruti Jain Goyal, Advocate
for the petitioners (*in CWP-33390-2025*).

Ms. Shruti Jain Goyal, Advocate
for the petitioners
(*in CWP-35241-2025 and CWP-33390-2025*).

Ms. Rajni Gupta, Addl. A.G. Haryana and
Mr. Ravi Partap Singh, DAG Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. Short reply of Mr. Himanshu Garg, IPS, Assistant Inspector General of Police, Administration, Haryana, Sector-6, Panchkula filed on behalf of respondents No.1 to 3 is taken on record. The Registry is directed to tag the same at an appropriate place.

2. Common issues are involved in the captioned petitions, thus, with the consent of both sides, same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-36834-2025**.

3. The petitioners through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Para No.5(i) of the Office Memorandum dated 08.05.2023 to the extent cut-off date has been fixed as 28.10.2005 instead of 18.08.2008.

4. The petitioners are Police Officials of Haryana State Government. They pursuant to Advertisement dated 03.05.2006 applied for the post of Constable. Last date for filing application was 24.05.2006. They cleared all the stages of selection process and came to be selected. They were issued appointment letters during 2007. In the appointment letter, it was jotted down that employee would be bound by Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short 'PPR') and other

Rules framed by Government from time to time. For the ready reference, appointment letter dated 03.07.2008 of Joginder Singh (Petitioner No. 2) is reproduced as below:

“Police Department *3rd Bn, HAP, HISAR*
APPOINTMENT ORDER
FORM NO.12.22(1)

Sh. : Joginder Singh
S/O Shri : Begh Chand
Caste : Chamar Category: SC
Village/Town: New Subhash Nage, Devigarh Road, Near
Govt. Primary School, Ktl.
Police Station: City Kaithal
District : Kaithal State: Haryana
Whose physical standard & educational qualification verified by
Selection Board, Jind are as under:-
Height: 5'-8 ½" Chest 34" X 36"
Education B.A. Date of Birth: 15-05-1982
and who has been declared medically fit by CMO Hisar and
whose character and antecedents verified by the Superintendent
of Police, Kaithal is hereby appointed as Temporary Constable in
Haryana Armed Police, w.e.f. 03-07-2008 F.N. in the pay scale of
Rs. 3050-85-4325-EB-100-5325/ PM subject to the verification of
his educational certificates. He is allotted Regimental Number
3/474 of this Battalion and declared as member of Police force
under Act-V of 1861 and is vested with the power, functions and
privileges of Police Officer. He is enlisted on the conditions that
he will be fully bound and abide by PPR and other rules framed
by Government from time to time and he will serve in Haryana
Armed Police till his promotion to the rank of Inspector as per
new Policy adopted by the Department w.e.f. 01.01.1994 as per
DGP(H)'s letter No. 604-636/CB-1 dated 29.12.1993.
Identification Mark:-
An old scar mark about 1.4 CM
X.3 cm on forehead
I agree with the above

Commandant,
3rd Battalion, HAP, Hisar.
03/07/2008”

5. The respondent vide notification dated 28.10.2005 in exercise of power conferred by Article 309 of Constitution of India amended Rule 1.2 of Punjab Civil Services Rules, Volume I, Part I (as applicable to State of Haryana). A proviso was added in Rule 1.2. The said proviso reads as:

“Provided that the rules in Volume II of these rules called the Punjab Civil Services Rules, Volume II shall not apply to the Government employees who are appointed to the posts mentioned in categories (1) to (5) above on or after 1st day of January 2006. They shall be covered by the “New Defined Contribution Pension Scheme” to be notified by the Government.”

6. By way of aforesaid proviso, the employees who joined service on or after 01.01.2006 became ineligible for pension and they were covered by New Pension Scheme (for short ‘NPS’) to be notified by State Government. In view of aforesaid proviso, State Government was supposed to introduce NPS. Government took more than two years to frame NPS which was finally introduced vide notification dated 18.08.2008 issued in exercise of power conferred by Article 309 of Constitution of India. In the notification, it was categorically mentioned that scheme would come into force w.e.f. 01.01.2006.

7. The State Government dispensed with Old Pension Scheme (for short ‘OPS’) following the footprints of Central Government which dispensed with OPS w.e.f. 01.01.2004. The Central Government vide notification dated 22.12.2003 introduced NPS for the new entrants. The said system came into force w.e.f. 01.01.2004. The Central Government vide office memorandum dated 17.02.2020 considered representations of

Government servants who had joined service on or after 01.01.2004 though their recruitment process was completed before 01.01.2004. The Central Government decided that in all cases where results for recruitment were declared before 01.01.2004 against vacancies occurring on or before 31.12.2003, the candidates declared successful for recruitment shall be eligible for coverage under Central Civil Services (Pension) Rules, 1972. The relevant extracts of office memorandum dated 17.02.2020 are reproduced as below:

“4. The matter has been examined in consultation with the 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 been decided that in all cases where the results for recruitment were declared before 01.01.2004 against vacancies occurring on or before 31.12.2003, the candidates declared successful for recruitment shall be eligible for coverage under the CCS(Pension) Rules, 1972. Accordingly, such Government servants who were declared successful for recruitment in the results declared on or before 31.12.2003 against vacancies occurring before 01.01.2004 and are covered under the National Pension Scheme on joining service on or after 01.01.2004, may be given a one-time option to be covered under the CCS (Pension) Rules, 1972. This option may be exercised by the concerned Government servants latest by 31.05.2020.”

8. The Central Government received representations from different quarters and vide office memorandum dated 03.03.2023 further expanded coverage of Central Civil Services (Pension) Rules, 1972. The Government decided to expand benefit of OPS to all employees who have

been appointed against posts or vacancies which were advertised/notified for recruitment/appointment prior to the date of notification for NPS i.e. 22.12.2003. The relevant extracts of office memorandum dated 03.03.2023 are reproduced as below:

“OFFICE MEMORANDUM

Subject: Coverage under Central Civil Services (Pension) Rules, in place of National Pension Scheme, of those Central Government employees who were recruited against the posts/vacancies advertised /notified for recruitment, on or before 22.12.2003.

The undersigned is directed to say that consequent on introduction of National Pension Scheme (NPS) vide Ministry of Finance (Department of Economic Affairs) Notification No. 5/7/2003-ECB & PR dated 22.12.2003, all Government servants appointed on or after 01.01.2004 to the posts in the Central Government service (except armed forces) are mandatorily covered under the said scheme. The Central Civil Services (Pension) Rules, 1972 and other connected rules were also amended vide Notification dated 30.12.2003 and, after the said amendment, those rules are not applicable to the Government servants appointed to Government service after 31.12.2003.

2. Subsequently, Department of Pension and Pensioners' Welfare in consultation with the Department of Personnel & Training, Department of Expenditure and Department of Legal Affairs in the light of the various representations/references and decisions of Hon'ble Courts, issued instructions vide OM No. 57/04/2019-P&PW(B) dated 17.02.2020 giving one time option to Central Government employees who were declared successful for recruitment in the results declared on or before 31.12.2003 against vacancies which occurred before 01.01.2004 and were covered under the National Pension Scheme on joining service on or after 01.01.2004,

to be covered under the CCS (Pension) Rules, 1972 (now 2021). There was fixed time schedule for different activities under the aforesaid OM dated 17.02.2020.

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 recruitment prior to notification for National Pension Scheme, referring to court judgments 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 after 01.01.2004, may be given a 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.

[Emphasis supplied]

9. The State Government following office memorandum of Central Government issued office memorandum dated 08.05.2023 whereby scope of Punjab Civil Services Rules, Volume II was expanded.

The State Government decided to grant benefit of OPS to employees who have been appointed against a post or vacancy which was advertised/notified for recruitment/appointment prior to the date of notification for NPS i.e. 28.10.2005. The relevant extracts of office memorandum dated 08.05.2023 are reproduced as below:

“OFFICE MEMORANDUM

Subject: Coverage under Punjab Civil Services Rules (CSR) Vol.-II (now Haryana Civil Services (Pension) Rules, 2016), in place of New Defined Contributory Pension Scheme, of those State Government employees who were recruited against the posts/vacancies advertised/notified for recruitment, on or before 28.10.2005.

I am directed to invite your kind attention to the Finance Department's Notification No.1/1/2004-1Pension Dated 18.08.2008 wherein the Defined Contributory Pension Scheme (Haryana New Pension Scheme, 2008) for the State Government employees appointed on or after 01.01.2006 was notified and further relevant instructions/Guidelines issued vide letter No. 1/1/2004-1Pension dated 04.12.2008 and others from time to time. Instructions were also issued vide letter No. 2/47/2007-1Pension (FD) dated 22.06.2020, 27.01.2022, 20.10.2022 & 16.11.2022 and letter No 2/32/2012-1Pension (FD) Dated 17/21.2.2022, 10.10.2022 & 05.12.2022.

2. Consequent on introduction of National Pension Scheme (NPS) vide Government of Haryana Notification No. 1/1/2004-1Pension dated 28.10.2005, all State Government employees appointed on or after 01.01.2006 to the posts in the State Government service are mandatorily covered under the NPS. The Punjab CSR Vol. II and other connected rules were also amended vide Notification dated 28.10.2005 and, after the said amendment, those rules are not applicable to the

Government servants appointed to Government service after 31.12.2005.

3. Government of India vide OM No. 57/05/2021-P&PW(B) dated 03.03.2023 has decided to give one time option 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 after 01.01.2004 to be covered under the CCS(Pension) Rules. 1972 (now 2021).

4. Various representations have been received in Finance Department from the State Government employee(s) / servant(s) appointed on or after 01.01.2006 requesting for extending the benefit of the pension scheme under the Punjab CSR Vol. II on the ground that their appointment was made against the posts/vacancies advertised/notified for recruitment prior to notification for NPS. Even some State Government employee(s)/ servant(s) have also filed Court cases for claiming such benefit.

5. The State Government, after due consideration, has decided that:

(i) in all cases where the State Government employee(s) / servant(s) has been appointed against a post or vacancy which was advertised / notified for recruitment / appointment, prior to the date of notification for New Defined Contribution Pension Scheme i.e. 28.10.2005 and is covered under the Defined Contribution Pension Scheme (Haryana New Pension Scheme, 2008) on joining service on or after 01.01.2006, may be given a one-time option to be covered under the Punjab CSR Vol.-II (now Haryana Civil Services (Pension) Rules, 2016). This option may be exercised by the concerned State Government employee(s) /servant(s) latest by 31st August, 2023.

[Emphasis supplied]

10. The petitioners are aggrieved from cut-off date notified in the office memorandum dated 08.05.2023.

11. Learned counsel representing the petitioners led by Mr. Anurag Goyal, Senior Advocate submit that respondent-State followed office memorandum of Central Government. Central Government dispensed with Pension Scheme w.e.f. 01.01.2004. Central Government brought into force NPS by notification dated 22.12.2003 which was applicable w.e.f. 01.01.2004. The State Government amended Civil Services Rules w.e.f. 28.10.2005 and brought NPS w.e.f. 01.01.2006. The notification dated 18.08.2008 was made applicable from retrospective date i.e. 01.01.2006. The Central Government prepared contributory scheme prior to abolishing OPS whereas State Government omitted OPS by notification dated 28.10.2005, however, introduced NPS by notification dated 18.08.2008. In other words, from 01.01.2006 to 18.08.2008, neither OPS nor NPS was in force. The State Government by office memorandum dated 08.05.2023 has implemented Central Government office memorandum dated 03.03.2023. Central Government by office memorandum dated 03.03.2023 has linked cut-off date with the date of notification for NPS i.e. 22.12.2003. In the State of Haryana, notification for NPS was issued on 18.08.2008. The Central Government has decided 22.12.2003 as cut-off date for OPS i.e. date on which NPS was introduced whereas State Government by impugned office memorandum has declared 28.10.2005 as cut-off date which was date of amendment of Punjab Civil Services Rules. NPS in the State was introduced vide notification dated 18.08.2008. Said date is *pari materia*

with 22.12.2003 i.e. date of notification issued by Central Government whereby NPS was implemented. As State Government has borrowed and implemented Central Government office memorandum dated 03.03.2023, there is no reason to fix 28.10.2005 as cut-off date whereas it should be 18.08.2008.

12. *Per contra*, learned State counsel submit that by notification dated 28.10.2005, OPS was dispensed with w.e.f. 01.01.2006. The proviso was inserted in Rule 1.2 of Punjab Civil Services Rule, Volume I, Part I. In the proviso, it was made clear that Government Employees who are appointed on or after 1st Day of December' 2006 shall not be entitled to pension. They would be covered by NPS to be notified by the Government. The Central Government while abolishing OPS introduced NPS, however, State Government took time to prepare NPS which was introduced by notification dated 18.08.2008, however, w.e.f. 01.01.2006. In the proviso inserted in Rule 1.2, it was made clear that NPS would be notified by State Government. The State Government is not bound to follow office memorandum of Central Government. State Government being independent has every authority to decide cut-off date as per its convenience and financial constraints. The State Government has no doubt considered office memorandum dated 03.03.2023 of Central Government, however, 28.10.2005 has been considered as cut-off date because OPS was omitted by notification dated 28.10.2005. If the benefit of OPS is extended to all the employees who were appointed during 2006 to 2008 i.e. prior to introduction of NPS by way of notification dated 18.08.2008, the amendment of Rule 1.2 would become effective w.e.f.

18.10.2008 instead of 01.01.2006. It is a pure policy matter. It is settled proposition of law that Courts cannot interfere in policy matters. Contention of State is espoused with judgment of Hon'ble Supreme Court in ***Yamuna Expressway Industrial Development Authority Etc. Versus Shakuntla Education and Welfare Society and Others Etc., 2022 SCC OnLine SC 655.***

13. I have heard learned counsel for the parties and perused the record with their able assistance.

14. It is a settled proposition of law that scope of interference in the executive decisions/policy matters is very limited. The ones who are making policy are more competent to know needs of the people as well as needs of the organization.

15. Hon'ble Supreme Court has time and again adverted to scope of judicial interference in executive decisions including decisions relating to policy matters. In ***Union of India v. Harjeet Singh Sandhu, (2001) 5 SCC 593***, Supreme Court has adverted to scope of judicial review of administrative action. The Court has held that if two views are possible, Court shall not interfere by substituting its opinion for the opinion of authority. The relevant extracts of aforesaid judgment read as:

“42. Exercise of power under Section 19 read with Rule 14 is open to judicial review on well-settled parameters of administrative law governing judicial review of administrative action such as when the exercise of power is shown to have been vitiated by mala fides or is found to be based wholly on extraneous and/or irrelevant grounds or is found to be a clear case of colourable exercise of/or abuse of power or what is sometimes called

fraud on power i.e. where the power is exercised for achieving an oblique end. The truth or correctness or the adequacy of the material available before the authority exercising the power cannot be revalued or weighed by the court while exercising power of judicial review. Even if some of the material, on which the action is taken is found to be irrelevant, the court would still not interfere so long as there is some relevant material available on which the action can be sustained. The court would presume the validity of the exercise of power but shall not hesitate to interfere if the invalidity or unconstitutionality is clearly demonstrated. If two views are possible, the court shall not interfere by substituting its own satisfaction or opinion for the satisfaction or opinion of the authority exercising the power.”

16. A Constitutional Bench in ***Vivek Narayan Sharma Versus Union of India, 2023 SCC OnLine SC 1***, while advertng to question of legality of demonetization of currency of denomination of Rs.500/- and Rs.1,000/- has considered scope of judicial review. The Hon’ble Supreme Court has considered its judicial precedents and concluded that it is not function of the Court to sit in judgment over matters of economic policy and they must necessarily be left to Government of the day to decide. The Court emphasized on its earlier decision in ***Tata Cellular vs. Union of India, (1994) 6 SCC 651***. The relevant extracts of the said judgment read as:-

“Scope of Judicial Review

215. The law with regard to scope of judicial review has been very well crystalized in the case of Tata Cellular (supra). In the said case, it has been held by this Court that the duty of the court is to confine itself to the question of legality. Its concern should be whether a decision making

authority exceeded its powers, committed an error of law, committed a breach of the rules of natural justice, reached a decision which no reasonable tribunal would have reached or abused its powers. The Court held that it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken.

216. After referring to various pronouncements on the scope of judicial review, the Court has summed-up thus:

“94. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi administrative sphere. However, the decision must not only be tested by the application of Wednesbury

principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure. Based on these principles we will examine the facts of this case since they commend to us as the correct principles.””

17. In ‘**DDA Versus Allottee of SFS Flats**’, (2008) 2 SCC 672, Hon’ble Supreme Court has examined scope of judicial review of policy decisions. The Court has held that policy decisions are not beyond the pale of judicial review. It is not correct to contend that Court should lay its judicial hands off when a plea of policy decision is raised, however, interference is permissible on limited grounds. The Court has held:

“64. An executive order termed as a policy decision is not beyond the pale of judicial review. Whereas the superior Courts may not interfere with the nitty gritty of the policy, or substitute one by the other but it will not be correct to contend that the Court shall like its judicial hands off, when a plea is raised that the impugned decision is a policy decision. Interference therewith on the part of the superior Court would not be without jurisdiction as it is subject to judicial review.

65. Broadly, a policy decision is subject to judicial review on the following grounds:

- a) if it is unconstitutional;*
- b) if it is dehors the provisions of the Act and the Regulations;*
- c) if the delegatee has acted beyond its power of delegation;*

d) if the executive policy is contrary to the statutory or a larger policy.”

18. The conceded petition emerging from record is that the petitioners joined service during 2007-2008 against Advertisement issued on 03.05.2006. In the appointment letter, it was categorically mentioned that they would be bound and abide by PPR and other Rules framed by Government. State Government following suit of Central Government vide notification dated 28.10.2005 made amendment in Punjab Civil Services Rules, Volume I, Part I (as applicable to State of Haryana). A proviso was inserted in Rule 1.2 whereby it was mandated that Government employees appointed on or after 1st Day of December' 2006 shall not be entitled to pension. In the amendment, it was provided that such employees shall be covered by NPS to be notified by Government. The State took two and a half years' time to prepare NPS which vide notification dated 18.08.2008 was implemented w.e.f. 01.01.2006. Central Government dispensed with OPS with effect from 01.01.2004. NPS was notified by notification dated 22.12.2003 which was applicable w.e.f. 01.01.2004. Central Government acceding to representations of different employees vide office memorandum dated 17.02.2020 extended benefit of OPS to Government Servants whose result was declared on or after 01.01.2004, thus, joined after 31.12.2003 against vacancies occurring on or before 31.12.2003. Central Government further extended benefit of OPS vide office memorandum dated 03.03.2023 to employees who were appointed against posts/vacancies which were advertised/notified for recruitment/appointment prior to the date of NPS i.e. 22.12.2003. The

State Government issued office memorandum dated 08.05.2023 which was primarily based upon aforesaid office memorandum of Central Government. The State Government in its memorandum notified that benefit of OPS would be available to Government employees who have been appointed against posts/vacancies which were advertised/notified for recruitment/appointment prior to 28.10.2005 i.e. date of notification for NPS.

19. The petitioners are claiming that State Government has issued office memorandum dated 08.05.2023 following office memorandum(s) issued by Central Government. Office memorandum dated 03.03.2023 issued by Central Government is *pari materia* with office memorandum dated 08.05.2023 issued by State Government. The State Government has imitated office memorandum of Central Government, however, intentionally or unintentionally notified 28.10.2005 as cut-off date which should be 18.08.2008. NPS was implemented by notification dated 18.08.2008 whereas in the memorandum dated 08.05.2023, the respondent has treated 28.10.2005 as date of notification for NPS.

20. The respondent in its reply has contended that State has taken cue from memorandum issued by Central Government, however, State was free to fix cut-off date. The State was not bound to follow suit of Central Government. It is a purely policy matter and Court should not interfere.

21. In view of aforesaid judgments, this Court has power to review decision of the State Government, however, within metes and

bounds ear-marked by Hon'ble Supreme Court. The impugned memorandum is a pure policy decision. The respondent has virtually modified notification dated 18.08.2008 read with Rule 1.2 of Civil Services Rules by way of office memorandum. Notification dated 18.08.2008 as well as 28.10.2005 was issued in exercise of power conferred by Article 309 of the Constitution of India. An amendment has been made by office memorandum which is unknown to law. The petitioners are impugning only cut-off date notified in the memorandum, thus, there is no use to further dilate on this issue.

22. In the backdrop, stand of respondent is correct because State Government being an independent constitutional body in its affairs was not bound to determine cut-off date in the manner as determined by Central Government.

23. The Central Government implemented NPS w.e.f. 01.01.2004 whereas State Government implemented w.e.f. 01.01.2006. The petitioners are not claiming that NPS should be implemented w.e.f. 01.01.2004 instead of 01.01.2006. The State Government implemented NPS after two years from the date adopted by Central Government. The Central Government prepared NPS and thereafter dispensed with OPS. The State Government vide notification dated 28.10.2005 dispensed with OPS by carrying out amendment in Rule 1.2 of Civil Services Rules. The State Government made it clear that NPS would be applicable w.e.f. 01.01.2006. It was also made clear that NPS would be later on notified. The State Government notified NPS on 18.08.2008. The Central Government notified NPS on 22.12.2003 and dispensed with OPS w.e.f. 01.04.2004. Central Government as per its wisdom while issuing office

memorandum dated 03.03.2023 determined cut-off date 22.12.2003 i.e. the date on which NPS was notified. There was a small period of gap between the date of notification of NPS and abolition of OPS, thus, Central Government afforded to extend benefit of office memorandum dated 03.03.2023 to employees who had been appointed against a post which was advertised/notified prior to 22.12.2003. In the case of State Government, there was a substantial gap between the date of abolition of OPS and notification of NPS. In the case of Central Government, gap between the date of notification of NPS and abolition of OPS was less than ten days whereas in the case of State Government, it was more than two and half years. In such circumstances, the State Government has declared 01.01.2006 as cut-off date instead of 18.08.2008. There seems no manifest arbitrariness or violation of fundamental rights of the petitioners by choosing 28.10.2005 as cut off date instead of 18.08.2008.

24. The petitioners have not challenged amendment of Rule 1.2 of Civil Services Rules as well as notification whereby NPS was introduced by State Government. The amendment to Rule 1.2 was made by notification dated 28.10.2005 and it was applicable w.e.f. 01.01.2006. The memorandum was issued on 18.08.2008, however, it was made applicable w.e.f. 01.01.2006. The notifications whereby amendment in Rule 1.2 was made and NPS was introduced are not under challenge. It means for all intents and purposes, NPS came into force w.e.f. 01.01.2006. If contention of petitioners is countenanced, the date of amendment of Rule 1.2 as well as implementation of NPS would transpose to 18.08.2008. The Court has no authority to change date of amendment of Rules or date of introduction of NPS. It is apt to mention here that amendment in Rule 1.2 of Civil Services Rules as well as NPS was notified in exercise of power conferred by proviso to Article 309 of

Constitution of India. Power under Article 309 of Constitution of India is plenary in nature. It is not a delegated power exercised by Executive.

25. The respondent in the office memorandum has notified 28.10.2005 as cut-off date. If said date is postponed to 18.08.2008, it would certainly create additional financial burden on State Exchequer. As laid down by Supreme Court, in financial matters, the legislature should be allowed some play in the joints. The Courts should be loathe in interfering with such matters. There is no absolute bar, however, interference should be limited because scope of interference is narrow. In the instant case, there is no compelling reason to declare impugned cut-off date invalid. The respondent as per its wisdom has fixed said date and there seems no reason to modify said date.

26. The Petitioners were appointed after 01.01.2006 and at that point of time OPS did not exist. They were well aware that they are not entitled to OPS and would be governed by NPS. They must have contributed towards NPS in the previous 20 years. They have no vested or fundamental right to claim OPS.

27. In the wake of above discussion and findings, this Court is of the considered opinion that instant petitions deserve to be dismissed and accordingly dismissed.

28. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

22.12.2025
Prince Chawla

Whether Speaking/reasoned: Yes/No
Whether Reportable: Yes/No