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

\+ W.P.(C) 1406/2025 & CM APPL. 6826/2025

DR. SHIBLI JAMEEL AHMAD .....Petitioner

Through: Mr. Adit S. Pujari, Ms. Nehal Siddiqui, Mr. Manvendra Singh Shekhawat and Mr. Harshwardhan Pushkin Sharma, Advocates.

versus

JAMIA HAMDARD .....Respondent

Through: Dr. Swaroop George, Mr. Mobashshir Sarwar, Mr. Abhinandan Jain, Mr. Shivam Prajapati, Mr. Abhigyan Dwivedi, Mr. Kartikey and Mr. Takrim Ahsan Khan, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **10.02.2026**

1. This writ petition raises a narrow question with wide consequences: whether an employee of Jamia Hamdard (Deemed University) who, in September 1996, opted to continue under the Contributory Provident Fund (CPF) regime can, nearly three decades later, demand a mandatory shift to the General Provident Fund (GPF) with pension by invoking the Government of India Office Memoranda dated 1st May, 1987. The relief sought is a writ of mandamus directing the Respondent to "forthwith convert" the Petitioner's CPF account into a GPF account, with all consequential pensionary benefits.

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Facts in brief:

2. The Petitioner, Dr. Shibli Jameel Ahmad, serves as a faculty member of the Respondent University. He traces his claim to the Office Memoranda dated 1st May, 1987 issued by the Department of Pension and Pensioners' Welfare. In essence, he reads them as creating a legal fiction by which CPF beneficiaries stood shifted to the pension/GPF regime unless they exercised a positive option to remain in CPF within the stipulated cut-off date.

3. The Respondent University is a deemed to be University under Section 3 of the University Grants Commission Act, 1956[1] and asserts that it functions as an aided minority institution. It also asserts that Government of India memoranda on provident fund and pension do not automatically apply to its employees and become relevant only if adopted by the University's competent bodies.

4. The Petitioner entered regular service pursuant to an offer of appointment dated 20th September, 1994. The Respondent asserts that, at the time of appointment, the Petitioner was informed that he would be governed by provident fund and gratuity rules enforced in Jamia Hamdard and that he was extended the CPF-cum-gratuity arrangement prevalent in the University.

5. On 14th September, 1996, the University adopted a GPF-cum-pension-cum-gratuity scheme with effect from 1st October, 1996, on the footing that employees under CPF-cum-gratuity could opt either to continue in CPF or shift to the GPF-pension regime. The Respondent further places on record that the option window was originally up to 31st October, 1996 and was later extended up to 31st January, 1997 by a subsequent notification dated 16th

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January, 1997.

6. The Petitioner filled the option form dated 25th September, 1996 and selected continuation under the existing CPF arrangement. The Respondent emphasises that the option was voluntary and routed through the Head of Department.

7. The Petitioner states that he later realised that, in law, the default regime ought to have been GPF/pension, and that the 1996 option was "inadvertent" and, in any event, non-est once the 1987 cut-off had passed. He also asserts that similarly situated employees were treated differently and that his repeated representations (from 2016 onwards) did not yield relief.

8. The Respondent points out that the Finance Committee considered requests for switching from CPF to GPF-pension in its 55th meeting in March 2018 and did not approve the proposal. It also places on record the asserted pension liability and funding shortfall reflected in its audited financials, and contends that expanding pension coverage would impose an unsustainable burden.

9. Counsel for the Petitioner makes the following submissions in support of the reliefs sought:

9.1 The Petitioner relies upon the Office Memoranda dated 1st May, 1987 issued by the Government of India pursuant to the recommendations of the Fourth Central Pay Commission. Under the said Office Memoranda, all CPF beneficiaries in service on 1st January, 1986 were deemed to have come over to the GPF-cum-Pension Scheme unless they exercised a positive option to continue under CPF on or before 30th September, 1987.

9.2 The scheme of the Office Memoranda makes pension the default

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[1] "UGC Act"

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regime and CPF the exception, survivable only through a timely opt-out before the cut-off date. Any option exercised after 30th September, 1987 is *non-est* in law.

9.3 Jamia Hamdard was conferred the status of a deemed to be University and Central Government service rules were made applicable to it from 10th May, 1989. Being "State" within the meaning of Article 12, the Respondent is bound to adhere to the Central Government policy governing provident fund and pension.

9.4 The Petitioner was appointed on a permanent post on 28th September, 1994, well after the cut-off date of 30th September, 1987. For appointments made after the said date, the GPF-cum-Pension Scheme alone could operate as the default regime, and CPF could not be applied to fresh appointees.

9.5 The University Order dated 14th September, 1996 introducing a GPF-cum-Pension-cum-Gratuity Scheme and requiring employees to exercise an option was contrary to the governing Central policy. The Petitioner's option dated 25th September, 1996 selecting continuation under CPF was inadvertent and legally inconsequential, the cut-off prescribed in the 1987 Office Memoranda having already expired.

9.6 Reliance is placed on the decisions in ***Dr. R.N. Virmani v. University of Delhi***,[2] ***N.C. Bakshi v Union of India & Ors***,[3] and ***University of Delhi v. Shashi Kiran***, [4] which hold that in the absence of a valid option within the stipulated period, the employee is deemed to have come over to the pension regime and any option exercised beyond the cut-off date is legally ineffective.

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[2] WP(C) 1490/2006-1507/2006

[3] 2014 SCC OnLine Del 2798

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9.7 The Respondent administered the CPF and GPF regimes arbitrarily. Information obtained under the Right to Information Act indicates that certain employees appointed in 1994-1995 were placed under the GPF scheme, whereas the Petitioner was retained under CPF, violating Articles 14 and 16.

9.8 The grievance constitutes a continuing wrong, as the Petitioner's service record continues to reflect coverage under CPF and the adverse consequences culminate upon retirement.

10. Counsel for the Respondent University resists the petition on the following broad submissions:

10.1 The Office Memoranda dated 1st May, 1987 issued by the Government of India do not govern Jamia Hamdard or its employees. Jamia Hamdard is a deemed to be University under Section 3 of the UGC Act, and is not a department of the Central Government. The said Office Memoranda were applicable to Central Government employees and were never adopted or incorporated into the service framework of the Respondent University.

10.2 Provident fund, pension and gratuity matters in Jamia Hamdard are governed by its own institutional framework and by decisions of its competent statutory bodies. The Central Government Office Memoranda cannot automatically override or supplant the University's independently framed schemes.

10.3 The Respondent introduced a GPF-cum-Pension-cum-Gratuity Scheme for the first time by University Order dated 14th September, 1996 with effect from 1st October, 1996. Prior to that date, the pension/GPF regime was not in existence within the University. The question of a

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[4] 2022 INSC 543

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mandatory switchover in 1986-1987 therefore does not arise in the context of the Respondent institution.

10.4 The Petitioner was appointed in 1994 and was governed by the CPF-cum-gratuity arrangement then prevalent in the University. Upon introduction of the pension scheme in September 1996, employees were given an option either to continue under CPF or to shift to the GPF-cum-pension regime.

10.5 The Petitioner exercised a written option dated 25th September, 1996 opting to continue under CPF. The option was voluntary, processed through proper departmental channels, and acted upon thereafter. Having consciously elected to remain under CPF and having continued under that regime for decades, the Petitioner cannot now resile from that election.

10.6 The petition suffers from gross delay and laches. The option process concluded in 1996-1997. The Petitioner did not challenge the same for nearly two decades and raised the issue only in or around 2016. Repeated representations do not revive a stale claim or create a fresh cause of action.

10.7 The Finance Committee considered the question of permitting switchover in March 2018 and did not approve it. Reliance is placed on the Respondent's audited financial position to contend that there is a shortfall even in relation to existing GPF optees and pensioners. A judicial direction compelling expansion of pension coverage would impose an untenable fiscal burden on the institution and interfere with policy choices taken by the competent bodies entrusted with financial governance.

Analysis and findings:

11. Two pertinent questions fall for determination:

(i) Whether the Office Memoranda dated 1st May, 1987, issued by the

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Government of India for the CPF to pension switchover, apply to Jamia Hamdard and, by that very force, entitle the Petitioner to be treated as governed by GPF-cum-pension.

(ii) If the Office Memoranda do not so apply, whether a writ of mandamus can nevertheless be issued to undo the Petitioner's option dated 25th September, 1996 and compel conversion from CPF to GPF-cum-pension.

Issue (i): Applicability of the Office Memoranda dated 1st May, 1987

12. The decisions relied upon by the Petitioner, including ***Shashi Kiran*** and ***N.C. Bakshi,*** rest on a common foundation: the governing notification/Office Memorandum formed part of the service regime applicable to the institution and the employees concerned. In those circumstances, the deeming fiction in the Office Memorandum dated 1st May, 1987 operated, with the consequence that (a) employees covered by that regime were deemed to have shifted to GPF-cum-pension unless they exercised a positive option to continue under CPF by the cut-off date, and (b) an option exercised after the cut-off was treated as legally ineffective.

13. That reasoning, however, does not answer the anterior question here: whether the Office Memoranda dated 1st May, 1987 ever governed Jamia Hamdard in the first place. A deeming fiction cannot be invoked in the abstract. It takes effect only within the field to which the instrument applies. The material placed shows that Jamia Hamdard is a deemed to be University under Section 3 of the UGC Act, 1956. Even if it is assumed, for jurisdictional purposes, that it answers the description of "State" under Article 12, that characterisation does not, by itself, transplant Central Government Office Memoranda into the University's service conditions. A

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writ court enforces an existing legal duty. It does not, merely because an authority is amenable to writ jurisdiction, treat every Central Government executive instruction as binding upon that authority.

14. The Petitioner's case proceeds on an assertion that Central Government service rules were "made applicable" to the University in May 1989. That assertion alone does not establish that the Office Memoranda of 1st May, 1987 were adopted as enforceable conditions of service for Jamia Hamdard employees, or were extended to the University by a competent governmental/UGC direction with binding force. No document has been shown which incorporates the 1987 Office Memoranda into the University's provident fund and pension framework, or demonstrates that the University's competent authority adopted them as the rule of decision.

15. Equally, the University Order dated 14th September, 1996 assumes significance. It records, as a conscious institutional measure, the introduction of a "GPF-cum-Pension-cum-Gratuity Scheme" with effect from 1st October, 1996, and provides an option framework for existing employees. That structure is difficult to reconcile with the Petitioner's hypothesis that, by a mandatory legal fiction operating from 1st January, 1986 (or at the latest 30th September, 1987), the University was already bound to treat its employees as pensionable by default. If the 1987 deeming switchover truly governed this University, the 1996 order would, at the least, have reflected that position; instead, it proceeds on the premise that the pension/GPF framework is being introduced and that employees must elect between alternative regimes.

16. The conclusion, on the present record, is therefore unavoidable: the Petitioner has not demonstrated that the Office Memoranda dated 1st May,

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1987 bind Jamia Hamdard in a manner that creates an enforceable right to automatic GPF-cum-pension coverage. In the absence of such foundational applicability, the decisions in ***Shashi Kiran*** and ***N.C. Bakshi*** do not advance the petitioner's case or override the University's 1996 scheme.

Issue (ii): Effect of the option dated 25th September, 1996 and the claim for conversion

17. Once the enquiry shifts from the 1987 Office Memoranda to the University's own scheme, the focus necessarily turns to the terms of the 1996 framework. The Petitioner's option dated 25th September, 1996 was not exercised after the cut-off prescribed in the University's scheme. It was exercised within the option window created by the University Order dated 14th September, 1996. The attempt to describe the 1996 option as "non est" by importing the cut-off of 30th September, 1987 from a different regime therefore proceeds on an erroneous equivalence.

18. The Petitioner seeks to escape the 1996 election by pleading "inadvertence" and "confusion". A plea of that kind may, in a given case, carry weight if it is grounded in cogent particulars showing misrepresentation, material non-disclosure, coercion, or a demonstrable mistake induced by the employer. Here, the option form concerned a fundamental choice about retiral benefits. The election was recorded in writing, countersigned at the departmental level, and then acted upon for years in the form of continued CPF operation. A bare plea of inadvertence, without a narrative explaining how the election was vitiated in law, cannot justify a mandamus that would rewrite a concluded election after decades.

19. A writ of mandamus is issued to enforce a legal right corresponding to a public duty. It does not lie to compel an employer to redesign a pension

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framework or expand pension liabilities in the absence of a binding rule requiring such expansion. Pension, while a valuable service benefit once conferred, does not become enforceable merely because it appears more advantageous than CPF. The principle that retiral benefits are not "bounties" answers a different question: it protects what the law already grants. It does not create a fresh entitlement to be placed in a superior scheme when the governing framework does not so provide.

20. The discrimination plea is couched in vague terms to sustain relief. A claim under Article 14 in this context requires clear comparators, their dates of appointment, the governing scheme applicable to them, the precise basis on which they were treated differently, and how such differential treatment is traceable to an arbitrary or mala fide decision. The petition does not supply that foundation. In any event, even if some irregular benefit was extended to another employee, equality jurisprudence does not compel repetition of an illegality. The principle is well settled that Article 14 does not envisage negative equality. An illegality or irregularity in favour of one person cannot be made the basis for claiming similar treatment.[5]

Delay and laches

21. The dispute, on the Petitioner's own showing, crystallised when the University introduced the GPF-cum-pension framework in September 1996 and the Petitioner exercised his option on 25th September, 1996. If the entry in the service record or the election was to be questioned, that was the time for challenge. Approaching the writ court after prolonged acquiescence invites the Court to unsettle settled financial and service arrangements. The later stream of representations does not, by itself, resurrect a stale claim.

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Decisions such as ***C. Jacob v. Director of Geology and Mining***[6] and ***Union of India v. M.K. Sarkar***[7] caution against treating repeated representations as a device to create a fresh cause of action.

22. The Petitioner's attempt to invoke the language of "continuing wrong" does not assist in a case founded on a one-time election within a defined option window. A recurring financial consequence does not convert a concluded election into a continuing breach.

Conclusion:

23. For the foregoing reasons, the Petitioner has failed to establish that the Office Memoranda dated 1st May, 1987 apply to Jamia Hamdard so as to mandate a deemed shift from CPF to GPF-cum-pension. Once that foundation fails, the Petitioner cannot avoid the consequence of the option exercised on 25th September, 1996 within the University's own scheme framework, especially after long acquiescence. No enforceable public duty is shown that would justify a mandamus compelling conversion and the attendant pension liabilities. No interference under Article 226 is warranted.

24. Dismissed. Pending application(s) shall also stand disposed of.

SANJEEV NARULA, J

FEBRUARY 10, 2026/*hc*

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[5] Chandigarh Administration v. Jagjit Singh (1995) 1 SCC 745
[6] (2008) 10 SCC 115
[7] (2010) 2 SCC 59

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