2025:AHC:203155

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HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 16734 of 2012

Dr. S.K. Pant Professor and others

.....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

Counsel for Petitioner(s)	:	Alok Mishra, Ishir Sripat, Rahul Sripat (Senior Adv.)
Counsel for Respondent(s)	:	Amrendra Pratap Singh, C.S.C., Chandan Sharma, Manoj Kumar Singh, Radhey Krishna Pandey, Ram Gopal Tripathi, Ritvik Upadhyay, Shailendra, Shashi Prakash Singh, V.K.Singh

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Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioners were admittedly appointed on different posts in an autonomous institution registered under the provisions of Indian Societies Registration Act, 1860 *(hereinafter referred to as "Act, 1860"),* namely, Govind Ballabh Pant Social Science Institute, Allahabad and being an autonomous institution it's finances were catered jointly by Government of India (through ICSSR) and Government of Uttar Pradesh.

2. In the year 2005 the University of Allahabad was conferred status of a Central University and vide Section 30(5) 1, 2 and 3 of University of Allahabad Act, 2005 it was adopted as constituent institution of University of Allahabad.

3. Now the petitioners are claiming that by virtue of becoming a constituent institution of University of Allahabad they are entitled for all benefits granted to Central University employees including the benefit of pension, i.e., to provide General Provident Fund Scheme instead of Contributory Provident Fund Scheme.

4. The claim of petitioners were considered and rejected by University Grants Commission that old scheme under CCS Pension Rules is not available to any new entry and since Govind Ballabh Pant Social Science Institute, Allahabad was an autonomous body, therefore, despite it is a constituent institution of Allahabad University, CCS Rules were not applied to it.

5. Sri Alok Mishra, learned counsel for petitioners submitted that petitioners have not been granted benefit of pension scheme whereas other employees who have been appointed before the cut off date of 2005 of University are getting benefit of pension. Learned counsel refers the judgment passed by Supreme Court in **University of Delhi vs. Shashi Kiran and others (2022)15 SCC 325** and **Indian Council of Social Science Research (ICSSR) vs. Neetu Gaur and others, 2025 INSC 374** that the claim of petitioners be considered and they be granted benefit of pension scheme.

6. Per contra, Sri Ritvik Upadhyay, Sri Chandan Sharma, Sri R.K. Pandey and Sri Anil Kumar Singh, Advocates for respondents have supported the impugned order that only by virtue of being a constituent institution, petitioners cannot be granted benefit of pension scheme. They further submitted that even the Central Civil Service Rules are applicable

to petitioners it would not be considered that they are entitled for pension also since both have different manner of applicability.

7. I have considered the above submissions and perused the material on record.

8. A similar controversy was considered by this Court in the case of **Priyankar Upadhyaya vs. Union of India and others, 2025:AHC:37820** wherein a claim of retired teaching and non-teaching employees of Banaras Hindu University to become beneficiary of General Provident Fund-cum-Pension Scheme was rejected by a reasoned order and for reference the relevant part of judgment is reproduced hereinafter:

> *"**20**. I have heard learned counsel for parties at length and perused the material available on record.*
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> ***21**. The factual aspect of the case which appears to be undisputed is that the Union of India has issued Office Memorandum dated 01.05.1987 that CPF beneficiaries who were in service on 01.01.1986 and were still in service on the date of issue of Office Memorandum i.e., 01.05.1987 will be deemed to come over in GPF-cum-Pension Scheme, except they have exercised their option to remain in CPF Scheme by 30.09.1987 and interpretation of said Office Memorandum as held by Supreme Court in **University of Delhi vs. Smt. Shashi Kiran (supra)** so far as case of present petitioners is concerned, is that any option given subsequent to cut off date, i.e., 30.09.1987 to remain in CPF Scheme, would be non-est and according to petitioners since they have not given their option on or before 30.09.1987, therefore, they deemed to have come over to GPF-cum-Pension Scheme despite admittedly they have given option after said date. Court has to consider effect of dates of adoption of Scheme by Banaras Hindu University, i.e., 09.04.1988 and cut off date being fixed as 09.07.1988.*
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> ***22**. Learned Senior Advocates for petitioners have pressed their arguments heavily on an interpretation that petitioners have given their option to remain in CPF Scheme beyond the cut off date, i.e., 30.09.1987, therefore, their options were non-est and they were already deemed to switch over in GPF-cum-Pension Scheme and they are ready that if their prayers are accepted, they will return Union's contribution of CPF within a very short period alongwith reasonable interest. The date fixed by Banaras Hindu University to give option was beyond 30.09.1987, therefore, it would have no legal consequence.*

23. *The Court is of the view that there is no dispute so far as above referred position of law is concerned and as held by Supreme Court in* ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *in very specific words. Therefore, the law so far as option given subsequent to 30.09.1987 as held by Supreme Court has to be followed. However, few facts make present cases still distinguishable.*

24. *It is not in dispute that in the present case, Banaras Hindu University adopted GPF-cum-Pension Scheme by notification dated 09.04.1988, i.e., much after the cut off date, i.e., 30.09.1988 and it has fixed the cut off date as 09.07.1988 to exercise option to continue in CPF Scheme. Therefore, if the law, as held by Supreme Court in* ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *is applied in present set of facts, any option subsequent to 09.07.1988 would be non-est. According to the case of petitioners they have opted to remain continue in CPF Scheme subsequent to date of adoption of Scheme by Banaras Hindu University on 09.04.1988 and before cut off date fixed, i.e., 09.07.1988.*

25. *If the Court takes a view that irrespective of fact whether any University or Institution has adopted the Office Memorandum dated 01.05.1987 even after the cut off date, i.e., 30.09.1987, the cut off date would be treated only 30.09.1987 and not any subsequent date fixed, then it would frustrate the very object of Office Memorandum dated 01.05.1987, i.e., giving option to remain continue in CPF Scheme as it would render meaningless. Said issue was not before Supreme Court since admittedly Delhi University has issued notification within a very few days of Office Memorandum dated 01.05.1987 fixing same cut off date, i.e., 30.09.1987. Same was the factual position in a subsequent judgment passed by Single Bench of Delhi High Court in* ***Neerja Tiku (supra)*** *so far as School of Planning and Architecture is concerned.*

26. *So far as the argument that judgment passed by Supreme Court in* ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *is in rem or in personam is concerned, the Court is of the view that it was a judgment in rem and not in personam as also held by Single Bench of Delhi High Court in* ***Neerja Tiku (supra),*** *however, facts of each case may have different consequences.*

27. *Now the Court proceed to deal with the objection of Union of India that Office Memorandum issued by Government of India was not adopted in due process by Banaras Hindu University. In this regard, Court is of the view that objection has no legal basis since such objection was never raised in earlier round of litigation as well as that it has already been acted upon and its benefit has also been granted. Therefore, the Court is also of the opinion that without distinguishing on facts or on law, the stand of Union of India that the judgment of Supreme Court in* ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *would not applicable to other Universities, would not be a correct legal approach.*

28. Any objection with regard to financial implication is also unsustainable since it was the Office Memorandum of Government of India which must have taken care that after said Office Memorandum dated 01.05.1987 it was possible that all beneficiary employees may switch over to GPF-cum-Pension Scheme.

29. Court also takes note that similar prayer of petitioners were already rejected by this Court vide judgment dated 12.08.2011 and only on ground that subsequently a different interpretation of law was given by a Single Bench of Delhi High Court, which was affirmed by Division Bench and thereafter affirmed by Supreme Court in ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *and since petitioners were approaching the authorities after these judgments, would not make a ground that said judgment is applicable to petitioners so much as that earlier judgment would not come in the way.*

30. The outcome of above discussion is that:

(a) The case of employees of Banaras Hindu University is factually on a different footing than the employees of Delhi University.

(b) Banaras Hindu University has adopted the Office Memorandum dated 01.05.1987 issued by Government of India by a notification dated 09.04.1988, i.e., much after the original cut off date, i.e., 30.09.1987, and has fixed the new cut off date, i.e., 09.07.1988 to submit option and since said notification is not under challenge, therefore, while applying the judgment of Supreme Court in ***University of Delhi vs. Smt. Shashi Kiran (supra),*** *above referred dates rendered it distinguishable.*

(c) If the law as held by Supreme Court in ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *is applied in the facts and circumstances of present cases taking note of above referred dates, the only interpretation would be that any option given beyond 09.07.1988 would non est, however, on basis of record, none of petitioners have a case that they have opted to remain in earlier CPF Scheme on basis of above cut off date rather their claim was taken birth only after Banaras Hindu University adopted the Scheme on 09.04.1988 and they have given option before new cut off date, i.e., 09.07.1988, therefore, the benefit of judgment in* ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *would not be applicable to present petitioners. Any other interpretation would render date of adoption and any subsequent cut off date meaningless.*

(d) It is not the case of petitioners or Respondent-Banaras Hindu University or even Union of India that Office Memorandum dated 01.05.1987 was automatically applicable to all Central Universities without being its specific adoption by a particular

> *University and further that issue was not before the Supreme Court in the case of* ***University of Delhi vs. Smt. Shashi Kiran (supra)****.*
>
> ***31****. In aforesaid circumstances, this Court is of the view that relief sought by petitioners cannot be granted. Impugned orders, though are not legally sustainable on grounds mentioned therein, since Banaras Hindu University has adopted the Scheme and that* ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *is a judgment in rem not in personam, still once the Court is of the opinion that benefit of judgment passed by Supreme Court in* ***University of Delhi vs. Smt. Shashi Kiran (supra)*** *cannot be granted in given circumstances of present cases, being distinguished on facts and as discussed above, therefore, there is no reason to interfere with orders impugned in present petitions."*

9. Petitioners therein have challenged the aforesaid order before a Division Bench of this Court which was also dismissed vide order dated 02.05.2025 in **Prof. Harish Chandra Chaudhary and others vs. The Union of India and others, 2025:AHC:69579-DB** and relevant part thereof is mentioned hereinafter:

> *"50. We are thus of the view that the appellants would not be entitled to any relief even though the subsequent judgment of the Supreme Court in the case of Smt. Shashi Kiran (supra) supports their claim. We are also of the view that subsequent decision of the Executive Council also would not come to the appellants rescue, inasmuch as, the Central Government and the UGC, both, had refused to allow change from CPF to Pension Scheme. Such decision of the Central Government was affirmed by this Court in Dr. V.P. Singh's case. Without there being any permission from the Central Government/UGC, it was not open for the BHU to have taken a different decision in the matter of grant of option to switch over to Pension Scheme. Since the BHU is 100% funded by UGC/Central Government and is otherwise not having enough resources to bear the finances for the purpose on its own, we would not be justified in accepting the claim of the appellants to opt for pension scheme.*
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> *51. In matters of financial management and discipline the courts would have to be careful and vigilant in granting reliefs. Any interference in such matters would be permissible only where the facts of the case justify such interference on settled principles of law.*
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> *52. The Pension Scheme was introduced on 1.1.1986. The option to continue under CPF Scheme was availed by the appellants. Their request for switch over to Pension Scheme was rejected in 2011. The judgment in Dr. V.P. Singh affirming such decision has attained finality. The pension scheme itself has been discontinued in 2004. In such circumstances and particularly when most of the appellants have otherwise superannuated, it*

> *would not be prudent exercise of discretion for this Court to interfere in the matter and permit change from CPF Scheme to Pension Scheme nearly 40 years later. This is particularly so, as in the previous round of litigation such claim of appellants has otherwise been rejected."*

10. A challenge to it before Supreme Court is pending but no interim order is granted.

11. In the present case also in absence of any specific provision for General Provident Fund Scheme only on ground that institution become constituent of Allahabad University, petitioners cannot be granted benefit of General Provident Fund Scheme since it has to be granted only on basis of relevant provisions which are not applicable in the present case in favour of petitioners.

12. The Court also takes note of above referred judgments passed by a Single Bench and Division Bench of this Court wherein a similar claim raised by retired employees of Banaras Hindu University was rejected. Otherwise also, even after the institution become constituent of Allahabad University, it still remain autonomous and its finances are taken care by Central Government independently. Therefore also, there is no absolute right that petitioners may be granted benefit of General Provident Fund Scheme. In aforesaid circumstances, since there is no change in constitution of institution even after it become constituent of Allahabad University, as such petitioners claim has no force.

13. The Court also takes note of a judgment passed by Supreme Court in the case of **The State of Maharashtra and another vs. Bhagwan and others (Civil Appeal Nos. 7682-7684 of 2021), decided on 10.01.2022**, wherein it was held that employees of Maharashtra Water and Land Management Institute were not entitled for Government pensionary benefits. Relevant paragraphs of the judgment are reproduced hereinafter:

> *"10.2 In the case of T.M. Sampath and Ors. Vs. Secretary, Ministry of Water Resources and Ors. (supra), the employees of National Water Development Agency (NWDA), an autonomous body under the aegis and*

control of Ministry of Water Resources claimed the pensionary benefits on par with the Central Government employees. Refusing to allow such pensionary benefits to the employees of NWDA on par with the Central Government employees, in paragraphs 16 and 17, it was observed and held as under:-

> *"16. On the issue of parity between the employees of NWDA and Central Government employees, even if it is assumed that the 1982 Rules did not exist or were not applicable on the date of the OM i.e. 1-5-1987, the relevant date of parity, the principle of parity cannot be applicable to the employees of NWDA. NWDA cannot be treated as an instrumentality of the State under Article 12 of the Constitution merely on the basis that its funds are granted by the Central Government. In Zee Telefilms Ltd. v. Union of India (2005) 4 SCC 649, it was held by this Court that the autonomous bodies having some nexus with the Government by itself would not bring them within the sweep of the expression "State" and each case must be determined on its own merits. Thus, the plea of the employees of NWDA to be treated on a par with their counterparts in the Central Government under sub-rule (6)(iv) of Rule 209 of the General Financial Rules, merely on the basis of funding is not applicable.*
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> *17. Even if it is presumed that NWDA is "State" under Article 12 of the Constitution, the appellants have failed to prove that they are on a par with their counterparts, with whom they claim parity. As held by this Court in UT, Chandigarh v. Krishan Bhandari (1996) 11 SCC 348, the claim to equality can be claimed when there is discrimination by the State between two persons who are similarly situated. The said discrimination cannot be invoked in cases where discrimination sought to be shown is between acts of two different authorities functioning as State under Article 12. Thus, the employees of NWDA cannot be said to be "Central Government employees" as stated in the OM for its applicability." As per the law laid down by this Court in a catena of decisions, the employees of the autonomous bodies cannot claim, as a matter of right, the same service benefits on par with the Government employees. Merely because such autonomous bodies might have adopted the Government Service Rules and/or in the Governing Council there may be a representative of the Government and/or merely because such institution is funded by the State/Central Government, employees of such autonomous bodies cannot, as a matter of right, claim parity with the State/Central Government employees. This is more particularly, when the employees of such autonomous bodies are governed by their own Service Rules and service conditions. The State Government and the Autonomous Board/Body cannot be put on par.*

10.3 In the case of Punjab State Cooperative Milk Producers Federation Limited and Anr. Vs. Balbir Kumar Walia and Ors., (2021) 8 SCC 784, in paragraph 32, it is observed as under:-

> *"32. The Central or State Government is empowered to levy taxes to meet out the expenses of the State. It is always a conscious decision of the Government as to how much taxes have to be levied so as to not cause excessive burden on the citizens. But the Boards and Corporations have to depend on either their own resources or seek grant from the Central/ State Government, as the case may be, for their expenditures. Therefore, the grant of benefits of higher pay scale to the Central/State Government employees stand on different footing than grant of pay scale by an instrumentality of the State."*

10.4 As per the settled proposition of law, the Court should refrain from interfering with the policy decision, which might have a cascading effect and having financial implications. Whether to grant certain benefits to the employees or not should be left to the expert body and undertakings and the Court cannot interfere lightly. Granting of certain benefits may result in a cascading effect having adverse financial consequences.

10.5 In the present case, WALMI being an autonomous body, registered under the Societies Registration Act, the employees of WALMI are governed by their own Service Rules and conditions, which specifically do not provide for any pensionary benefits; the Governing Council of WALMI has adopted the Maharashtra Civil Services Rules except the Pension Rules. Therefore, as such a conscious policy decision has been taken not to adopt the Pension Rules applicable to the State Government employees; that the State Government has taken such a policy decision in the year 2005 not to extend the pensionary benefits to the employees of the aided institutes, boards, corporations etc.; and the proposal of the then Director of WALMI to extend the pensionary benefits to the employees of WALMI has been specifically turned down by the State Government. Considering the aforesaid facts and circumstances, the High Court is not justified in directing the State to extend the pensionary benefits to the employees of WALMI, which is an independent autonomous entity."

14. The aforesaid judgment is also against the case of petitioners. In aforesaid circumstances, there is no ground to interfere with impugned order. The writ petition is accordingly dismissed.

(Saurabh Shyam Shamshery,J.)

November 15, 2025
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