IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 1850 of 2021
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1. Mithila Prasad Singh, aged about 68 years, son of Late Banwari Prasad Singh, Resident of Quarter No. E-11, Ranchi Colony, Maithon Dam, P.O. Maithon, P.S. Maithon, District-Dhanbad, Jharkhand.
2. Lakshman Rai, aged about 67 years, son of Late Jang Bahadur Rai, Resident of MH-230/L, Azad Nagar, Maithon, P.O. Maithon, P.S. Maithon, District-Dhanbad, Jharkhand.
3. Rajendra Nath Sinha, aged about 63 years, son of Late Ratneshwar Prasad Sinha, Resident of Near Goldi Stores, Panditji Road, P.O.-Hazaribagh, P.S.-Hazaribagh, Dist.-Hazaribagh, Jharkhand.
4. Ajay Murari, aged about 62 years, son of Late Dr. Madan Murari, Resident of Flat No.303/A, Ajay Enclave, Block-A, South Gandhi Maidan, Matwari, P.O.-Hazaribagh, P.S.-Hazaribagh, District-Hazaribagh, Jharkhand.

… … Petitioners

Versus

1. State of Jharkhand.
2. Secretary, Department of Higher and Technical Education, Govt. of Jharkhand at Nepal House, P.O.-Doranda and P.S.-Doranda, District-Ranchi, Jharkhand.
3. The Vice Chancellor, Vinoba Bhave University, P.O. Hazaribagh, P.S. Hazaribagh, Dist.-Hazaribagh, Jharkhand.
4. The Registrar, Vinoba Bhave University, P.O. Hazaribagh, P.S. Hazaribagh, Dist.-Hazaribagh, Jharkhand.

… … Respondents

With

W.P.(S) No. 3093 of 2022
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1. Lal Bihari Singh, aged about 64 years, son of Late Ram Ashish Singh, Resident of Pragati Enclave, Flat No. G/407, J.C. Mullick Road, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
2. Jai Narayan Singh, aged about 63 years, son of Late Radha Prasad Singh, Resident of Near Amrapali Apartment, Jhurudih, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
3. Devendra Kumar, aged about 67 years, son of Late Kalika Prasad Rai, Resident of A-95, Kusum Vihar, Koyla Nagar, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
4. Ramjee Singh Yadav, aged about 66 years, son of Late Sadhu Singh Yadav, Resident of Flat No.504-D, Pragati Enclave Apartment, J.C. Mallick Road, P.O.-Dhanbad, P.S.-Dhanbd, Dist.-Dhanbad, Jharkhand.
5. Narayan Mahto, aged about 67 years, son of Late Shambhu Nath Mahto, Resident of Professor Colony, Gali No.6, Chiragora, Hirapur, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.

6. Vijay Kumar, aged about 67 years, son of Late Sharda Sharma, Resident of Preet Vihar Colony, J.C. Mullick Road, Hirapur, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
7. Gulab Chandra Prasad, aged about 66 years, son of Late Rupan Prasad, Resident of Village-Mootandih, P.O.-Jagjiwan Nagar, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
8. Swapna Kundu, aged about 66 years, Daughter of Shyama Pada Kundu, Resident of Prabha Apartment, 5th Floor Block 1A, Kasturba Nagar, beside MADA Office, Luby Circular Road, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
9. Debjani Biswas, aged about 64 years, Daughter of Late Anil Kumar Biswas, Resident of Manohar Nagar, Luby Circular Road, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
10. Meena Srivastava, aged about 65 years, resident of MIG 28-A, Housing Colony, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.

… … Petitioners

Versus

1. State of Jharkhand.
2. Secretary, Department of Higher and Technical Education, Govt. of Jharkhand at Nepal House, P.O.-Doranda and P.S.-Doranda, District-Ranchi, Jharkhand.
3. The Vice Chancellor, Binod Bihari Mahto Koylanchal University, Dhanbad, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.
4. The Registrar, Binod Bihari Mahto Koylanchal University, Dhanbad, P.O.-Dhanbad, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand.

… … Respondents

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioners : Mr. Saurav Arun, Advocate
Mr. Bhanu Kumar No.1, Advocate
Mr. Rohit Ranjan Singh, Advocate
Ms. Ayushi, Advocate
[In both cases]

For the Resp.-State : Mr. Ankit Kumar, AC to GP-VI
[In W.P.(S) No. 1850 of 2021]
Mr. Manoj Kumar, Advocate
[In W.P.(S) No. 3093 of 2022]

For the Resp. Nos.3 & 4 : Mr. Amaresh Kumar, Advocate
[In W.P.(S) No. 1850 of 2021]
Mr. Anoop Kumar Mehta, Advocate
[In W.P.(S) No. 3093 of 2022]

CAV/Reserved on 23.07.2026 **Pronounced on: 23rd September, 2026**

Per Sujit Narayan Prasad, J.

1. Both the writ petitions are having common issues, as such, have been directed to be heard together.

2. At the very threshold, before adverting to the reliefs sought for and the factual matrix, it is apposite to record that the present listing of the matter before this Division Bench emanates from an order dated 10.07.2024 passed by the learned Single Judge.

3. The occasion for the learned Single Judge to pass the aforesaid order arose from the submission of the learned counsel appearing for the respondent, who brought to the notice of the Court an order rendered in Letters Patent Appeal No. 658 of 2018, decided on 28.09.2022.

4. Learned counsel for the petitioners had made a prayer before the learned Single Judge to refer the matter before the Division Bench in view of the fact that certain statutory provisions of Jharkhand State University Act (herein referred as Act) particularly, Sections 22, 23, 34, 35 and 36 have not been considered in Letters Patent Appeal No. 658 of 2018 while recording a finding that there was implied repeal of the statute 1986.

5. Learned Single Judge, on consideration of the submission made on behalf of the petitioners, has assigned the reason that the judgment passed in L.P.A. No. 658 of 2018 no reference has been made to the Sections 22, 23, 34, 35 and 36 of the Act, *inter alia*, dealing with repeal of statute and it appears that the said sections have not been placed before the Division Bench while deciding the said letters patent appeal.

6. The learned Single Judge, in this respect, has referred the matters to be considered by the Division Bench of this Court vide order dated 10.07.2024. For ready reference, the said order is being reproduced as under:

> *"**14/10th July 2024***
>
> ***1.*** *Learned counsel for the parties are present.*
>
> ***2.*** *W.P. (S) No. 1850 of 2021 has been filed for the following reliefs: -*
>
> *"a) For issuance of a writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to consider the claim of the petitioners for promotion to the post of University Professor from the post of Reader not considering the validity of time bound promotion came to an end w.e.f. 22.9.1995 and promote the petitioners under the Statute of Time Bound Promotion as the Time*

Bound Promotion has not been annulled nor cancelled till to-day which is also clear from the fact that no other statute has been framed till date providing provisions for promotions of Readers to University Professor who were promoted under 10 years Time Bound Promotion Statute prior to 23.09.1995;

AND;

b) for issuance of a writ(s)/order (s)/direction (s) or a writ in the nature of certiorari for quashing of part of the Notification dated 14.12.2018 (ANNEXURE-6) passed in terms of Order passed in WP(S) No.3375/2016 (Dukhuram Kohri Vs. State) by which the claim of the petitioners for promotion from the post of Reader to University Professor has not been considered only in view of the opinion of the Learned Advocate General that the High level Committee decided not to extend the period of time bound promotion without assigning any reason which is condition precedent but simply says in Clause (2) could not be extend in view of opinion of the Learned Advocate General which is against the Judgment passed by the Hon'ble Patna High Court though not binding but the issue involved in the present case squarely covered the case of the petitioners without considering the fact that the Statute of Time Bound Promotion and Merit-cum time bound promotion of Reader to the post of University professor as approved by letter No. BSU-27/85-4032/GS(1) dated 24.12.1986 as amended by letter No. BSU-27/85-4099/GS(1) dated 20.11.1987 and corrigendum dated 20.11.1987 has not been superseded by the career advancement scheme implemented by letter No. BSU 20/95- 2132/GS(1) dated 23.9.1995, hence the readers are entitled to be promoted to the post of University Professor in terms of Statute of the Time Bound Promotion,

AND

c) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to consider the case of the petitioners for promotion after scrutinizing the suitability and qualification for being promoted as University Professor under the Statute approved on 24.12.1986 as amended on 20.11.1987 which has not been repealed till date and give all benefits thereafter with effect from the date on which the petitioners are entitled;

AND;

d) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to give all monetary benefits alongwith arrear to the petitioners;

AND/OR

Pass such other order(s)/direction(s) as Your Lordships may deem fit and proper under the facts and circumstances of this case for doing conscionable justice to the petitioner."

3. *W.P. (S) No. 3093 of 2022 has been filed for the following reliefs: -*

"a) for issuance of a writ(s)/order (s)/direction (s) or a writ in the nature of certiorari for quashing of part of the Notification dated

14.12.2018 (ANNEXURE-5) passed in terms of Order passed in WP(S) No.3375/2016 (Dukhuram Kuiry Vs. State) by which the claim of the petitioner for promotion from the post of Reader to University Professor has not been considered only in view of the opinion of the Learned Advocate General that the High level Committee decided not to extend the period of time bound promotion without assigning any reason which is condition precedent but simply says in Clause (2) could not be extend in view of opinion of the Learned Advocate General which is against the Judgment passed by the Hon'ble Patna High Court though not binding but the issue involved in the present case squarely covered the case of the petitioner without considering the fact that the Statute of Time Bound Promotion and Merit-cum time bound promotion of Reader to the post of University professor as approved by letter No. BSU- 27/85-4032/GS(1) dated 24.12.1986 as amended by letter No. BSU-27/85-4099/GS(1) dated 20.11.1987 and corrigendum dated 20.11.1987 has not been superseded by the career advancement scheme implemented by letter No. BSU 20/95-2132/GS(1) dated 23.9.1995, hence the readers are entitled to be promoted to the post of University Professor in terms of Statute of the Time Bound Promotion,

b) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus respondents commanding upon the respondents to consider the case of the petitioner for promotion after scrutinizing the suitability and qualification for being promoted as University Professor under the Statute approved on 24.12.1986 as amended on 20.11.1987 which has not been repealed till date and give all benefits thereafter with effect from the date on which the petitioner is entitled;

AND;

c) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to give all monetary benefits along with arrear to the petitioners;

AND/OR

Pass such other order(s)/direction(s) as Your Lordships may deem fit and proper under the facts and circumstances of this case for doing conscionable justice to the petitioner."

4. *It is not in dispute during the course of hearing that the issues involved in these cases are covered by judgment passed in L.P.A. No. 658/2018 decided on 28.09.2022. However, the learned counsel for the petitioners has submitted that the matters be referred to the Hon'ble Division Bench in view of the fact that certain statutory provisions of Jharkhand State University Act particularly Sections, 22, 23, 34, 35 and 36 have not been considered while recording a finding that there was implied repeal of statute. The learned counsel has submitted that the aforesaid provisions deal not only with amendment of statute but also deal with a procedure for repealing of statute.*

5. *The learned counsel for the petitioners has relied upon the judgment passed by the Hon'ble Supreme Court reported in 2016 (1) JLJR (SC)*

240 to submit that in the said case, it has been held that where there is a repealing clause in a particular Act, it is a case of express repeal, but in a case where doctrine of implied repeal is to be applied, the matter will have to be determined by taking into account the exact meaning and scope of the words used in the repealing clause. The learned counsel submits that the repealing clause having not been placed before the Hon'ble Division, the aforesaid sections have not been considered.

6. *He has further submitted that on account of non-consideration of the said provision, the matter is required to be considered again by the Hon'ble Division Bench and no useful purpose will be served by proceeding further in the writ proceedings before this Bench.*

7. *The learned counsel appearing on behalf of the respondents has submitted that though the aforesaid sections have not been quoted but the contents of those sections has also been considered. He has placed the judgment but admittedly no reference has been made to the aforesaid sections which has been referred to by the learned counsel for the petitioners during the course of hearing.*

8. *After hearing the learned counsel for the parties, considering the aforesaid facts and circumstances and upon going through the judgment passed in L.P.A. No. 658 of 2018, this Court finds that no reference has been made to the Sections 22, 23, 34, 35 and 36 of the Act, interalia, dealing with repeal of statute and it appears that the said sections have not been placed before the Hon'ble Division Bench while deciding L.P.A. No. 658 of 2018.*

9. *In view of the submissions, this court is of the considered view that the matters be considered by the Hon'ble Division Bench.*

10. *Accordingly, these matters be placed before the Hon'ble the Chief Justice in his administrative side for appropriate order."*

7. Accordingly, the matters have been placed before the Hon'ble Chief Justice in the administrative side for appropriate order.

8. The Hon'ble Chief Justice has assigned the matters to the D.B.-II, i.e., this Bench as per the administrative order passed on 30.09.2024, and thereby, the case has been listed today before this Court.

9. Both the writ petitions have been filed under Article 226 of the Constitution of India for the following relief(s):

W.P.(S) No. 1850 of 2021:

"a) For issuance of a writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to consider the claim of the petitioners for promotion to the post of University Professor from the post of Reader not considering the validity of time bound promotion came to an end w.e.f. 22.9.1995 and promote the petitioners under the Statute of Time Bound Promotion as the Time Bound Promotion has not been annulled nor cancelled till to-day which is also clear from the fact that no other statute has been framed till date

providing provisions for promotions of Readers to University Professor who were promoted under 10 years Time Bound Promotion Statute prior to 23.09.1995;

AND;

b) for issuance of a writ(s)/order (s)/direction (s) or a writ in the nature of certiorari for quashing of part of the Notification dated 14.12.2018 (ANNEXURE-6) passed in terms of Order passed in WP(S) No.3375/2016 (Dukhuram Kohri Vs. State) by which the claim of the petitioners for promotion from the post of Reader to University Professor has not been considered only in view of the opinion of the Learned Advocate General that the High level Committee decided not to extend the period of time bound promotion without assigning any reason which is condition precedent but simply says in Clause (2) could not be extend in view of opinion of the Learned Advocate General which is against the Judgment passed by the Hon'ble Patna High Court though not binding but the issue involved in the present case squarely covered the case of the petitioners without considering the fact that the Statute of Time Bound Promotion and Merit-cum time bound promotion of Reader to the post of University professor as approved by letter No. BSU-27/85-4032/GS(1) dated 24.12.1986 as amended by letter No. BSU-27/85-4099/GS(1) dated 20.11.1987 and corrigendum dated 20.11.1987 has not been superseded by the career advancement scheme implemented by letter No. BSU 20/95- 2132/GS(1) dated 23.9.1995, hence the readers are entitled to be promoted to the post of University Professor in terms of Statute of the Time Bound Promotion,

AND

c) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to consider the case of the petitioners for promotion after scrutinizing the suitability and qualification for being promoted as University Professor under the Statute approved on 24.12.1986 as amended on 20.11.1987 which has not been repealed till date and give all benefits thereafter with effect from the date on which the petitioners are entitled;

AND;

d) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to give all monetary benefits alongwith arrear to the petitioners;

AND/OR

Pass such other order(s)/direction(s) as Your Lordships may deem fit and proper under the facts and circumstances of this case for doing conscionable justice to the petitioner."

W.P.(S) No. 3093 of 2021:

"a) for issuance of a writ(s)/order (s)/direction (s) or a writ in the nature of certiorari for quashing of part of the Notification dated 14.12.2018 (ANNEXURE-5) passed in terms of Order passed in WP(S) No.3375/2016 (Dukhuram Kuiry Vs. State) by which the claim of the petitioner for promotion from the post of Reader to University Professor has not been considered only in view of the opinion of the Learned Advocate General that the High level Committee decided not

to extend the period of time bound promotion without assigning any reason which is condition precedent but simply says in Clause (2) could not be extend in view of opinion of the Learned Advocate General which is against the Judgment passed by the Hon'ble Patna High Court though not binding but the issue involved in the present case squarely covered the case of the petitioner without considering the fact that the Statute of Time Bound Promotion and Merit-cum time bound promotion of Reader to the post of University professor as approved by letter No. BSU- 27/85-4032/GS(1) dated 24.12.1986 as amended by letter No. BSU-27/85-4099/GS(1) dated 20.11.1987 and corrigendum dated 20.11.1987 has not been superseded by the career advancement scheme implemented by letter No. BSU 20/95- 2132/GS(1) dated 23.9.1995, hence the readers are entitled to be promoted to the post of University Professor in terms of Statute of the Time Bound Promotion,

b) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus respondents commanding upon the respondents to consider the case of the petitioner for promotion after scrutinizing the suitability and qualification for being promoted as University Professor under the Statute approved on 24.12.1986 as amended on 20.11.1987 which has not been repealed till date and give all benefits thereafter with effect from the date on which the petitioner is entitled;

AND;

c) for issuance of an appropriate writ(s)/order (s)/direction (s) or a writ in the nature of mandamus commanding upon the respondents to give all monetary benefits along with arrear to the petitioners;

AND/OR

Pass such other order(s)/direction(s) as Your Lordships may deem fit and proper under the facts and circumstances of this case for doing conscionable justice to the petitioner."

Factual Matrix

10. The brief facts of the case as per the pleading made in the writ petitions which requires to be enumerated herein is as under:

10.1. The petitioner no.1 [W.P.(S) No.1850 of 2021] was appointed as Lecturer on 22.12.1981 in B.S.K. College, Maithon in the Department of Political Science and promoted to the post of Reader on 22.12.1991 (Under the Statute of 10 years' Time Bound Promotion Scheme), done his PhD in 1987 and retired from service on 31.8.2017. Similarly, the petitioner No.2 [W.P.(S) No.1850 of 2021] was appointed as Lecturer on 7.1.1982 in B.S.K. College, Maithon in the Department of Commerce and promoted to the post of Reader on 7.1.1992 (Under the Statute of 10 years' Time Bound

Promotion Scheme), done his PhD in 1989 and retired from service on 31.1.2018. Similarly, petitioner no.3 [W.P.(S) No.1850 of 2021] was appointed as Lecturer on 3.12.81 and was given promotion as Reader on 3.12.91 and has done his PhD in the year 1999 and was initially appointed at B.S.K. College, Maithon and posted in Physics Department, Vinoba Bhave University, Hazaribagh and has retired from service on 30.04.2023. Similarly, the petitioner No.4 [W.P.(S) No.1850 of 2021] was appointed as lecturer on 25.11.1981 in K.O. College, Gumla and thereafter he was transferred to Giridih College, Giridih and was promoted to the post of Reader on 25.11.1991 and has also done his PhD in the year 1996.

10.2. The petitioner no.1 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 23.11.1981 in Sindri College, Sindri in Zoology Department and thereafter he was transferred to P.K.R.M. College, Dhanbad and promoted to the post of Reader on 23.11.1991, done his PhD in the year 2007 and has retired on 30.11.2022. Similarly, petitioner No.2 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 03.12.1981 in RSP College, Jharia in Botany Department and promoted to the post of Reader on 03.12.1991 done his PhD in the year 2005 and has retire on 31.12.2023. Similarly, petitioner No.3 was appointed as Lecturer on 10.12.1981 in P.K.R.M. College, Dhanbad in History Department and promoted to the post of Reader on 10.12.1991 done his PhD in the year 2008 and retired on 01.03.2020. Similarly, petitioner No.4 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 12.12.1981 P.K.R.M. College, Dhanbad in Psychology Department and promoted to the post of Reader on 12.12.1991 done his PhD in the year 1998 and retired on 31.07.2020. Similarly, petitioner No. 5 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 18.01.1982 in RSP College, Jharia in Mathematics Department and promoted to the post of Reader on 22.01.1992 done his PhD in the year 1998 and retired on 30.04.2019. Similarly, petitioner No. 6 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 20.01.1982 in Chatra College, Chatra in Mathematics Department

and thereafter he was transferred to P.K.R.M. College, Dhanbad and promoted to the post of Reader on 28.01.1992 done his PhD in the year 1990 and to has retired on 11.08.2019. Similarly, petitioner No. 7 [W.P.(S) No.3093 of 2022], was appointed as Lecturer on Dhanbad in 06.01.1982 in PKRM College, Dhanbad in Commerce Department and on promoted to the post of Reader on 06.02.1992 done his PhD in the year 2000 and retired 31.06.2020. Similarly, petitioner No. 8 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 21.01.1982 in SSLNT Mahila Mahavidyalaya, Dhanbad in Chemistry Department and promoted to the post of Reader on 21.01.1990 (under 8 years merit promotion scheme), done her PhD in the year 1981 and retired on 30.09.2020. Similarly, petitioner No. in 9 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 08.12.1981 SSLNT Mahila Mahavidyalaya, Dhanbad in Political Science Department and promoted to the post of Reader on 08.12.1991 (under 8 years merit promotion scheme), done her PhD in the year 2001 and retired from service on 30.09.2022. Similarly, petitioner No. 10 [W.P.(S) No.3093 of 2022] was appointed as Lecturer on 19.02.1979 in Gumla College, Gumla in Psychology Department thereafter transferred to SSLNT Mahila Mahavidyalaya, Dhanbad and promoted to the post of Reader on 09.02.1989, done her PhD in the year 1992 and has retired from service on 31.05.2021.

10.3. It is the case of the petitioners that according to the statute prescribed for Time Bound Promotion of Lecturers to the post of Reader and further for Readers to the post of University Professor being approved by the Chancellor of unified State vide Letter No.BSU-27/85-4032 dated 24.12.1986 and amendment vide Letter No.4099/GS dated 20.11.1987 and also on the basis of the qualification prescribed by the University Grant Commission (UGC) any Lecturers/ Readers having completion of 16 years of continuous service in one or more university, would be promoted to the post of University Professor on recommendation of the Bihar State University (Constituent Colleges) Service Commission, but in

spite of completion of than 16 years of continuous service under the respondents university after being promoted from the post of Lecturers to the post of Readers in between the year 1989 and the year 1992, the petitioners have been deprived from their legitimate claim for being promoted to the post of University Professor.

10.4. It is further case of the petitioners that the Statute of Time Bound Scheme was framed on 24.12.1986 and amended on 20.11.1987. Subsequently the said scheme was superseded in part by Career Advancement Scheme (CAS) introduced after the approval of the Chancellor vide letter No. BSU-20/95-2132/GS (1) dated 23.09.1995, and the said scheme of 1986 was not repealed, rather said the Time bound "Scheme of 1986 with respect to the promotion of "Readers to the University Professor was only superseded not the Statute for Time bound Promotion from the post of "Readers to University Professors. The career Advancement Scheme of 1995 starts with Non-obstinate clause ending with the supersession of 1986 statute and its own amendment dated 20.11.1986 and 28.11.1987 and thus the Career Advancement Scheme of 1995 deals with only such provision of 1986 statute which have been specially amended but the part of the state of 1986 of Time Bound Scheme with respect to the promotion of Readers to the post of University Professors have remained intact and not dealt with and as such deemed to be operative till date, since the Career Advancement Scheme of 1995 provision for the promotion to the post of Professor has not been described meaning thereby the promotion to the post of Professors be followed on the basis of Time Bound Scheme of 1986 as because the statute of 1986 has been superseded only not repealed.

10.5. It is further case of the petitioners that according to the "Statute for Time Bound Promotion as approved by the Chancellor vide letter No. BSU-27/85-4032/GS(1) dated 24.12.1986 a Reader serving in a University Department or a Degree College managed and maintained by the University who has completed 25 years of continuous service not below the rank of Lecturers in one or more

universities shall on the recommendation of the Bihar State University (Constituent Colleges) Service Commission be promoted on the basis of the Time bound Scheme to the post of University Professor subject to the conditions mentioned in the Clause-1 of the aforesaid statute of 1986 and by the amendment vide Clause-3 of the noting it was provided that Reader possessing the qualification of University Professor prescribed by the University Grant Commission serving in a University Deptt. or in a Degree College managed and maintained by the University and who has completed at least 16 years of continuous service as Lecturers/ Readers in one or more universities shall on recommendation of the Bihar State University (Constituent Colleges) Service Commission be promoted to the post of University Professor, accordingly the case of the petitioners for their promotion to the post of University Professor is required to be considered on the basis of Time bound Scheme of 1986.

10.6. It is further case of the petitioners that in similarly situated matter with respect to a teacher posted as Reader in the Deptt. of Geology, Patna University vide order dated 17.05.2010 passed by the High Court of Judicature of Patna in C.W.J.C. No.559 of 2010, the issue regarding non-repealing of the Statute of 1986 concerning to promotion of under Time Bound Scheme as being superseded upon introduction of 1995 scheme has been decided and the direction was made to consider the case of the petitioner(s) of the aforesaid case.

10.7. In pursuance of the aforesaid order of the High Court of Judicature of Patna, vide Letter No. VBU /R/1408/2013 dated 16.08.2013 issued under the signature of the Registrar of the VBU, Hazaribagh, the applications were invited from the teachers for being promoted on the post of Professor under Time Bound Scheme (16 to 25 years) and in compliance of which the petitioners have submitted their application in the prescribed format along with all the requisites as provided thereof and even thereafter by keeping the applications of the petitioners in abeyance for about more than 3 years now the respondents university has made up his mind to proceed with the

matter concerning to promotion of University Professor according to the Statute of 1995 which is not in favour of the petitioners.

10.8. It is also the case of the petitioners that in view of the Judgment passed in **Dukhu Ram Kuiry's** Case, a high-level Committee was constituted and the said Committee so constituted as per order of this Court had rejected the claim in Clause 2 only on the basis that in view of opinion of the Ld. Advocate General, the High-Level Committee took decision not to continue with the Time Bound Promotion Scheme without assigning any reason which is absolutely against the Rule 36 of the University Law as the executive order cannot amend the law neither assent of the Hon'ble Governor has been taken nor they have considered the Statute of 1986 amended in 1987 which has not been repealed by 1995 Statute except part of it, hence the order impugned is illegal, void and without jurisdiction.

11. It is evident as per the pleading made as referred hereinabove that the grievance of the petitioners is that they are seeking the benefit of promotion under the time bound promotion as per the statute of the year 1986. The aforesaid prayer has been denied by the authority concerned and further ground has been taken by the respondent that on the basis of the judgment passed by the Division Bench of this Court in L.P.A. 658 of 2018 since the Statute 1986 has already been impliedly repealed by the statute 23.09.1995 and as per the cut-off date 22.09.1995 the petitioner are not eligible for promotion.

12. The argument which has been advanced on behalf of the petitioner before the learned Single Judge is that the judgment passed by this Court in letters patent appeal is not having binding precedence since certain provisions of the University Act has not been followed.

13. The learned Single Judge, based upon the aforesaid submission, while admitting the aforesaid fact without examining the relief sought for on merit, has referred the matter to be heard by the Division Bench.

14. Since both the writ petitions are interlinked, they stand disposed of by this common order.

Submission of the learned counsel for the petitioners:

15. Mr. Saurav Arun, learned counsel for the petitioners has taken the following grounds:

15.1 It has been submitted that one or the other petitioners in both the writ petitions are to be given the benefit of time bound promotion to the higher post as per the statute of the year 1986 but the same has been denied since in the meanwhile, the statute of the year 1995 has come into being.

15.2 It has been contended that if the statute of the year 1995 will be taken into consideration, there is no reference of the time bound promotion to be granted to the higher post i.e. university professor, since the aforesaid scheme only speaks about up to the post of Lecturer having no reference of the Professor, as such, the specific case of the petitioners being that the benefit of time bound promotion is to be given to the post of Professor and hence, the statute of the year 1995 will not be applicable rather the statute of the year 1986 will be applicable wherein the reference of the promotion to the post of Reader and Professor have also been made.

15.3 It is further contended that the respondent authorities are bound to consider that the Career Advancement Scheme of 1995 which starting with a non-obstinate Clause and end with supersession of 1986 Statute and its 2 amendments deal only with such provision of 1986 Statute which have specifically been amended but part of Statute of 1986 time bound scheme if specifically not dealt with, have remained intact and operative and since in the Career Advancement Scheme of 1995 there is no provision for promotion to the post of University Professor, it means that promotion to the post of Professor will be on the basis of Time Bound Scheme of 1986 as the same has not yet been superseded nor repealed.

15.4 It has been contended that in compliance of the order dated 01.05.2017 passed by this Court in W.P.(S) 3375 of 2016 the High Level Committee was constituted and the petitioners appeared before the said High Level Committee but the Committee rejected

the claim vide impugned order dated 14.02.2018 in Clause 2 on the basis that in view of opinion of the Ld. Advocate General, the High Level Committee took decision not to continue with the Time Bound Promotion Scheme which is absolutely against the Rule 36 of the University Law as the executive order cannot amend the law neither assent of the Hon'ble Governor has been taken nor they have considered the Statute of 1986 amended in 1987 which has not been repealed by 1995 Statute except part of it, hence the order impugned dated 14.12.2018 is illegal, void and without jurisdiction.

15.5 It has been urged, in so far as the contention of the respondent is concerned, that by reason of the order dated 28.09.2022 passed in L.P.A. No. 658 of 2018, the statute of 1986 stood impliedly repealed. This submission, however, does not commend acceptance, for the reason that the Hon'ble Division Bench, while rendering the aforesaid order, did not advert to or consider certain material provisions of the Jharkhand State University Act, particularly Sections 22, 23, 34, 35 and 36. In absence of such consideration, the plea of implied repeal of statute 1986 cannot be said to have been conclusively determined by the said judgment.

16. Learned counsel for the petitioners, based upon the aforesaid grounds, has submitted that the impugned order passed by the respondent-authorities is improper and as such, not sustainable in the eyes of law, hence, fit to be set aside.

Submission of the learned counsel for the respondents:

17. *Per contra,* learned counsel for the respondent-State as also learned counsel for the respondent-University have jointly taken the following grounds:

17.1 The ground which has been taken note before the learned Single Judge that while hearing the similar issue in LPA 658 of 2018 by the Division Bench, the provision of Sections 22, 23, 34, 35 and 36 of the University Act has not been considered, is not fit to be accepted, reason being that the case of the petitioners is totally based upon the statute which has been enacted in view of the conferment of power

under Section 34 of the University Act having no concern with the other provisions of the University Act.

17.2 Section 34 of the University Act exclusively confer power upon the University to make out the statute to deal with the situations as per the reference made in Section 34 itself and by exercising power conferred under Section 34 of the University Act, the statute has been created in the year 1986 by making provision to grant time bound promotion by granting the pay scale attached to the higher post and at that time, the post of Reader and Professor having also been brought under the fold of the statute of the year 1986.

17.3 It has been contended that the moment the 1986 statute has been impliedly repealed by the statute of the year 1995 as such, the petitioners were not coming under the fold of cut-off date 22.09.1995 therefore, they are not eligible for promotion to the Higher post.

17.4 The ground has been taken that in view of the matter, the judgment passed by the Division Bench of this Court dated 28.09.2022 in L.P.A. No. 658 of 2018 is applicable in totality. It has further been submitted that the order dated 28.09.2022 passed in L.P.A. No. 658 of 2018 has not been assailed before the higher forum i.e., Hon'ble Apex Court, as such law rendered in the said case become absolute and final.

17.5 It has further been contended that since time bound promotion scheme ended on 23.9.1995 therefore, petitioners' application for promotion will be considered under the Career Advancement Scheme, as per the provision under the statute.

17.6 It is submitted that, in compliance with the order dated 01.05.2017 passed in ***W.P.(S) No. 3375 of 2016 (Dukhu Ram Kuiry v. State of Jharkhand & Others),*** broad guidelines were issued by the Director, Higher Education, Government of Jharkhand, Ranchi, vide Letter No. 2410 dated 14.12.2018 (the order impugned herein). Under the provisions of the said broad guidelines, the cut-off date for promotion from Reader to University Professor under the Time Bound Promotion Scheme was not extended beyond 22.09.1995.

Consequently, the claim of the petitioners for such promotion is not fit to be accepted.

18. Learned counsel appearing for both the respondents, based upon the aforesaid grounds has submitted that both the writ petitions lack merit and as such, are fit to be dismissed.

Response of the learned Counsel for petitioners:

19. In reply, learned counsel for the petitioners submits that the stand taken by the University is wholly unfounded and misconceived. The statute dated 23.09.1995, approved by the Chancellor vide Letter No. 2133, pertains exclusively to the scheme of *merit promotion* of Lecturers as Readers and Readers as Professors. Its applicability is confined to those teachers who consciously opted for merit promotion. Since the petitioners herein were promoted under the *Time Bound Promotion Scheme, 1986*, the statute of 1995 has no application to their case. It is further pointed out that the said statute contains no provision whatsoever for promotion from Readers to Professors under the Time Bound Scheme, thereby rendering the University's reliance upon it entirely misplaced.

Analysis:

20. We have heard the learned counsel for the parties and gone through the pleading made in the writ petitions as also the affidavit filed on behalf of the respondents.

21. It needs to refer herein that Prior to coming into force of the Bihar Reorganization Act, 2000, the Bihar State Universities Act, 1976 and the Statutes framed thereunder were applicable in the erstwhile State of Bihar. Upon Reorganization of the State of Bihar, the Successor State of Jharkhand has adapted the Bihar State Universities Act, 1976 by virtue of reorganization Act and upon adoption the Jharkhand State Universities Act, 2000 is applicable in the State of Jharkhand. The Statutes that were in in existence prior to 15.11.2000 have also been adapted and are applicable in respect to the Universities falling in the Successor State of Jharkhand.

22. Admittedly, the Time Bound Promotion Statutes for promotion of Readers to the post of University Professors was implemented in the erstwhile State

of Bihar vide a Statute duly approved by the Chancellor vide his letter No. BSU-27/85-4032/G5(1) dated 24.12.1986. As per the said Statute a Reader was entitled to be promoted to the post of University Professor on completion of 25 years. Additionally, under the self-same Statute a Reader was also eligible to be promoted to the post of University Professor on completion of 16 years under the Merit Promotion Scheme as per the corrigendum issued by the Governor's Secretariat vide letter No. BSU/27/85-4099 GS(1) dated 20.11.1987.

23. Subsequently another Statute for promotion of Lecturers in the Senior Pay Scale to the post of Readers for placement of the Lecturers in the Senior Pay scale to the posts of Lecturers in the Selection Grade under Career Advancement Scheme is approved by the Chancellor vide his letter No. BSU-20/95-2132/GS (1) dated 23.09.1995 was implemented in the erstwhile State of Bihar.

24. The learned counsel for petitioners has emphatically contended that statute of time bound scheme was introduced on 24.12.1986 and amended on 20.11.1987. Statute relating to Career Advancement of 1995 did not repeal the time bound scheme of 1986. It has further been contended that the Career Advancement Scheme of 1995, which the starts with a non-obstinate clause deals with only such provisions of 1986 Statute which have specially been amended but part of the statute of 1986 time bound scheme, if specially not dealt with, have remained intact and operative.

25. It has been contended that since, in the Career Advancement Scheme of 1995 there is no provision for the promotion to the post of Professor, it means that the promotion to the post of Professor will be on the basis of time bound scheme of 1986 and the promotion to the post of Professor will be held on the basis of 1986, time bound scheme and as such impugned order dated 14.12.2018 is not sustainable in eyes of law. Lastly it has been contended that the contention of the learned counsel for the respondent that statue of 1986 has been impliedly repealed by virtue of order dated 28.09.2022 passed by Division Bench of this Court in LPA No. 658 of 2018 is not fit to be accepted as from perusal of the order dated 28.09.2022, it would be evident that the provision of University Act

22,23,34,35 and 36 have not been considered while recording a finding that there was implied repeal of the statute.

26. *Per contra*, learned counsel for the respondents has contended that, in compliance with the order dated 01.05.2017 passed in ***W.P.(S) No. 3375 of 2016 (Dukhu Ram Kuiry v. State of Jharkhand & Others),*** broad guidelines were issued by the Director, Higher Education, Government of Jharkhand, Ranchi, vide Letter No. 2410 dated 14.12.2018(order impugned). Under the provisions of the said broad guidelines, the cut-off date for promotion from Reader to University Professor under the Time Bound Promotion Scheme was not extended beyond 22.09.1995. Therefore, the prayer of the petitioners seeking promotion to the post of University Professor is not fit to be accepted. It has further been contended that, since by order dated 28.09.2022 passed in L.P.A. No. 658 of 2018, the Division Bench of this Court has categorically observed that the Statute of 1986 already stands impliedly repealed, and as the said finding has not been assailed before the higher forum, the law declared therein has attained finality. On that ground also, the prayer of the petitioners for promotion cannot be countenanced.

27. In the backdrop of the aforesaid factual aspect this Court needs to consider the following issues for proper adjudication of the issue involve in the present list

    (i) Whether the Statute of 1986 has been impliedly repealed by the Statute of 1995; and, if the Statute of 1986 already stands repealed, whether any benefit can be conferred upon the petitioners on the basis of the 1986 Statute.

    (ii) Whether, while passing the order dated 28.09.2022 in L.P.A. No. 658 of 2018, the Division Bench did not consider the implications of the Jharkhand State University Act, particularly Sections 22, 23, 24, 35 and 36; and, even if it be presumed that these provisions were not adverted to, whether they have any direct nexus with the issue involved in the said case.

    (iii) Whether the impugned order dated 14.12.2018, passed by the Directorate of Higher Education, Higher and Technical Education

Department, Government of Jharkhand, vide Memo Nos. 2410 and 2409, is legally sustainable.

28. Since all the issues are intrinsically interlinked and rest upon a common substratum of facts and law, they have been taken up together for conjoint consideration.

29. This Court, before considering the aforesaid issue, needs to refer that the Division Bench of this Court has already dealt with the applicability of the said statute i.e. statute of 1986 and statute of 1995 in L.P.A. No. 658 of 2018 while holding therein that no benefit is to be accrued in favour of one of the others on the basis of the repealed statute. The factual aspect along with the finding recorded in the said case is being reproduced as under for ready reference so as to avoid any ambiguity:

> *"The brief facts of the case which require to be enumerated reads as hereunder:*
>
> *The writ petitioner was appointed as Lecturer in Mathematics on the recommendation of Selection Committee of Ranchi University, Ranchi vide notification as contained in Memo No.RU/C/178-273/82 dated 07.01.1982 in which the name of the writ petitioner appears at serial no.14 and his place of posting has been shown as P.G. Centre, Chaibasa.*
>
> *The writ petitioner, in terms of the aforesaid notification dated 07.01.1982, was appointed as Lecturer in Mathematics at the P.G. Centre, Chaibasa and started rendering his services. His services was confirmed vide notification as contained in Memo No.B/20131-20830 dated 29.05.1997 w.e.f. 28.01.1982 against the sanctioned post of Lecturer in Mathematics.*
>
> *It is the case of the writ petitioner that as per the statute for time bound promotion for granting such benefit from Lecturer to the post of Reader under the 10 Years Time Bound Promotion Scheme in Mathematics was available and the writ petitioner fulfilled all the requisite conditions for being promoted as Reader under the said statute, therefore, the writ petitioner had applied for his promotion and on the recommendation of the Bihar State University (Constituent Colleges) Service Commission, (hereinafter referred to as the Commission) he was promoted to the post of Reader in Mathematics w.e.f. 28.01.1992 by the order passed by the Ranchi University as contained in Memo No.B/871-916/98 dated 05.02.1998.*
>
> *The writ petitioner, in the meanwhile, completed his Doctorate Degree and was awarded Ph.D. from the University of Bihar, Muzaffarpur on 28.01.1990.*

The statute for time bound promotion of Lecturers to the post of Readers and for Readers to the post of University Professors was approved by the Chancellor vide letter no.BSU-27/85 4032/GS(1) dated 24.12.1986 and subsequently added and amended by letter no.BSU-26/85-4099/GS(1) dated 20.11.1987. Article 3 of the said Statute provides that a Reader possessing qualification of a University Department or in a Degree College, managed and maintained by the University and who has completed at least 16 years of continuous service as Lecturer/Reader in one or more Universities shall, on recommendation of the Commission, be promoted to the post of University Professor, other conditions remaining the same.

The qualification of the teachers of University/Colleges has been approved by the Chancellor vide letter no.BSU-25- 33/2377-GS(1) dated 12.12.1983 under which the qualification of the University Professor has been laid down. The same has since been amended by letter no.BSU-25/83-3038-GS(1) dated 09.09.1988 and the letter no.BSU-11-89/3748/GS(1) dated 15.12.1990.

For the purpose of University Professor, the qualification is prescribed to be eminent scholar with published work of high quality actively engaged in research, about 10 years of experience of teaching and/or research. Experience of guiding research at Doctoral level OR an outstanding scholar with established reputation who has made significant contribution to the knowledge.

The writ petitioner, since has completed 16 years of continuous service on 27.01.1998, became eligible for promotion to the post of Professor from the post of Reader. However, the University had not considered the case for promotion of Readers to the post of Professors who have completed 16 years of service as Lecturers/Readers after 22.09.1995.

According to the writ petitioner, the time bound promotion was substituted and replaced by another Statute for placement of Lecturers to the post of Lectures in the Senior Pay Scale and Statute for promotion of Lecturers in the Senior Pay Scale to the post of Readers and for placement of Lecturers in Senior Pay Scale to the post of Lecturers in Selection Grade under the Career Advancement Scheme (CAS). This scheme of CAS was approved by the Chancellor vide his letter no.BSU-20/95-2132/GS(1) dated 23.09.1995.

The aforesaid statute of CAS, however, formulated for substituting the time bound promotion scheme by a new scheme of promotion under the Career Advancement Scheme which refers only to the substitution of the scheme of time bound promotions of Lecturers to the posts of Readers. It does not refer to the substitution of the Scheme of time bound promotion of Readers to the post of Professors either under 25 years scheme or 16 years scheme as envisaged under the time bound promotion statute. Thus, according to the learned counsel, the statute does not refer to supersession of the provisions of time bound promotion of the Readers to the posts of Professors after 23.09.1995. Therefore, the time bound promotion scheme of Readers to the post of Professors

as envisaged by the Statute of 1986 continues to remain in force even after 23.09.1995.

The writ petitioner"s further case is that on 26.06.2008, the Human Resources Development Department, Government of Jharkhand published a notification in the Jharkhand Gazette, dated 02.07.2008 by which the statute for placement of Lecturers to the post of Lectures in the Senior Scale, for promotion of Lecturers in the Senior Scale to the posts of Lecturers in Selection Grade/Reader and promotion of Readers to the posts of University Professors of University Departments, Constituent Colleges, Affiliated Colleges including Religious and Linguistic Minority Colleges bearing no.5/Pro 3-01/04-277 as assented to by the Chancellor on 13.06.2008. The aforesaid statute has substituted and replaced all the other earlier statutes with respect to the promotion of Lecturers to the posts of Readers and that of Readers to the posts of Professors.

The aforesaid statute came into force w.e.f. 27.07.1998. The writ petitioner, in the aforesaid background has raised his grievance to extend the benefit of time bound promotion from the post of Reader to University Professor but it was communicated to the writ petitioner that the CAS Statute, which came into force w.e.f. 23.09.1995, does provide for any scheme for promotion from the post of Reader to the post of University Professor as it relates to the promotion from the post of Lecturer to the post of Reader only and therefore, the Statute/Scheme of 16 years time bound promotion has not been repealed and it still exists and therefore, the time bound promotion statute is still applicable in Bihar.

The respondent authorities have not considered by taking final decision has led the writ petitioner to approach this Court by filing writ petition being W.P.(S) No.3375 of 2016 by taking the ground that he is entitled to get the benefit of promotion in view of the notification dated 24.12.1986 which will have its effect up to 26.07.1998, as such, he is entitled to be promoted to the post of Professor as he has completed 16 years of continuous service as Lecturer.

3. The State has appeared and filed counter affidavit and contested the case by taking the plea that after coming into effect of the notification dated 23.09.1995, the benefit which is now being sought for in view of the notification dated 24.12.1986 will not be held to be applicable since the notification dated 23.09.1995 has impliedly repealed the notification issued on 24.12.1986 basis upon which the writ petitioner is seeking a direction for consideration of his case for time bound promotion.

The learned Single Judge, after taking into consideration the rival submissions advanced on behalf of the parties, has allowed the writ petition by passing a direction for constituting a committee as also other directions contained therein as referred above.

5. *It has been stated at bar that in pursuance to the order passed by the learned Single Judge, the competent authority upon whom the direction was issued, had constituted a committee. But, the State appellant has assailed the order passed by the learned Single Judge only to the effect wherein the finding has been arrived about the applicability of the*

notification issued on 24.12.1986 till 26.07.1998 while according to the State appellant, the day when the statute was issued on 23.09.1995, the statute issued on 24.12.1986 will have its effect till 26.07.1998 is absolutely incorrect finding, therefore, the same is not sustainable in the eye of law.

6. *Learned Advocate General, referring to the statutes issued on 24.12.1986 and 23.09.1995, has submitted that in the statute issued on 23.09.1995 there is no repealing clause but after coming into effect of the statute on 23.09.1995, the statute issued on 24.12.1986 will be said to have been impliedly repealed.*

   He, in order to strengthen his argument, has relied upon the order passed by the Division Bench of the Patna High Court rendered in ***Letters Patent Appeal No.1551 of 2018 arising out of C.W.J.C. No.4164 of 2015 [D. Raghu Bans Prasad Singh vs. The State of Bihar and Ors.].***

7. *Mr. Rahul Kumar, learned counsel for the writ petitioner, has submitted that the statute issued on 24.12.1986 has correctly been held to be applicable by the learned Single Judge because of the reason that the statute issued on 23.09.1995 cannot be construed to be in supersession to the statute issued on 24.12.1986. Further, in the statute issued on 23.09.1995 there is no stipulation to consider the case of the persons holding the post of Lecturer to get the time bound promotion and to get the post of Reader under time bound promotion scheme rather it speaks about grant of selection grade and senior selection grade attached to the post of Reader, therefore, the statute issued on 24.12.1986 will have to be made applicable with respect to the consideration of the case of the writ petitioner and taking into consideration the aforesaid aspect of the matter, the learned Single Judge if held the statute issued on 24.12.1986 to be applicable, the same cannot be said to suffer from an error.*

   Such argument is being made on the basis of the fact that in the year 2008, the Statute for Career Advancement Scheme to be implemented w.e.f. 27.07.1998 has been approved by the Chancellor in supersession of the Statute of promotion as assented by the Chancellor and notified vide Letter No. BSU 20/95 2132/GS(1) dated 23.09.1995 and BSU 20/95-2133/GS(1) dated 23.09.1995.

   7. We have heard the learned counsel for the parties, perused the documents available on record as also the finding recorded by the learned Single Judge.

   8. The undisputed fact in this case is that the writ petitioner was appointed as Lecturer in Mathematics on the recommendation of the Selection Committee of the Ranchi University vide notification dated 07.01.1982. He claims to be entitled for time bound promotion from the post of Lecturer to the post of Reader under the 10 years" time bound promotion scheme under Mathematics as per the statute dated 24.12.1986 to be applicable at least up to 26.07.1998.

   The learned Single Judge came to the finding about the applicability of the statute dated 24.12.1986 to be applicable w.e.f. 27.06.1998 by recording reason in the impugned order that the contention of the State

appellant about supersession of the statute dated 24.12.1986 by virtue of the statute dated 23.09.1995 held to be incorrect.

The learned Single Judge came to such conclusive finding by taking into consideration the non-availability of the rules to consider for promotion from Lecturer to Reader under the time bound promotion scheme having not been referred in the statute dated 23.09.1995. The State has preferred the instant appeal on that limited ground, i.e., the finding recorded by the learned Single Judge to the effect about applicability of the statute dated 24.12.1986 up to 26.07.1998 is bad in the eye of law.

According to the State-appellant, the moment the statute dated 23.09.1995 came, the statute dated 24.12.1986 will stand impliedly superseded.

9. This Court, in view of such ground is required to answer :

As to whether the statute dated 23.09.1995 will impliedly repeal the statute issued on 24.12.1986?

11. This Court, before answering the aforesaid issue, deems it fit and proper to refer about the principle of implied repealment by taking into consideration the provision of Section 6 of the General Clauses Act. Section 6 of the General Clauses Act provides for the provision of repeal and the stipulation in the new Act if contains repealing section mentioning the Acts which it expressly repeals, the presumption against implied repeal of other law will be there and the same will further strengthen on the principle of intention of one person or thing is the exclusion of another.

Since there is a presumption against repeal by implication and the reason of this rule is based on the theory that the legislature while enacting a law has complete knowledge of the existing laws on the same subject matter, and therefore, when it does not provide a repealing provision, the intention is clear not to repeal the existing legislation------

12. --------

13. This Court, on the basis of the aforesaid settled position of law and in order to scrutinize the terms for consideration of the true meaning and effect of the earlier Act, thinks it proper to refer the provision of the Statute for time bound promotion of Lecturers to the post of Readers and for Readers to the post of University Professors as approved by the Chancellor vide Letter No.BSU-27/85-4032/GS(1) dated 24.12.1986.

It is evident from the aforesaid statute that the Chancellor on the recommendation of the Bihar Inter University Board and the State Government, has approved the statute in exercise of power conferred under Section 5(2) of the Bihar Inter University Board Act, 1981 for implementation of in the University. The aforesaid statute contains a provision as under Statute No.1 wherein it has been provided that the Lecturer, serving in a University department or in a degree college managed and maintained by the University shall on the recommendation of the Bihar State University (Constituent Colleges) Service Commission, be promoted on the basis of time bound Scheme; to the post of Reader, subject to the following conditions:

(a) That, he holds the qualification as prescribed for the post of Lecturer under the Statute inforced at the time of his appointment as lecturer and has fulfilled the conditions, if any attached thereto as laid down in the Statute:

(b) That, he holds substantive appointment on the post of a Lecturer; and (c) That, he has completed at least ten years of continuous Service as lecturer in one or more Universities:

Provided that the service rendered in a degree college during the period the college was not affiliated in the subject concerned even up to the Intermediate standard, shall not be taken into account for the purpose of this Statute:

Provided further that the service rendered in more than one University shall be deemed to be continuous if the period elapsed between leaving the service of a University and joining the service of another University does not exceed the normal joining time as prescribed in the service Statute.

Provided that the qualifications prescribed for the appointment of Lecturers mentioned above may be relaxed in case of such teachers who were absorbed in the services of the University under the Statutes inforce from time to time and also in case of Demonstrators promoted to the post of Lecturers under the Statute framed for that purpose.

13. It is evident from the other statute that the Reader, serving in a University Department or in a degree college, managed and maintained by the University and has completed at least twenty five years of continuous service as teacher not below the rank of lecturer in one or more Universities shall on the recommendation of the Bihar State University (Constituent Colleges) Service Commission, be promoted on the basis of time bound scheme to the post of University Professor subject to the condition given in the provisos to clause (I) above. Further, a Reader possessing the qualification of a University Professor prescribed by the University Grants Commission serving in a University Department or in a degree college, managed and maintained by the University and who has completed at least 16 years of continuous service as lecturer/reader in one or more Universities, shall on recommendation of the Bihar State University (Constituent Colleges) Service Commission be promoted to the post of University Professor, other conditions remaining the same.

14. It appears from the Statute No.2, wherein stipulation has been made that such promotion shall be deemed to be personal promotion. It shall not be automatic but shall be made on the recommendation of the Bihar State University (Constituent Colleges) Service Commission on consideration of experience and C.C. Roll of the teacher concerned.

15. It appears from the Statute No.3 that the promotion under the above clauses shall be admissible only in the faculties in which the fifth plan U.G.C. scale of pay have been implemented by the University, but a teacher who did not opt for the U.G.C. scale of pay shall also be eligible to be considered for promotion to the post of Reader or University Professor, as the case may be, under this Statute in the old scale of pay.
16. It appears from Statute No.6 wherein it has been stipulated that the post held by the Lecturer or Reader who is promoted to the post of

Reader or University Professor shall be deemed to be upgraded with effect from the date of such promotion and shall remain upgraded as such till the incumbent continues to hold the post, but the same shall be converted in to the post of Lecturer or Reader, as the case may be in the event of retirement, resignation, death or otherwise provided that if the post of Reader or Lecturer was itself an upgraded post which was further upgraded as that of Reader or University Professor, the same shall be converted into the Lecturer"s post in the event of vacancy.

17. It appears from Statute No.7 that the upgraded post shall be deemed to be a substantive post till the promotee hold it but any temporary vacancy on the post on account of promotee being on leave or on foreign service or officiating in or holding another post on temporary basis shall be that of lecturer or Reader (not being as upgraded post), as the case may be.

18. The inter-se seniority has been provided to be maintained at Statute No.9 of the teachers which will not be adversely affected by the time bound promotion.

19. It appears from the Statute No.10 appointment to the duly created post of Readers or University Professors as also promotion under the Merit Promotion Scheme for Readers shall continue to be made on the basis of the prescribed qualifications and in the manner prescribed in the Act and the Statute.

20. The relevant provisions, as referred above, are being reproduced as under: "1. Notwithstanding anything to the contrary as contained in the Statutes, it is hereby provided that :- (1) A Lecturer, serving in a University department or in a degree college managed and maintained by the University shall on the recommendation of the Bihar State University (Constituent\ Colleges) Service Commission, be promoted on the basis of time bound Scheme; to the post of Reader, subject to the following conditions (a) That, he holds the qualification as prescribed for the post of Lecturer under the Statute inforced at the time of his appointment as lecturer and has fulfilled the conditions, if any attached thereto as laid down in the Statute: (b) That, he holds substantive appointment on the post of a Lecturer; and (c) That, he has completed at least ten years of continuous Service as lecturer in one or more Universities: Provided that the service rendered in a degree college during the period the college was not affiliated in the subject concerned even up to the Intermediate standard, shall not be taken into account for the purpose of this Statute: Provided further that the service rendered in more than one University shall be deemed to be continuous if the period elapsed between leaving the service of a University and joining the service of another University does not exceed the normal joining time as prescribed in the service Statute. Provided that the qualifications prescribed for the appointment of Lecturers mentioned above may be relaxed in case of such teachers who were absorbed in the services of the University under the Statutes inforce from time to time and also in case of Demonstrators promoted to the post of Lecturers under the Statute framed for that purpose. (2) A Reader, serving in a University Department or in a degree college, managed and maintained by the University and has completed at least twenty five years of continuous service as teacher not below the rank of lecturer in

one or more Universities shall on the recommendation of the Bihar State University (Constituent Colleges) Service Commission, be promoted on the basis of time bound scheme to the post of University Professor subject to the condition given in the provisos to clause (I) above. (3) A Reader possessing the qualification of a University Professor prescribed by the University Grants Commission serving in a University Department or in a degree college, managed and maintained by the University and who has completed at least 16 years of continuous service as lecturer/reader in one or more Universities, shall on recommendation of the Bihar State University (Constituent Colleges) Service Commission be promoted to the post of University Professor, other conditions remaining the same. 2. Such promotion shall be deemed to be personal promotion. It shall not be automatic but shall be made on the recommendation of the Bihar State University (Constituent Colleges) Service Commission on consideration of experience and C.C. Roll of the teacher concerned. Provided that where C.C. Rolls have not been maintained before implementation of these statutes, the cases of teachers who are eligible for promotion as Reader or University Professor on the date of implementation of this Statute, shall be considered by the said Commission on the basis of experience and certificates from the Heads of University Departments or Principals of Colleges concerned in regards to the satisfactory service of the teachers after the same have been screened by a committee consisting of the Vice Chancellor. The Dean of the Faculty concerned, the Head of the University Department concerned and two experts appointed by the Vice-Chancellor from the panel prepared by the Bihar Inter University Board. Provided further that the report of the committee in each case shall be referred to the Bihar State University (Constituent Colleges) Service Commission for its recommendation but where in the opinion of the committee a teacher fulfills the prescribed conditions and is found fit to be promoted, the Syndicate may, on the recommendation of the Vice-Chancellor pass orders for promotion of such a teacher on a temporary basis till final decision is taken on the recommendation of the said Commission, but in case the Commission does not recommend for promotion, the temporary promotion given to such a teacher shall cease to be effective immediately. Also provided that hereafter C.C. Rolls shall be regularly maintained in respect of each teacher according to the procedure and in the form to be approved by the Chancellor for the purpose. 3. Promotion under the above clauses shall be admissible only in the faculties in which the fifth plan U.G.C. scale of pay have been implemented by the University, but a teacher who did not opt for the U.G.C. scale of pay shall also be eligible to be considered for promotion to the post of Reader or University Professor, as the case may be, under this Statute in the old scale of pay. 6. The Post held by the Lecturer or Reader who is promoted to the post of Reader or University Professor shall be deemed to be upgraded with effect from the date of such promotion and shall remain upgraded as such till the incumbent continues to hold the post, but the same shall be converted in to the post of Lecturer or Reader, as the case may be in the event of retirement, resignation, death or otherwise provided that if the post of Reader or Lecturer was itself an upgraded post which was further upgraded as that of Reader or University Professor, the same

shall be converted into the Lecturer's post in the event of vacancy. 7. The upgraded post shall be deemed to be a substantive post till the promote hold it but any temporary vacancy on the post on account of promote being on leave or on foreign service or officiating in or holding another post on temporary basis shall be that of lecturer or Reader (not being as upgraded post), as the case may be. 9. The inter-se seniority of the teachers will not be adversely affected by the time bound promotion. 10. Appointment to the duly created post of Readers or University Professors as also promotion under the Merit Promotion Scheme for Readers shall continue to be made on the basis of the prescribed qualifications and in the manner prescribed in the Act and the Statute."

21. It is evident after going across the aforesaid provision as referred and quoted above that a person holding the post of Lecturer has been decided to be considered to be promoted as Reader under the time bound promotion scheme. The Statute further suggests that such promotion granted to the post of Lecturer under the time bound promotion scheme will not be considered to be the promotion on the substantive post as would be evident from the stipulation made under Statute No.7.

22. It further appears from Statute No.9 that the inter-se seniority of the teachers will not be adversely affected by the time bound promotion, meaning thereby, if the promotion granted under the aforesaid scheme will be treated to be promotion granted in the substantive post, in that circumstances, there would not have been such stipulation of fixation of inter-se seniority about not adversely affecting the inter-se seniority of the teachers on the basis of grant of such promotion under the time bound promotion scheme.

23. The writ petitioner claims that he is fulfilling the eligibility criteria as stipulated under the statute notified on 24.12.1986 which will be applicable up to 26.07.1998.

24. It is evident from the material available on record that the State came out with a Statute regarding merit promotion of Lecturers as Readers approved by the Chancellor on 24.12.1986. It is evident from the bare perusal of the aforesaid statute that the provision has been made for consideration of candidature of one or the other candidates for merit promotion after completing at least eight years of continuous service as Lecturer of which at least four years should be in the department where he/she is being considered for assessment and promotion. As such, it is evident that the statute approved by the Chancellor on 24.12.1986 provides for consideration of candidature of one or the other Lecturer to be upgraded in the pay scale under the time bound promotion scheme while the statute approved by the Chancellor on 23.09.1995 provides for promotion on merit from the post of Lecturer to the higher posts depending upon the eligibility criteria fulfilled by one or the other candidate.

25. Thereafter, another Statute was approved by the Chancellor on 24.11.1986 regarding merit promotion of Readers as University Professors who have completed eight years of continuous service as Readers.

26. The Statute approved by the Chancellor on 23.09.1995 is for placement of Lecturer to the post of Lecturers in the senior pay scale and statute for promotion of Lecturers in the senior pay scale to the post of Readers and for placement of the Lecturers in the senior pay scale to the post of Lecturers in the Selection Grade under Career Advancement Scheme.

27. It is evident that the aforesaid statute has been enacted for placement of Lecturers in the senior pay scale under Career Advancement Scheme providing therein that a Lecturer serving in a University department or in a degree college managed and maintained by the University shall, on the recommendation of the Bihar State University (Constituent Colleges) Service Commission will be placed in a senior scale of Rs.3000-5000 under Revised Pay Scale of University and degree college teachers introduced by the State Government subject to the condition stipulated therein. Thus, it is evident that the Statute approved by the Chancellor on 24.12.1986 is for the purpose of consideration of candidature of a person holding the post of Lecturer to be upgraded as Lecturer in the senior pay scale and in the senior pay scale to the post of Readers.

28. The main thrust of argument of the learned counsel for the parties about implied repealment of the statute approved by the Chancellor on 24.12.1986 is the statute approved by the Chancellor on 23.09.1995.

29. In the background of these three statutes, this Court, is now proceeding to consider the effectiveness of the statute approved by the Chancellor on 24.12.1986 as to whether it is up to 27.07.1998 or will stand impliedly repealed the day when the Statute approved by the Chancellor on 23.09.1995, has come.

30. This Court, after making comparative scrutiny of both the statutes has found that the provision of upgradation in the pay scale provided to be granted under the time bound promotion scheme while the statute approved on 23.09.1995 speaks about upgradation in pay scale under the Career Advancement Scheme. It appears from the comparative assessment of both the provisions that prior to implementation of grant of upgradation by way of career advancement scheme, the time bound promotion scheme was prevalent.

31. There is no dispute about the fact that the time bound promotion scheme or the career advancement scheme provides for grant of upgradation in pay scale as would be evident from the specific stipulation under both the statutes, i.e., 24.12.1986 and 23.09.1995. If the upgradation in pay scale, either under the time bound promotion scheme or career advancement scheme, would have been to grant promotion in the substantive post, there would not have been stipulation made in both the statutes using the word „personal promotion" and after the post having been relinquished either by resignation or in case of any eventuality, the post will remain on substantive post of Lecturer as also while granting upgradation either under the time bound promotion scheme or career advancement scheme, specific stipulation has been made that the inter-se seniority of the person holding the post of Lecturer will not be adversely affected, meaning thereby, the upgradation granted either under the time bound promotion scheme or career advancement scheme is upgradation in pay scale.

32. The contention as has been raised by the learned counsel for the writ petitioner about applicability of the time bound promotion scheme in pursuance of the statute approved by the Chancellor on 24.12.1986 which contains a different eligibility criteria in comparison to that of statute approved by the Chancellor on 23.09.1995 wherein the upgradation has been granted in the pay scale under Career Advancement Scheme which is having the different eligibility criteria. Therefore, in view of the fact that in both the statutes the different eligibility criteria has been fixed for consideration of candidature of one or the other candidates for granting benefit of upgradation and if in such circumstances, the statute which was approved by the Chancellor on 24.12.1986 will be allowed to be continued even after coming into effect of the statute approved by the Chancellor on 23.09.1995, the result of the same will be that after 23.09.1995 up to 26.07.1998, the benefit of the upgradation would be fixed on the basis of the eligibility criteria based upon which eligibility criteria contained in the statute approved on 24.12.1986 which is not permissible, reason being that for getting the benefit of upgradation in the pay scale, there cannot be two different criteria. Therefore, according to the considered view of this Court, the contention as has been raised about applicability of the statute approved 24.12.1986 held to be applicable up to the effectiveness of the statute notified in the year 2008 making it applicable w.e.f. 27.07.1998 cannot be gathered that till 26.07.1998 statute approved by the Chancellor on 24.12.1986 will be applicable since in the meanwhile, another statute has been enacted after having been approved by the Chancellor on 23.09.1995, reason being that on scrutiny of the scope and object of both the Statutes, i.e., 24.12.1986 and 23.09.1995 and after examining the true meaning and effect of the earlier Statute, it cannot be said that there is any inconsistency in between the two enactments. The area of operation in question are not different rather it is operative to achieve the same aim and object, i.e., to provide upgradation in pay scale in identical nature. Since both the enactments are to achieve similar object of giving upgradation in pay scale, hence, it would not be proper for their existence side by side, as such, as per the doctrine of the implied repeal, will not be applicable since the two enactments are not repugnant to each other rather they are for the purpose of achieving the same object, hence, the former statute, i.e., 24.12.1986 will be impliedly repealed immediately after coming into effect the new statute after having been approved by the Chancellor on 23.09.1995. 33. This Court also deems it fit and proper to discuss the judgment, relied upon by the learned Advocate General appearing for the State of Jharkhand, rendered by the Division Bench of the Patna High Court in Letters Patent Appeal No.1551 of 2018 arising out of C.W.J.C. No.4164 of 2015 (supra). We have considered the aforesaid judgment and has found therefrom that the Division Bench of the Patna High Court after taking into consideration the statute approved by the Chancellor on 24.12.1996 as also the statute approved by the Chancellor on 23.09.1995 has answered the issue about applicability of the statute of the year 1986 even after 23.09.1995. The aforesaid issue has been answered by considering Clause-8 of the statute approved on 23.09.1995 by making an observation to the effect that the promotion of Lecturers in the senior pay scale to the post of

Readers and placement of Lecturers in the senior pay scale to the post of Lecturers in the senior selection grade has come into force by superseding the time bound promotion including the amendment of the time bound promotion statute approved on 20.11.1987, whereby Clause 1(3) was introduced. It has further been held that after repealment of time bound promotion w.e.f. 23.09.1995, the appellant cannot be deprived of the avenues of promotion from the post of Readers to University Professors and thus would be entitled for consideration of promotion either under the merit promotion scheme till it remained in operation up to 20.07.2001 or under the career advancement scheme.

34. It requires to refer herein that although the judgment passed by the High Court is not having binding precedence but it has got persuasive value. The law is settled that although the judgment passed by different High Court is not applicable but if it has got persuasive value, -----

35. Herein, the aforesaid statute were approved by the Chancellor during the period of undivided State of Bihar and if the aforesaid statutes has been considered by the Patna High Court even in the year 2019 holding the applicability of the statute approved by the Chancellor on 24.12.1986 which stands impliedly repealed after coming into force of the statue approved on 23.09.1995, there is no reason not to follow the finding recorded therein.

*36**. This Court, after having discussed the facts in entirety and having gone through the finding of the learned Single Judge to the effect about applicability of the statute approved by the Chancellor on 24.12.1986 even after the statute approved on 23.09.1995 and the career advancement scheme, 2008 having been declared to be applicable up 26.07.1998, just before the day of effectiveness of the career advancement scheme, 2008, finding has been arrived at in complete ignorance of the fact that the statute of the year 1995 since is in the same field as was the statute of the year 1986, therefore, holding the applicability of the statute 1986 up to 26.07.1998 cannot be said to be a justified finding.***

*37. **Therefore, according to our considered view, the finding recorded by the learned Single Judge to the effect that the statute approved by the Chancellor on 24.12.1986 will be effective till 26.07.1998 is held to be incorrect, as such, the same is quashed and set aside. The writ petitioner or similarly situated employees could be considered for upgradation in pay scale either on the basis of statute approved on 23.09.1995 or under the Career Advancement Scheme, 2008.***

*38. **This Court, after having to the conclusion about non-availability of the Statute approved on 24.12.1986 till 26.07.1998, now deems it fit and proper to deal: "As to whether the writ petitioner is entitled to get any benefit on the basis of the repealed Act."** In the context of the given facts and circumstances of the case, it is required to consider the implication of repealment after coming into effect of the new statute having been approved by the Chancellor on 23.09.1995. Section 6 of the General Clauses Act provides provision of repeal and saving which reads as under: "6 Effect of repeal. —Where this Act, or any 1 [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not— (a) revive anything*

not in force or existing at the time at which the repeal takes effect; or (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed." The above provision stipulates that if by virtue of the act which has been repealed, the benefit is given to the person concerned, shall not be effected. -------

39. In the light of the above legal position, the factual aspect of the instant case is that, admittedly the writ petitioner is claiming to get the benefit on the basis of the Statute approved on 24.12.1986 but, since we have already arrived at a conclusive finding as above that the Statute approved on 24.12.1986 has impliedly been repealed, therefore, the writ petitioner is not entitled to get any benefit on the basis of the repealed Statute, i.e., 24.12.1986.

40. In the result, the instant appeal is allowed, accordingly, stands disposed of.

41. In consequence thereof, I.A. No.10172 of 2018 also stands disposed of."

30. It has been observed by the Division Bench that the statute of the year 1995 since is in the same field as was the statute of the year 1986, therefore, holding the applicability of the statute 1986 up to 26.07.1998 cannot be said to be a justified finding and accordingly it has been held that the finding recorded by the learned Single Judge to the effect that the statute approved by the Chancellor on 24.12.1986 will be effective till 26.07.1998 is held to be incorrect.

31. The Division Bench after having come to the conclusion about non-availability of the Statute approved on 24.12.1986 till 26.07.1998, has further considered that whether the writ petitioner is entitled to get any benefit on the basis of the repealed Act and consequently observed that since the Statute approved on 24.12.1986 has impliedly been repealed, therefore, the writ petitioner is not entitled to get any benefit on the basis of the repealed Statute, i.e., 24.12.1986.

32. Thus, the Division Bench, has categorically observed that the Statute of 1986 stood impliedly repealed. That finding has not been assailed before the Hon'ble Supreme Court and, therefore, has attained finality.

33. The Directorate issued broad guidelines pursuant to the order dated 01.05.2017 in W.P.(S) No. 3375 of 2016, fixing 22.09.1995 as the terminal cut-off date for promotion under the Time Bound Promotion Scheme. The petitioners challenge the sustainability of the said order.

34. The Directorate had clarified the cut-off date in consonance with the Statute of 1995 and the finding of implied repeal of the Statute of 1986. The fixation of 22.09.1995 as the terminal date is consistent with the statutory framework and judicial pronouncements. No infirmity of jurisdiction or violation of statutory mandate has been demonstrated by the petitioners.

35. It is evident that the effect of the statute 1986 is the main limb of argument on behalf of the petitioners since the petitioners are claiming their entitlement on the basis of the 1986 statute wherein the following provisions have been made which reads as under:.

> ***17. STATUTE FOR TIME BOUND PROMOTION OF LECTURERS TO THE POSTS OF READERS AND FOR READERS TO THE POSTS OF UNIVERSITY PROFESSORS. (As approved by the Chancellor vide letter no. (BSU-27/85-4032GS(1) dated 24.12.1986)***
>
> *Subject: -Statute for time bound promotion of Lecturers to the posts of University Professors.*
>
> *I am directed to invite a reference on the above subject and to say that the Chancellor on the recommendation of Bihar Inter University Board and the State Government has been pleased to approve the following Statutes under section 5 (2) of the Bihar Inter University Board Act, 1981 for implementation in your University.*
>
> *1. Notwithstanding anything to the contrary as contained in the Statutes, it is hereby provided that :-*
>
> *(1) A lecturer, serving in a University department or in a degree college managed and maintained by the University shall on the recommendation of the Bihar State University (Constituent Colleges) Service Commission, be promoted on the basis of time bound Scheme; to the post of Reader, subject to the following conditions:-*
>
> *(a) That, he holds the qualification as prescribed for the post of Lecturer under the Statute inforced at the time of his appointment as*

lecturer and has fulfilled the conditions, if any attached thereto a5 laid down in the Statute:

(b) That, he holds substantive appointment on the post of a Lecturer; and

(c) That, he has completed at least ten years of continuous Service as lecturer in one or more Universities:

Provided that the service rendered in a degree college during the period the college was not affiliated in the subject concerned even up to the Intermediate standard, shall not be taken into account for the purpose of this Statutes:

Provided further that the service rendered in more than one University shall be deemed to be continuous if the period elapsed between leaving the service of a University and joining the service of another University does not exceed the normal joining time as prescribed in the service Statute.

2["Provided that the qualifications prescribed for the appointment of Lectur-ers mentioned above may be relaxed in case of such teachers who were ab-sorbed in the services of the University under the Statutes inforce from time to time and also in case of Demonstrators promoted to the post of Lecturers under the Statute framed for that purpose."

Further action in the matter may be taken accordingly.

(2) A Reader, serving in a University Department or in a degree college, managed and maintained by the University and has completed at least twenty five years of continuous service as teacher not below the rank of lecturer in one or more Universities shall on the recommendation of the Bihar State University (Constituent Colleges) Service Commission, be promoted on the basis of time bound scheme to the post of University Professor subject to the condition given in provisos to clause (1) above.

(3) [A Reader possessing the qualification of a University Professor pre-scribed by the University Grants Commission serving in a University Department or in a degree college, managed and maintained by the University-and who has completed at least 16 years of continuous service as lecturer/Reader in one or more. Universities, shall on recommendation of the Bihar State University (Con-stituent colleges) Service Commission be promoted to the post of University Professor, other conditions remaining the same.

2. Such promotion shall be deemed to be personal promotion. It shall not be automatic but shall be made on the recommendation of the Bihar State Uni-versity (Constituent Colleges) Service Commission on consideration of experi-ence and C.C.Roll of the teacher concerned.

Provided that where C.C. Rolls have not been maintained before imple-mentation of these statutes, the cases of teachers who are eligible for promotion-as Reader or University Professor on the date of implementation of this Statute, shall be considered by the said Commission on the basis of experience and cer-tificates from the Heads

of University Departments or Principals of Colleges concerned in regards to the satisfactory service of the teachers after the same have been screened by a committee consisting of the Vice-Chancellor. The Dean of the Faculty concerned, the Head of the University Department concerned and two experts appointed by the Vice-Chancellor from the panel prepared by the Bihar Inter University Board.

Provided further that the report of the committee in each case shall be referred to the Bihar State University (Constituent Colleges) Service Commission for its rec-ommendation but where in the opinion of the committee a teacher fulfills the pre-scribed conditions and is found fit to be promoted, the Syndicate may, on the reco-mendation of the Vice-Chancellor pass orders for promotion of such a teacher on a. temporary basis till final decision is taken on the recommendation of the said Com-mission, but in case the Commission does not recommend for promotion, the tempo-rary promotion given to such a teacher shall cease to be effective immediately.

Also provided that hereafter C.C.Rcils shall be regularly maintained in re-spect of each teacher according to the procedure and in the form to be approved by the Chancellor for the purpose.

3. Promotion under the above clauses shall be admissible only in the factual-ties in which the fifth plan U.G.C. scale of pay have been implemented by the University, but a teacher who did not opt for the U.G.C. scale of pay shall also be eligible to be considered for promotion to the post of Reader or University Profess- sor, as the case may be, under this Statute in the old scale of pay.

4. Where a teacher is promoted to the post of leader or University Profess-sor, as the case may be, such a promotion shall take effect from the date on which the lecturer entered the 11th year of his qualifying service or the Reader entered the 26th year of this qualifying service as the case may be, or from the Ist February 1985 whichever is later.

5. The case of teacher, who is not recommended by the said Commission for promotion as Reader or University Professor may again be considered for promotion after a period of one year has elapsed since his name was last considered. The promotion in such a case shall effect from the date of the recommendation of the Commission. The Post held by the Lecturer or Reader who is promoted to the post of Reader or University Professor shall be deemed to be upgraded with effect from the date of such promotion and shall remain upgraded as such till the incumbent continues to hold the post, but the same shall be converted in to the post of Lecturer or Reader, as the case may be in the event of retirement, resignation, death or otherwise provided that if the post of Reader or Lecturer was itself an upgraded post which was further upgraded as that of Reader or University Professor, the same shall be converted into the Lecturer's post in the event of vacancy.

7. The upgraded post shall be deemed to be a substantive post till the promotee hold it but any temporary vacancy on the post on account of promotee being on leave or on foreign service or officiating in or holding another post on temporary basis shall be that of lecturer or Reader (not being as upgraded post), as the case may be.

8. The lecturer who is promoted as Reader or the Reader who is promoted as University Professor shali from the date of promotion draw his pay in the higher scale which shall be fixed under the relevant provision of the service stat-ute of the University.

9. The inter-se-seniority of the teachers will not be adversely affected by time bound promotion.

10. Appointment to the duly created post of Readers or University Profes-sors as also promotion under the Merit Promotion Scheme for Readers shall con-tinue to be made on the basis of the prescribed qualifications and in the manner prescribed in the Act and the Statutes

11. The Registrar of the University with the approval of the Vice-Chancellor shall place a list of eligible candidates giving all the required information about each of them along with all the relevant papers including service records and C.C.Rolls before the screening Committee to be appointed by the Vice-Chancel-lor for scrutiny. The recommendation of the Screening Committee along with all the relevani papers shall be submitted to the Bihar State University (Constituent Colleges) Service Commission and the recommendation of the said Commission shall be placed before the Syndicate at the next meeting for orders.

12. This Statute shall come into force with effect from the first February, 1985 in supersession of the Statute approved by the Chancellor on 24.10.81 vide Governor's Secretariat letter No. BSU 51/81-2779-GS(1) dated 14.11.81 but all actions taken under the said statute before the date of implementation of this statute shall be deemed to be valid.

"Note" deleted vide No. BSU-25/89-3128 (1) dated 12.10.90. 1.

2. Ins. by ibid.

3. Added by BSU-26/85-4099/G.S. (1) dated 20.11.1987.

36. It is evident that the statute for time bound promotion of Lecturers to the post of Readers and for Readers to the post of University Professors was approved by the Chancellor vide letter no.BSU-27/85 4032/GS(1) dated 24.12.1986 and subsequently added and amended by letter no.BSU-26/85-4099/GS(1) dated 20.11.1987. Article 3 of the said Statute provides that a Reader possessing qualification of a University Department or in a Degree College, managed and maintained by the University and who has completed at least 16 years of continuous service as Lecturer/Reader in one or more Universities shall, on recommendation of the Commission, be promoted to the post of University Professor, other conditions remaining the same.

37. Thereafter, the statute of the year 1995 has implemented wherein the following provisions have been made.

"33. STATUTES FOR PLACEMENT OF LECTURERS TO THE POST OF LECTURERS IN THE SENIOR PAY SCALE AND STATUTE FOR PROMOTION OF LECTURERS IN THE SENIOR PAY SCALE TO THE POST OF READERS AND FOR PLACEMENT OF THE LECTURERS IN THE SENIOR PAY SCALE TO THE POST OF LECTURERS IN THE SELECTION GRADE UNDER CAREER ADVANCEMENT SCHEME.

(As approved by the Chancellor vide letter No.BSU 20/95-2132/GS(1) dated, the 23 September, 1995.)

I am directed to invite a reference on the above subject and to say that the Chancellor on the recommendation of the Bihar Inter University Board and the State Government has been pleased to approve the following Statutes under Sec-tion 5(2) of the Bihar Inter University Board Act, 1981 for implementation in your Statute for placement of lecturers in the senior pay scale (Rs. 3000-5000) under career advancement scheme.

1. Notwithstanding anything to the contrary as contained in the Statutes, it is hereby provided that:

A Lecturer, serving in a University Department or in a Degree College man-aged and maintained by the University shall, on the recommendation of the Bihar State University (Constitutent College) Service Commission will be placed in a senior scale of Rs.3000-5000 under revised pay scale of University and Degree College teachers introduced by the State Government (vide No. 14/P2-05/87 HRD 1044 dated 7.8.1989) subject to the following conditions:

(a) That he holds the qualification as prescribed for the post of Lecturer under the Statute enforced at the time of his appointment as Lecturer and has fulfilled the conditions, if any attached thereto, as laid down in the Statute.

(b) That, he holds substantive appointment on the post of Lecturer and his appointment has been made as per provisions of the Act and Statutes existing at that time. (c) That, he has completed eight years of continuous service after regular appointment against a sanctioned post with the relaxation that a candidate who, at the time of his recruitment as Lecturer, possesses Ph.D. or M.Phil degree will be sanctioned three and one advance increments respectively in the scale of Rs.2200-4000 along with the benefit of corresponding years of service for the purposes of this placement and further promotion. The existing Lecturers without research degree, and those similarly situated and recruited in future will be eligible for a similar benefit in service for the pur-pose of subsequent promotion as and when they acquire research degree, but will not be eligible for advance increments. Existing Lecturers with research degrees will also be eligible for a similar benefit. Provided that, in case of a Degree College, the service rendered during the period the College was not affiliated in the subject concerned shall not be taken into account for the purpose of this Statute; provided further that, the service rendered in more than one University shall be deemed to be continuous if the period elapsed between leaving the service of a University and joining the service of another University

does not exceed the normal joining time as prescribed in the service Statute.

Provided further that if a teacher appointed by the University as per proper procedure through open advertisement but placed in a Degree College even not imparting teaching in the subject concerned upto Degree level will be eligible for the above benefits.

Provided further, that the total period of experience in a Degree College managed and maintained by the University shall be taken into account but only 2/3rd of the total period in an affiliated Degree College prior to its conversion into a Constitutent Unit shall be considered.

(d) That he has participated in two Refresher Courses/Summer Insti-tutes, each of approximately 4 weeks' duration or engaged in other appropriate continuing education programmes of comparable qual-ity as may be specified by the U.G.C.

(e) That, he possesses satisfactory performance appraisal reports.

2. The placement in the Senior pay Scale shall not be automatic but shall be made on the recommendation of the Bihar State University (Constituent Col-leges) Service Commission on consideration of experience and performance ap-praisal reports.

3. The Registrar of the University with the approval of the Vice-Chancellor, shall place a list of eligible candidates giving all the required information about each of them alongwith all the relevant papers including service and performance appraisal records before the Screening Committee to be appointed by the Vice-Chancellor for scrutiny.

The Screening Committee shall consist of the Vice-Chancellor, the Dean of the Faculty concerned, the Head of the University Department concerned as In-ternal Expert and two External Experts in the subject concerned appointed by the Vice-Chancellor from the panel prepared by the Bihar Inter University Board. Provided that the recommendation of the Screening Committee shall be-come invalid if any one of the two External Experts appointed by the Vice-Chan-cellor is from outside the panel prepared by the Bihar Inter University Board. Provided further that the report of the Screening Committee in each case shall be referred to the Bihar State University (Constituent Colleges) Service Com-mission within a period of one month for its recommendations.

Provided that the Bihar State University (Constituent Colleges) Service Com-mission shall send its recommendation within six months.

4. The recommendation of the Bihar State University (Constituent Colleges) Service Commission shall be placed before the Syndicate at the next meeting for orders.

5. Also provided that hereafter performance appraisal records shall be regularly maintained in respect of each teacher according to the procedure and in the form to be approved by the Chancellor for the purpose.

6. The seniority of teachers promoted under this Statute shall be determined from the date of promotion, but the inter-se-seniority of teachers promoted from the same date shall be the same as they had on their lower post.

7. Placement under the above clauses shall be admissible only in the facul-ties in which U.G.C. scale of pay effective from 1.1.1986 have been implemented by the University.

8. The case of the teacher, who is not recommended by the said Commis-sion for placement in the senior pay scale may again be considered after one year has elapsed since his name was last considered. The placement in such a case shall take effect from the date of the recommendation of the Commission.

9. The Inter-se seniority of the teachers will not be adversely affected by placement in the senior pay scale.

38. The statute approved on 23.09.1995 under Section 5(2) of the Bihar Inter University Board Act, 1981 lays down the framework for placement of Lecturers into the Senior Pay Scale (₹3000–5000) and their further promotion under the Career Advancement Scheme. It provides that placement is not automatic but subject to recommendation by the Bihar State University (Constituent Colleges) Service Commission, based on qualifications, substantive appointment, completion of eight years' continuous service (with relaxation for Ph.D./M.Phil holders), participation in refresher courses, and satisfactory performance appraisal reports. The process involves scrutiny by a Screening Committee with internal and external experts, followed by Commission recommendation and Syndicate approval. The statute also prescribes rules for maintaining performance appraisal records, determining seniority, considering service continuity across universities, and eligibility conditions for lecturers in constituent and affiliated colleges. It emphasizes that placement applies only where UGC pay scales effective from 01.01.1986 have been implemented, and allows reconsideration of rejected cases after one year, without adversely affecting inter-se seniority.

39. Further, the Statute 34 has come which is a Statute for promotion of Lecturers in the senior pay scale (Rs.3000-5000) to the posts of Readers in the pay scale of 3700-5700 and placement of Lecturers in the Selection Grade (3700-5700). For ready reference, the relevant part of the same is being reproduced as under:

> "*8. The Statute for placement of Lecturers in the senior pay scale and also the Statute for promotion of Lecturers in the senior pay scale to the post of Reader and placement of lecturers in the senior pay scale to the post of Lecturers in the selection Grade shall come into force in supersession of the Statutes approved by the Chancellor on 24.12.1986 (BSU-27/85-4032-GS (1) and amended on 20.11.1987 (BSU-27/85-4099-GS (1) and 28.11.1987 (BSU-27/85-4213-GS(1).*

40. Further, it is evident that the rules governing promotion of Lecturers in the senior pay scale to the post of Reader, and placement of Lecturers in the senior pay scale to the post of Lecturers, shall take effect in supersession of the earlier statutes approved by the Chancellor on 24.12.1986 and subsequently amended on 20.11.1987 and 28.11.1987.

41. The University, relying upon the broad guidelines issued by the Director, Higher Education, vide Letter No. 2410 dated 14.12.2018, has further clarified that the cut-off date for promotion under the Time Bound Promotion Scheme was not extended beyond 22.09.1995.

42. The doctrine of implied repeal operates where a later statute covers the same field as an earlier enactment and is inconsistent therewith. The petitioners, however, were promoted under the Time Bound Promotion Scheme of 1986. While the petitioners contend that the 1995 Statute does not expressly provide for promotion from Reader to Professor under the Time Bound Scheme, the Division Bench has already held that the 1986 Statute stands impliedly repealed. Once such a finding has attained finality, the petitioners cannot claim benefit under an implied repealed scheme. The broad guidelines of 2018 reinforce this position by fixing 22.09.1995 as the terminal date for promotion under the Time Bound Scheme, without any extension thereafter.

43. The main grievance of the petitioners is regarding the applicability of the statute 1986 since the petitioners are claiming that 1986 statute is applicable and not the 1995 statute.

44. The statute will be said to be applicable so long it is not being superseded by another statute but the moment another statute comes into being, then, from the date of the effectiveness of the new legislation, the earlier legislation will have no force, in pursuance of the provision as contained under Section 6 of the General Clauses Act. For ready reference, Section 6 of the General Clauses Act is being referred as under:

> *"6 Effect of repeal. —Where this Act, or any 1 [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—*
>
> *(a) revive anything not in force or existing at the time at which the repeal takes effect; or*
>
> *(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or*
>
> *(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or*
>
> *(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or*
>
> *(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."*

45. Section 6 of the General Clauses Act has been dealt with by the Hon'ble Apex Court in the case of State of Uttar Pradesh and Ors. vs. Hirendra Pal Singh and Ors., (2011) 5 SCC 305 wherein their Lordships have held at paragraphs-22 & 24 as under:

> *"22. It is a settled legal proposition that whenever an Act is repealed, it must be considered as if it had never existed. The object of repeal is to obliterate the Act from the statutory books, except for certain purposes as provided under Section 6 of the General Clauses Act, 1897. Repeal is not a matter of mere form but is of substance. Therefore, on repeal, the earlier provisions stand obliterated/abrogated/wiped out wholly i.e. pro tanto repeal (vide Dagi Ram Pindi Lall v. Trilok Chand Jain [(1992) 2 SCC 13 : AIR 1992 SC 990] ; Gajraj Singh v. STAT [(1997) 1 SCC 650 : AIR 1997 SC 412] ; Property Owners' Assn. v. State of Maharashtra [(2001) 4 SCC 455 : AIR 2001 SC 1668] and Mohan Raj v. Dimbeswari Saikia [(2007) 15 SCC 115 : (2010) 2 SCC (Cri) 782 : AIR 2007 SC 232]).*
>
> *24. Thus, there is a clear distinction between repeal and suspension of the statutory provisions and the material difference between both is that repeal removes the law entirely; when suspended, it still exists and has operation in other respects except wherein it has been suspended. Thus, a repeal puts an end to the law. A suspension holds it in abeyance."*

46. In ***Board of Control for Cricket in India vs. Kochi Cricket Private Limited and Ors. (2018) 6 SCC 287***, Their Lordships have held at paragraph-43 as under:

> *"43. Shri Sundaram's submission is also not in consonance with the law laid down in some of our judgments. The approach to statutes, which amend a statute by way of repeal, was put most felicitously by B.K. Mukherjea, J. in State of Punjab v. Mohar Singh [State of Punjab v. Mohar Singh, (1955) 1 SCR 893 : AIR 1955 SC 84 : 1955 Cri LJ 254] , SCR at pp. 899-900, thus : (AIR p. 88, para 8)*
>
> *"8. In our opinion the approach of the High Court to the question is not quite correct. Whenever there is a repeal of an enactment, the consequences laid down in Section 6 of the General Clauses Act will follow unless, as the section itself says, a different intention appears. In the case of a simple repeal there is scarcely any room for expression of a contrary opinion. But when the repeal is followed by fresh legislation on the same subject we would undoubtedly have to look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. The line of enquiry would be, not whether the new Act expressly keeps alive old rights and liabilities but whether it manifests an intention to destroy them. We cannot therefore subscribe to the broad proposition that Section 6 of the General Clauses Act is ruled out when there is repeal of an enactment followed by a fresh legislation. Section 6 would be applicable in such cases also unless the new legislation manifests an intention incompatible with or contrary to the provisions of the section. Such incompatibility would have to be ascertained from a consideration of all the relevant provisions of the new law and the mere absence of a saving clause is by itself not material. It is in the light of these principles that we now proceed to examine the facts of the present case.""*

47. It is thus evident from the consideration so made by the Hon'ble Apex Court on the issue of repealment and saving that if the Act is being repealed, caution is to be made by inserting the saving clause so that the right if accrued in favour one or the others on the basis of the repealed act, the same cannot be disturbed and the party may not be made to suffer.

48. It is further settled position of law that the saving clause is mandatory in nature in a case where a right has been accrued in favour of one or the other and due to the effect of repealment of the act, the right which has been accrued may not be taken away. Reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Air India v. Union of India*** reported in ***(1995) 4 SCC 734*** wherein it has been observed and held which reads as under :-

> *6. In Watson v. Winch [(1916) 1 KB 688 : (1916-17) All ER Rep 972] , Lord Reading, C.J., said:*
> *"It would follow that any bye-law made under a repealed statute ceases to have any validity unless the repealing Act contains some provision preserving the validity of the bye-law notwithstanding the repeal."*
> *Sankey, J., concurring, said:*

> *"When a statute is repealed any bye-law made thereunder ceases to be operative unless there is a saving clause in the new statute preserving the old bye-law. There appear to be two reasons for this: ... Secondly, because the usual practice is to insert in the later statute a section expressly preserving previously made bye-laws if it is intended that they shall remain in force."*
>
> *(emphasis supplied)*
>
> ***7.****Bennion on Statutory Interpretation, 2nd Edn., at pp. 494 and 495 states that a "saving is a provision the intention of which is to narrow the effect of the enactment to which it refers so as to preserve some existing legal rule or right from its operation". It adds, "Very often a saving is unnecessary, but is put in ex abundanti cautela to quieten doubts." The updated text of the Interpretation Act, 1978, (set out in Bennion's book at p. 897) puts into statutory form in Section 15 what is otherwise recognised in law, namely, that the repeal of an enactment does not, unless the contrary intention appears, affect any right or privilege accrued under that enactment.*
>
> ***8.*** *In our view, if subordinate legislation is to survive the repeal of its parent statute, the repealing statute must say so in so many words and by mentioning the title of the subordinate legislation. We do not think that there is room for implying anything in this behalf.*

49. Further in the case of ***Southern Petrochemical Industries Co. Ltd. v. Electricity Inspector & ETIO*** reported in **(2007) 5 SCC 447,** Hon'ble Supreme Court has observed as under:

> *"**105.** In Harnek Singh [(2002) 3 SCC 481 : 2002 SCC (Cri) 659] this Court held: (SCC p. 490, para 16)*
>
> *"16. The words 'anything duly done or suffered thereunder' used in clause (b) of Section 6 are often used by the legislature in saving clause which is intended to provide that unless a different intention appears, the repeal of an Act would not affect anything duly done or suffered thereunder. This Court in Hasan Nurani Malak v. S.M. Ismail, Asstt. Charity Commr. [AIR 1967 SC 1742] has held that the object of such a saving clause is to save what has been previously done under the statute repealed. The result of such a saving clause is that the pre-existing law continues to govern the things done before a particular date from which the repeal of such a pre-existing law takes effect..."*
>
> ***106.*** *.. It has been so held by this Court, while construing Section 6 of the General Clauses Act, in Gurcharan Singh Baldev Singh v. Yashwant Singh [(1992) 1 SCC 428] in the following terms: (SCC p. 432, para 3)*
>
> *"The objective of the provision is to ensure protection of any right or privilege acquired under the repealed Act. The only exception to it is legislative intention to the contrary. That is, the repealing Act may expressly provide or it may impliedly provide against continuance of such right, obligation or liability."*

50. This Court applying the aforesaid principle and adverting to the facts of the case as to whether the statute 1995 will come into play so far as the case of the petitioners are concerned or the statute 1986.

51. Now the fact about the implied repealment of statute 1986 is not in dispute. It is the admitted fact that the statue 1986 has been impliedly repealed along with the amendment, as such, no right can be claimed on the basis of the repealed legislation as is being claimed by the petitioners herein.

52. In view of the categorical finding of implied repeal by the Division Bench, which has attained finality, and the subsequent broad guidelines restricting the cut-off date, the petitioners cannot be extended any benefit under the Statute of 1986. Their prayer for promotion based upon the repealed scheme is, therefore, not sustainable.

53. The petitioners further contend that certain provisions i.e. Sections 22, 23, 24, 35 and 36 of the University Act were not considered. However, the omission, if any, does not *ipso facto* vitiate the finding unless the provisions bear a direct and material nexus to the controversy.

54. It needs to refer herein at this juncture that the power to make out the statute has been conferred upon the functionaries of the University under Section 34 of the University Act. For ready reference, Section 34 of the said Act is being reproduced as under:

> *"34. The Statutes.- Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely;*
> *(a) the institution of Fellowship, Scholarships, exhibitions, medals and prizes:*
> *(b) the designations and powers of the officers of the University:*
> *(c) the constitution, powers, functions and duties of the authorities of the University;*
> *(d) the admission of educational institutions as colleges and the with. drawal of privileges from Colleges so admitted:*
>
> *(e) the institution of Colleges and hostels and their maintenance and management:*
> *(1) the classification of teachers of the University, the manner of their appointment and their recognition;*
> *(g) the constitution of pension, insurance or provident fund for benefit of the officers, teachers and other servants of the University, and the teacher of Colleges:*
> *(h) the maintenance of the register of registered graduates; (i) the number, qualification, grade, pay, reservation of posts for 1[scheduled castes, scheduled tribes, Backward Classes, women and economically weaker sections) and conditions of service of teach-ers, officers and other servants of the University including the crea-tion of new posts after considering, as the case may be, the recom-mendations of the Academic Council and the Syndicate, in the case of creation of other posts, and the recommendation of the Syndi-cate, in the case of posts of officers and servants of the University;*

(j) the maintenance of accounts of the income and expenditure of the University including the income and expenditure of Colleges and the forms and registers in which such accounts shall be kept;
(k) the maintenance of a register of teachers; (1) the conferment of honorary degrees and distinctions;
(m) all other matters which are or may be prescribed by the Ordinance or the Statutes."

55. The aforesaid Statute empower the University to regulate a wide range of matters essential to its governance and functioning. These include establishing fellowships, scholarships, medals, and prizes; defining the roles and powers of officers; determining the constitution and duties of University authorities; admitting or withdrawing privileges of colleges; creating and managing colleges and hostels; classifying and appointing teachers; instituting pension, insurance, and provident funds; maintaining registers of graduates and teachers; prescribing qualifications, pay, reservations, and service conditions of staff; managing accounts of income and expenditure; and conferring honorary degrees. In essence, the Statutes serve as a comprehensive framework for academic, administrative, financial, and personnel management within the University.

56. Thus, Section 34 of the Act, reflects that it is the exclusive domain of the functionary of the University to come out with the rule to govern the situation having no nexus with the other provision as Section 22 deals with "the Syndicate". Section 23 deals with "Power and duties of the Syndicate". For ready reference, Sections 22, 23, 35 and 36 are being reproduced as under:

*[**22. The Syndicate.-(**1) The Syndicate shall be the Executive Council of the of the University and it shall consist of the following members*

(a) Vice-Chancellor;

(b) Pro-Vice-Chancellor;

(c) Commissioner-cum-Secretary · of Higher Education or his representative not below the rank of the Joint Secretary

(d) Director Higher Education;

(e) Dean, Students Welfare and Proctor;

(f) Two Heads of the University Departments to be nominated by rotation as prescribed by the Statutes, whose term of office shall be for one year from the date of nomination;

(g) Two Principals of Colleges maintained by the University to be nominated by rotation as prescribed by the Statute, whose term of office shall be for one year from the date of nomination;

(h) Two from amongst Professors and Readers of the University of the University other than the University Heads of Departments and tow such Lecturers as have a minimum of five years of teaching experience, to be elected by the teacher members of the Senate by single transferable vote in accordance with the system of proportionate representation, one of whom shall be from other Backward classes from the rank of Professors and Reader, and on from Scheduled Castes/Scheduled Tribes from the rank of Lecturers; (i) Four from amongst the members of the Senate other than teachers, students and employees of University and Colleges, to be elected by the non-teacher members of the Senate by single transferable vote in accordance with the system of proportionate representation, but one of whom shall be Scheduled Castes/Scheduled Tribes and one from the other Backward Classes;

(j) One reputed educationist nominated by the Chancellor;

(k) Five persons to be nominated by the State Government one of whom shall be from Castes/Scheduled Tribes/other Backward Classes and one from women having academic interest and in social work elected in aforesaid manner.]

(2) The term of office of members, other the ex-officio member shall be for a period of three years with effect from the date of their respective election or nomination except otherwise provided and shall include any further period which may elapse between the expiry of the said period of three years and the date of the succeeding election or nomination, except in case of an election or nomination to fill up any casual vacancy

3[but such extended period shall not be more than one year]; 1 [Provided that any member elected or nominated shall be deemed to vacate office with effect from the date on which he ceases to be member of the category from which he has been elected or nominated.]

2 [(4) The Syndicate shall have perpetual succession and any of its acts or proceedings shall not be invalid merely because of any vacancy of vacancies in its membership.]

1[23. Powers and duties of the Syndicate.-The Syndicate shall

(a) hold, control and manage the property and funds of the University;

(b) regulate the use of the common seal of the University;

(c) subject to the. powers conferred, by or under this Act, on the Vice Chancellor and the Academic Council, determine and regulate all matters concerning the University in accordance with this Act the and the Regulation;

(d) manage any funds placed at the disposal of the University for specified purpose;

(e) have power to accept transfers on behalf the University any movable or immovable property to and fo r the benefit of the University or a College;

(f) make Ordinances, and shall amend or repeal them, and

(g) exercise such other powers and perform such other duties as are conferred or imposed on it by this Act, or the Statutes.]

35. No post for appointment shall be created without the prior sanction of the State Government.— *Notwithstanding anything contained in this Act, no University or any College affiliated to such a University, except such College*

(a) as is established, maintained or governed by the State Government; or

(b) as is established by a religious or linguistic minority;

(i) After the commencement of this Act no teaching or non-teaching post involving financial liabilities shall be created without the prior approval of the State Government.]

(ii) shall either increase the pay or allowance attached to any post, or sanc tion any new allowance; Provided that the State Government may, by an order, revise the pay scale attached to such post or sanction any new allowance.

(iii) shall sanction any special pay or allowance or other remuneration of any kind including ex-gratia payment or any other benefit having financial implication to any person holding a teaching or non-teaching post;

(iv) shall incur expenditure of any kind on any development scheme without the prior approval of the State Government.

2. Notwithstanding anything contained in this Act, no College other than one mentioned in clauses (a) and (b) of sub-section (1), shall, after the com-mencement of this Act, appoint any person on any post without the prior approval of the State Government.

Provided that the approval of the State Government shall not be necessary for filling up a sanctioned post of a teacher for a period not exceeding six months, by a candidate possessing the prescribed qualification.

[(3) Any appointment or promotion made contrary to the provisions of this Act, or Statues, Rules or Regulations made thereunder or made in irregular or unauthorised manner shall be invalid and shall be terminated at any time. The expenditure incurred by the University against such appointment or promotion shall be realised from the officer making such appointment or promotion as a public demand under the provisions of the Public Demands Recovery Act, 1914.] Legislative changes (after 1982)— By Ordinance 4 of 1985 sub-clause (i) of clause (b) of subsection (1) of this section was substituted which continued by successive Ordinances till Act 3 of 1990 was enacted. Prior to its substitution this sub-clause read as follows:—

"(i) shall, after the commencement of this Act, create any teaching or non-teaching post involving financial liability without the prior approval of the State Government;" This section underwent amendments when sub-section (3) was added by Ordinance 14 of 1993 which read as follows:—

"(3) Any appointment or promotion made contrary to the provisions of the Act, Statutes,

Rules or Regulations or in any irregular or unauthorised manner shall be invalid and shall be

terminated at any time without notice. All expenditures incurred by the University in regard to

such appointment or promotion shall be realised from the appointing officer as a public demand

under the provisions of the Public Demand Recovery Act, 1914."

Act 17 of 1993 which repealed Ordinance 14 of 1993 also retained the addition of Sub section (3) but with certain changes.

36. Statutes how made.— *(1) The Senate may, either on its own motion or on submission by the Syndicate, make Statutes, or amend or repeal*

Provided that

(a) the Senate shall not consider any statute having the effect of changing the number of post of teachers, officers and servants of the University, their pay scales or pay order; unless such a draft is recommended by the Chancellor for the considerations of the Senate;

(b) the Syndicate shall not propose any such statutes, as may affect the status, powers and constitution of any authority of the University, unless that authority has been allowed an opportunity to furnish written opinion upon the proposed changes, and the Senate shall have to consider such option expressed in writing; and

(c) in matters relating to status, powers, functions and constitution of the Academic Council, it shall be lawful for the Academic Council to initiate such Statutes and forward it to the Syndicate, which shall submit it to the Senate with such recommendations as it may like to make.

(2) If the draft of any Statutes or a portion thereof, after being presented by the Syndicate before the Senate is sent back to the Syndicate for reconsideration, and the Syndicate does not agree, after reconsideration, to the amendments suggested by the Senate, then it shall be lawful for the Senate to pass the Statutes or a portion of the Statutes in such form as it may deem appropriate, and the deci-sion of the Senate shall, subject to the provision contained in sub-section (3) and sub-section (4), be final:

[(3) Where the Senate has passed the draft of any Statute it shall be submitted to the Chancellor who shall declare that he assents thereto as passed by the Senate or with such amendments as he deems proper:] Provided that the Chancellor may as soon as possible after the presentation to him of the draft of the Statute so passed for assent, return the draft together with a message requesting that the Senate shall reconsider the draft and when the draft is so returned, the Senate shall reconsider the draft accordingly and if the draft is passed again by the Senate with or without any amendment and is presented to the Chancellor for assent, the Chancellor shall declare either that 1[he assents

thereto with such amendments which he deems proper] or that he withholds assent therefrom :

2 [x x x x]

(4) Where any member of the Senate proposes to the Senate of the draft of any Statute, the Senate shall refer the same to the Syndicate, and it shall thereupon be the duty of the Syndicate to consider the draft and the Syndicate may either recommend to the Senate that the proposal be rejected or submit the draft to the Senate in such forms as the Syndicate may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of the draft proposed to the Senate by the Syndicate.

(5) A Statute passed by the Senate shall have no validity until it has been assented to by the Chancellor.

[(6) Notwithstanding anything contained in the above clauses, if at any time when the Senate is not in session and the Chancellor is satisfied that it is necessary to frame Statutes on any subject, the Chancellor after obtaining the advice of the 4[Department of Higher Education, Government of Jharkhand] shall send the draft Statutes for opinion to the Syndicate of the University and it shall be binding on the Vice-Chancellor to convene a meeting of the Syndicate for consideration of the drafts statutes within 10 days of receipt of the said draft. The Chancellor shall then give his assents to the Statutes with such amendments as may deem necessary in the light of the opinion of the Syndicate. The Statutes shall be deemed to have come into force in the University from the date of assent. Statutes framed in this manner shall be placed before the next meeting of the Senate for confirmation:

57. There is no dispute upon the position of law that the statutory provision as contained either under Section 22 or 23 are the law formulated by the State Legislature while Section 34, the Legislature has conferred power to the University authorities to make out the rule by way of statute.

58. The fact about the conferment of power under Section 34 making out the provision of a statute is not in dispute since the specific case of the petitioners is of making claim on the basis of the statute 1986, meaning thereby, statute 1986 being formulated under the conferment of power under the Act, as such, there cannot be any dispute with respect to the authority conferred under Section 34 of the Act in making out a statute.

59. Sections 22, 23, 24, 35 and 36 of the University Act primarily delineate the powers of the University authorities, the framing of statutes, and the governance of appointments and promotions. The question before the Division Bench was confined to the subsistence or repeal of the Statute of

1986 vis-à-vis the Statute of 1995. Unless the cited provisions directly regulate or preserve the continuance of the 1986 scheme, their non-consideration cannot be said to undermine the finding of implied repeal.

60. Even if it be presumed that the cited sections of University Act were not considered, they do not exhibit a direct nexus with the issue of repeal. The finding of the Division Bench, therefore, remains unaffected.

61. The impugned order has been passed by the authority concerned rejecting the claim of the petitioners but it is not the case of the petitioners that their claim has been rejected by denying the claim of the pay scale on the basis of the statue 1995 rather the case of the petitioner is that there is no extension of the post as the nomenclature of the Professor in the statute 1995.

62. The same is not in dispute but merely because there is no reference of the nomenclature of post in the subsequent statute 1995 that does not accrue any right in favour of one or the other to claim the benefit of pay scale in upgradation of the higher post rather the claim of the upgradation in the post is to be given on the basis of the policy decision or regulation formulated by the employer as the fact of the case herein is.

63. Thus, considering that at the time of statute 1986 the reference of the post of Reader and Professor was there for the purpose of grant of time bound promotion equivalent to the pay scale attached to these post but the subsequent policy decision the same has been recalled and new provision has been inserted wherein, in the same post, the pay scale has been upgraded in two categories by changing the nomenclature of the post also.

64. The claim of the petitioners is based upon the eligibility that one or the other have become eligible on completion of requisite years of service but merely becoming eligible, no right will be said to be accrued in favour of the petitioners to claim the benefit on the basis of 1986 statute rather herein, or the day when they became eligible, there was no

existence of the statute 1986 and hence, the benefit is only to be granted as per the prevalent statue as applicable on the date of eligibility .

65. The issue having been answered against the petitioners and the same has already been dealt with by the co-ordinate Bench of this court vide order dated 28.09.2022 in L.P.A. No. 658 of 2018, hence, there is no requirement to interfere with the impugned order.

66. Accordingly, both the writ petitions stand dismissed.

67. Pending interlocutory application(s), if any, also stands dismissed.

(Sujit Narayan Prasad, J.)

I agree,

(Pradeep Kumar Srivastava, J.) **(Pradeep Kumar Srivastava, J.)**

23rd September, 2026

Saurabh/-

A.F.R.

Uploaded on: 24.09.2026