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

\+ W.P.(C) 13679/2018

SUNIL KUMAR JOHAR .....Petitioner

Through: *None.*

versus

NTPC LTD. AND ANR. .....Respondents

Through: Mr. Kaushtubh Anshuraj and Mr. Parmod Kalirana, Advocates for R-2.
Mr. J.S. Lamba, Advocate for NTPC.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **13.04.2026**

1. On 10th February, 2020, the proceedings were adjourned *sine die*, awaiting the decision of the Supreme Court in Special Leave to Appeal (C) Nos. 885–917/2019, titled '***The Secretary, NTPC Pension Trust vs. NTPC Limited & Anr. etc.***', which was to answer the question of maintainability of the writ petition against the Pension Trust.

2. Subsequently, the matter was listed on 27th February, 2026 before the Joint Registrar (Judicial) for evaluation and case flow management. On the said date, notice was issued to both parties.

3. Before the Joint Registrar, on 17th March, 2026, counsel for Respondent No. 2 informed that the matter had been remanded back and that

W.P.(C) 6357/2019, along with a batch of connected petitions, has been decided by this Court by judgment dated 21st May, 2025, titled '***NTPC Retired Employees Welfare Association and Ors. v. NTPC Ltd. and Ors.***'.

4. The instant petition impugns the communications dated 20th July, 2017 and 3rd August, 2017, issued by Respondent No. 1, whereby the Petitioner's request for payment of pension as per the National Thermal Power Corporation Limited Self Contributory Superannuation Benefits (Pension) Scheme, 1995 ["*1995 Scheme*"] was declined. In the impugned communications, the Respondents, *inter alia*, contended that the scheme is self-contributory and has been made a defined contribution scheme with effect from 1st April, 2002, for which a Circular dated 3rd February, 2003 was also issued by Respondent No. 2. This very issue was the subject matter of challenge in the batch of petitions referred to above [including W.P.(C) 6357/2019], which now stands decided by judgment dated 21st May, 2025. In the said judgment, this Court has held as follows:

> *"39. At the cost of repetition, I may note that in the present batch of petitions, in writ petitions, bearing W.P. (C) Nos. 2327/2016, 2092/2016, 9539/2016, 6179/2016, 2289/2016, 4839/2016 and 2010/2016, Petitioners are those members of the 1995 Scheme who retired prior to 03.02.2003 while Petitioners in the other writ petitions, save and except one, are those who retired post 03.02.2003, the date on which the 2003 Scheme was introduced albeit retrospectively to apply to all cases of superannuation after 01.04.2002 and to cases of death while in service/total incapacitation after 31.08.2002, except cases already settled by the Trust. Some members of Petitioner No. 1 in W.P.(C) 6357/2019 are also retirees prior to 03.02.2003.*
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> *40. The moot question that arises for consideration before this Court is whether the Petitioners will be governed by 1995 Scheme or the restructured 2003 Scheme. But before examining the said questions, it is important to segregate the Petitioners in two categories. In my view, cases of Petitioners who retired prior to 03.02.2003 cannot be placed on the same pedestal as those who retired post the said date as they are squarely covered by the judgment of the Supreme Court in Mohd. Yunus (supra). Therefore, in these cases, this Court need not enter into deciding the vexed*

question of validity of the 2003 Scheme, which cannot be made applicable to them retrospectively.

41. The case of Mohd. Yunus before the Allahabad High Court was that since he had attained the age of superannuation on 31.07.2002, he was entitled for payment of pension under the 1995 Scheme. Agreeing with Mohd. Yunus, Allahabad High Court held that he would be entitled for payment of post-retiral dues in accordance with the 1995 Scheme, existing on the date of his retirement and any change made subsequently shall not affect his rights and accordingly, direction was issued to pay his post-retiral dues as per the 1995 Scheme. The judgment was carried in appeal, which was dismissed by the Supreme Court on 09.12.2015, holding that retiral benefits of Mohd. Yunus crystalized on the date of his retirement i.e. 31.07.2002 and any rules or guidelines notified thereafter including the 2003 Scheme could not be made applicable to him. Applying the aforesaid judgment, cases of Petitioners who retired prior to 03.02.2003, will be governed by the 1995 Scheme and the 2003 Scheme, which was introduced post their retirement will be inapplicable. The action of the Pension Trust to make the scheme retrospectively applicable to retirees from 01.04.2002 to take away their vested rights which crystallised on the dates of their respective retirements, cannot be sustained."

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65. All other writ petitions, where the Petitioners have retired post 03.02.2003, are dismissed for the aforesaid reasons."

5. This Court has thus drawn a distinction between employees whose rights had crystallised prior to 3rd February, 2003 and those who retired thereafter. Employees who retired prior to the said date were held entitled to the benefit of the 1995 Scheme, whereas those retiring subsequently could not claim the same benefit under the said Scheme.

6. In the present case, there is no dispute that the Petitioner superannuated on 31st December, 2012, and therefore falls in the category of employees retiring after 3rd February, 2003 and cannot, therefore, claim any vested right under the 1995 scheme. In such circumstances, the question raised by the Petitioner stands covered by the aforesaid decision and the same shall apply *mutatis mutandis* to the present case.

7. Accordingly, for the reasons recorded in the aforesaid judgment, which shall be read as part of the present order, the Petitioner, having retired after 3rd February, 2003, is not entitled to the benefit claimed under the 1995 Scheme.

8. The petition is, accordingly, dismissed.

SANJEEV NARULA, J

APRIL 13, 2026/*nk*