



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.04.2026

PRONOUNCED ON : 08.06.2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 15789 of 2025

AND

WP NO. 5613 OF 2025, WMP NO. 6194 OF 2025, WMP NO. 6196 OF 2025, WMP NO. 6197 OF 2025, WMP NO. 17854 OF 2025, WMP NO. 17855 OF 2025, WMP NO. 17857 OF 2025

V.Vaidiyanathan

..Petitioner(s)

Vs

1. Salim Ali Center For Ornithology And Natural History
Rep By Its Director Virendra Tiwari, South India Centre Of Wildlife Institute Of India, Anaikatty Po., Coimbatore- 641 108.
2. The Secretary
Ministry Of Environment , Forest And Climate Change, Indira Paryavaran Bhavan, Jorbagh Road, New Delhi-110 003.

..Respondent(s)

WP No. 5613 of 2025



Dr.S.Muralidharan

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WP Nos. 15789 & 5613 of 2



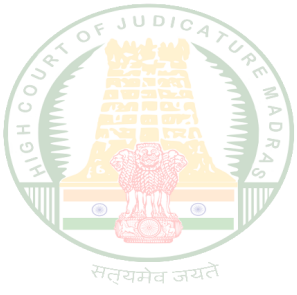
..Petitioner(s)

Vs

1. Salim Ali Centre For Ornithology And Natural History
Represented By Its Director Mr. Virendra Tiwari,
South India Centre Of Wildlife Institute Of India
Anaikatty P.O., Coimbatore 641 108
2. The Secretary
Ministry Of Environemtn Forest And Climate
Change Indira Paryavaran Bhavan, Jorbagh
Road, New Delhi 110 003

..Respondent(s)

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records of the 1st respondent in Office Memorandum in WII- SACON /CPF- NPS/ 2024- 2025 dated 18.2.2025 read with No.WII / ADM / 2025/ 14 dated 28.3.2025 and clause Xiii of the merger order dated 25.4.2023 in F.No. FC- 11/172/ 2022- DGF in so far as it restricts the entitlement of permanent employees in SACON which has since merged with WII to either CPF or the NPS Scheme, quash the same and direct the Respondents to convert the Provident Fund Scheme Applicable to the petitioner from the SACON Contributory Provident Fund Scheme to the General Provident Fund (GPF) and grant pension under the old Pension Scheme in accordance with the central Civil Services (Pension) Rules, 1972 after adjusting the sums standing to the credit of the Contributory Fund Account of the Petitioner representing the 1st Respondents subscription.

**WP No. 5613 of 2025**

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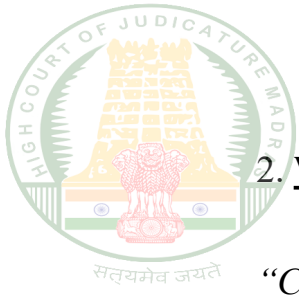
Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus Call for the records of the 1st Respondent in F.No WII / SACON / ADMIN / 2023 dated 28.4.2023 read with SACON / FIN / 33 / 2023-24 / 280 dated 7.9.2023, quash the same and direct the Respondents to convent the Provident Fund Scheme applicable to the petitioner form the SACON Contributory Provident Fund Scheme to the General Provident Fund (GPF) and grant pension in accordance with the central Civil Service (Pension) Rules 1972 after adjusting the sums standing to the credit of the contributory Fund Account of the petitioner representing the 1st Respondents contribution.

For Petitioner(s): Mr.Sundar Narayan

For Respondent(s): Dr.G.Babu, CGSPC For R1 And R2.

COMMON ORDER

Since the facts necessary for disposing of the above Writ Petitions are common to both the Writ Petitions, a common order is being pronounced.



2. **WP.No.5613 of 2025** has been filed for the following reliefs:-

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“Call for the records of the 1st Respondent in F.No WII / SACON / ADMIN / 2023 dated 28.4.2023 read with SACON / FIN / 33 / 2023-24 / 280 dated 7.9.2023, quash the same and direct the Respondents to convert the Provident Fund Scheme applicable to the petitioner from the SACON Contributory Provident Fund Scheme to the General Provident Fund (GPF) and grant pension in accordance with the central Civil Service (Pension) Rules 1972 after adjusting the sums standing to the credit of the contributory Fund Account of the petitioner representing the 1st Respondents contribution.”

3. **WP.No.15781 of 2025** has been filed for the following reliefs:-

“to call for the records of the 1st respondent in Office Memorandum in WII- SACON /CPF-NPS/ 2024- 2025 dated 18.2.2025 read with No.WII / ADM / 2025/ 14 dated 28.3.2025 and clause Xiii of the merger order dated 25.4.2023 in F.No. FC- 11/172/ 2022- DGF in so far as it restricts the entitlement of permanent employees in SACON which has since merged with WII to either CPF or the NPS Scheme, quash the same and direct the Respondents to convert the Provident Fund Scheme Applicable to the petitioner from the SACON Contributory Provident Fund Scheme to the General Provident Fund (GPF) and grant pension under the old Pension



Scheme in accordance with the central Civil Services (Pension) Rules, 1972

after adjusting the sums standing to the credit of the Contributory Fund

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Account of the Petitioner representing the 1st Respondents subscription.”

5. It is the case of the petitioner in WP.No.15789 of 2025 that he was appointed as a Stenographer Grade ‘D’ in the Central Secretariat Stenographers Service (CSSS) Cadre under the Department of Rural Development, Government of India, on 24.09.1991, and served therein till 1999. In August 1998, the 1st respondent issued a notification inviting applications for the post of Personal Assistant to the Director. The petitioner had applied on 31.08.1998 and was called for an interview on 24.11.1998. Pursuant thereto, by letter dated 24.01.1999, he was offered appointment to the said post and placed on probation for a period of two years. The petitioner had accepted the offer on 15.02.1999, and an appointment order dated 22.02.1999 was issued appointing him as Personal Assistant to the Director in the pay scale of Rs.6500-200-10500 with a basic pay of Rs.6500/-. The appointment order indicated that the petitioner would be entitled to draw allowances like, Dearness Allowance, House Rent Allowance and Contributory Pension Fund (hereinafter referred to as the “CPF”) and it was also specified that the condition of service would be governed by the Rules of the 1st respondent. By proceedings dated 12.06.2001, the petitioner was declared to have successfully completed probation, and he



continued in service in the said post till his retirement on 31.03.2025. As there were no promotional avenues available to the petitioner, he was granted financial upgradations in the years 2009 and 2019.

6. The petitioner in W.P. No. 5613 of 2025 was initially employed with the Bombay Natural History Society and upon a vacancy arising in the first respondent organisation, he had applied for the post of Scientist (Ecotoxicology) on 15.06.1992. He was called for an interview on 22.08.1992 and, by letter dated 24.08.1992, was offered temporary appointment to the said post in the pay scale of Rs.3000-100-3500-125-4000, together with admissible allowances. The appointment order indicated that the petitioner would be entitled to draw allowances like, Dearness Allowance, House Rent Allowance and CPF and it was also specified that the condition of service would be governed by the Rules of the 1st respondent. The petitioner accepted the offer of appointment and joined duty on 26.08.1992. By proceedings dated 30.01.1996, he was declared to have successfully completed probation and was confirmed as a regular employee. He continued in service and, upon attaining the age of superannuation, retired on 30.04.2023 from the post of Senior Principal Scientist Grade-I.



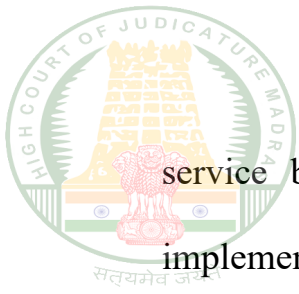
7. The petitioners would contend that though the 1st respondent's Governing Council had approved the Contributory Provident Fund Rules in the year 1992, the scheme has been operated by the 1st respondent without obtaining the requisite regulatory approvals as mandated under the Employees' Provident Funds and Miscellaneous Provisions Act, (EPF Act). That apart, the 1st respondent's Contributory Provident Funds had not been incorporated in the Schedule of the EPF Act by a notification of the Central Government. Consequently, by letter dated 05.02.2014, the Principal Director of Audit, Scientific Department had flagged the issue of 1st respondent not being notified under the Schedule of the EPF Act and advised the 1st respondent to get exemption/rebate under Section 80-C of the Income Tax Act, 1962.

8. As the 1st respondent had not taken any action for recognition of the CPF Account, the Ministry of Environment, Forest and Climate Change (hereinafter referred to as the "Ministry") vide letter dated 03.01.2017 stated that they have nothing to do with the 1st respondent getting recognition of CPF Account and that they would only provide salary support. Thereafter, as per the proposal of the 1st respondent, the 2nd respondent had taken up the issue to the Department of Expenditure, Government of India and the Department of Expenditure, Government of India had directed the 1st respondent to frame CPF Rules analogous to the CPF Rules, 1962 framed by Wildlife Institute of India



(WII). In the month of August 2018, the 1st respondent had framed the said rules and submitted the same to the 2nd respondent. According to the petitioners the Department of Expenditure, Government of India had referred the issue to the Ministry of Labour and Employment, Government of India in May 2022. However, the 1st respondent did not secure recognition till its merger with the 2nd respondent. The 1st respondent was dissolved on 26.07.2022 and the 1st respondent merged with the 2nd respondent with effect from 01.04.2023. As per the merger order, it was made clear that the operation of the CPF Account thereafter was unattainable and the rules framed by the 1st respondent ceased to exist.

9. In the year 2015, the 1st respondent had applied for registration under the NPS. However, the 2nd respondent had rejected the same by order dated 12.08.2015. By reason of this rejection order prior to the merger of the 1st respondent with the 2nd respondent, options were extended vide Office Memorandum (OM) dated 18.02.2025 to the permanent employees of the 1st respondent who have joined the duty before 01.01.2004 to continue with the existing CPF Scheme or shift from the CPF to the NPS, on or before 28.02.2025. According to the petitioners, the Office Memorandum dated 18.02.2025 is contrary to the Government Orders extending the benefit of the Old Pension Scheme (OPS) to persons who joined the Central Government



service before 01.01.2004. They would contend that the NPS cannot be implemented in their case, as they had joined the 1st respondent much before 01.01.2004.

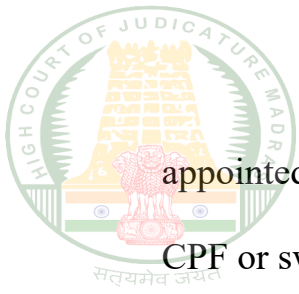
10. It is the case of the petitioners that, by virtue of the merger order dated 25.04.2023, they are deemed to be permanent employees of the 2nd respondent from the dates of their respective appointments until the dates of their retirement. Therefore, the respondents are bound to follow the Office Memoranda dated 03.03.2023 and 13.07.2023, which extend the coverage of the OPS to employees recruited against any post or vacancy in the Central Government on or before 01.01.2004. Since both the petitioners had entered service prior to 01.01.2004, they would contend that they are entitled to the benefit of the said Office Memoranda. As the same has not been extended to the petitioners, they have approached this Court seeking the reliefs stated supra.

11. The respondents have filed a counter affidavit in WP.No.15789 of 2025, which would also apply to WP.No.5613 of 2025. In the said counter affidavit, they would submit that the 1st respondent was established in the year 1990 as a Center of Excellence under the Ministry of Environment Forest and Climate Change, Government of India and was registered as a Society under the



Societies Registration Act. As per the Memorandum and Articles of Association of the 1st respondent, Rule 10.03 (xvii) specified that the Governing Council of the 1st respondent would have the powers to frame, amend or repeal byelaws for the administration of affairs of the society and to provide for the creation of posts, term and tenure of appointment, emoluments, allowances etc. The Governing Council of the 1st respondent has therefore framed its own sets of Recruitment and Promotion Rules for Scientific Positions and Administrative Staff since its inception in 1990. The petitioner in WP.No.125789 of 2025 was appointed as a Personal Assistant to the Director of the 1st respondent on 15.02.1999 and the terms and conditions of appointment was as per the prevailing rules. The appointment letter had also clarified that the petitioners was entitled to draw Dearness Allowance, House Rent Allowance and Contributory Provident Fund and all other conditions of service would be regulated as per the Rules of the 1st respondent.

12. The respondents would further submit that, in the 73rd meeting of the 2nd respondent's Governing Body, one of the agenda items pertained to the consideration of the Old Pension Scheme for the erstwhile employees of the 1st respondent who had become employees of the 2nd respondent by virtue of the merger order. The merger order provides that employees who had been



appointed prior to 01.04.2004 were entitled to either regularise their existing CPF or switch to the NPS.

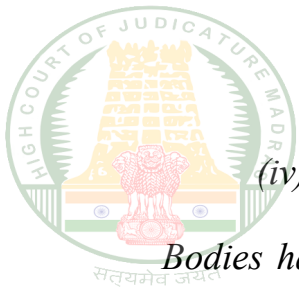
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13. The respondents would further submit that in continuation of the OM.No.F.No.1-38/2014-IFD of Government of India, MoEF&CC (IFD) dated 02.12.2014, it has been confirmed that the OPS is not applicable to the petitioner. This was on account of the following facts:-

(i) The employees of Autonomous Bodies are not Central Government servant. As per para 9 of Manual of Office Procedure, Autonomous Bodies (Abs) are such bodies which are established by the Government to discharge the activities which are related to Governmental functions although such bodies are given autonomy to discharge their functions in accordance with the Memorandum of Associations etc.

(ii) The Autonomous are either registered under the Indian Societies Registration Acts are created by an Act of Parliament. Every Autonomous Body is set up with a specific objective and is governed by different Bye Laws/Status.

(iii) While the Central Government servants are governed by FRs/SRs and CCS Rules, the employees of Autonomous Bodies are governed by their own Bye Laws adopted by the respective Governing Council/Executive Council and approved by the Government.



(iv) *In accordance with their Bye Laws/Statute, different Autonomous Bodies have different Pension Schemes. Some Autonomous Bodies have GPF-Cum- Pension Scheme, some have Contributory Provident Fund (CPF) Scheme and some Autonomous Bodies have both the Schemes. The Autonomous Bodies cannot, therefore, claim parity on various retirement benefits either with one another or with the Central Government employees, who are governed by CCS (Pension) Rules 1972.*

(v) *The employees of an autonomous Bodies, where pension scheme is pre-existing, are recruited with entitlement of pension as one of their service conditions. An employee of GBPIHED has not been recruited with the entitlement of pension, but has been recruited with the condition of entitlement of benefits of CPF Scheme. The employees of GBPIHED, therefore, cannot claim for shifting over from CPF Scheme to GPF-Cum- Pension Scheme as a matter of right.*

Therefore, they would contend that the petitioner is not entitled to the OPS.

14. The respondents would further submit that the petitioner has not been discriminated and he has been granted the assessment promotional benefits. That apart, the petitioner had retired on 31.03.2025 from service of the



respondent institute availing all consequential pensionaries benefits which was applicable to him as per the prevailing rules of the respondent institute.

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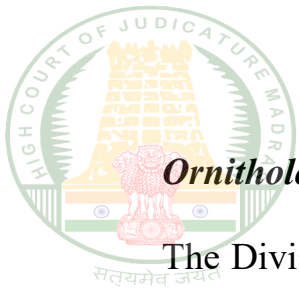
15. It is the further contention of the respondents that the petitioners' claim for coverage under the Central Civil Services (Pension) Rules in place of the National Pension System, based on the Office Memorandum dated 03.03.2023, is applicable only to Central Government employees and not to employees of societies/ Centres of Excellence. The 1st respondent had complied with all the terms of the merger order dated 25.04.2023. The request for consideration of Old Pension Scheme was deliberated in the 72nd Governing Body meeting of the 2nd respondent wherein it was decided that since the merger order mentioned only regularization of the CPF account or switch to NPS for extending pension support, the request for OPS was beyond the scope of the committee and had consequently turned down the said request. The respondents would, therefore, contend that the petitioners are not entitled to be covered under the Old Pension Scheme.

16. Since the issues involved in both the Writ Petitions are one and the same, common arguments have been advanced by either side.



17. Mr. Sundar Narayan, learned counsel appearing on behalf of the petitioners, would submit that the petitioners are aggrieved by the refusal of the respondents to extend the benefit of the Old Pension Scheme to them, which is available to the employees of the 2nd respondent. According to the learned counsel, upon the merger of the 1st respondent with the 2nd respondent, namely the WII, the petitioners became entitled to the same service benefits as those available to the employees of the 2nd respondent, including coverage under the Old Pension Scheme.

18. To the a preliminary objection that had been raised by the respondents that the writ petitions are not maintainable on the ground that the 1st respondent is not a "State" and, therefore not amenable to the writ jurisdiction of this Court, the learned counsel for the petitioners would place reliance upon the judgment of this Court reported in (2002) 3 MLJ 441, *Dr. E. Johnson and Others v. Salim Ali Centre for Ornithology and Natural History and Others*. In the said case, a similar contention had been raised with respect to the 1st respondent herein. Upon considering the facts of the case and the bye-laws governing the Society, this Court held that the 1st respondent organisation is a "State" within the meaning of Article 12 of the Constitution of India. The said judgment of the learned Single Judge was challenged by the 1st respondent in **W.A. Nos. 2837 and 2838 of 2002**, reported in **2010 (1) CWC 641**, *Salim Ali Centre for*



Ornithology and Natural History and Others v. Dr. C.P. Geevan and Others.

The Division Bench of this Court had upheld the findings of the learned Single Judge by holding that the appellant society is amenable to Writ jurisdiction. The learned counsel would, therefore, submit that the preliminary objection raised by the respondents is liable to be rejected.

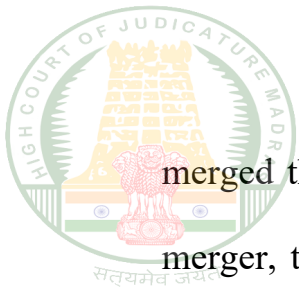
19. He would further draw the attention of this Court to the communication to the 1st respondent from the office of the Principal Director of Audit, Scientific Department forwarding a local Audit Report for the period 2012-2013 seeking reply from the 1st respondent. One of the queries raised was in para 5 relating to the Contributory Provident Fund. The report stated that the CPF of the 1st respondent was not a recognised provident funds as on 31.03.2013. The report also refers to the reply given by the 1st respondent and ultimately the report would read as follows:-

“ As the name of the SACON institute is not notified in the schedule to the Provident Fund Act, 1925, nor notified in any Official Gazette of the Government, the reply given by SACON is not acceptable. Remedial action may be taken in consultation with the Income Tax authorities and result intimated to audit.”



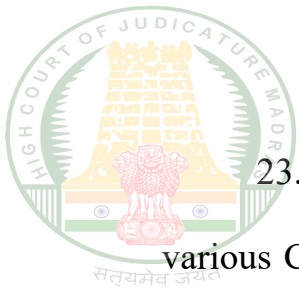
20. He would therefore submit that the CPF scheme of the 1st respondent had not been recognised provident fund and therefore the conclusion that the petitioners are bound by the CPF Scheme is not maintainable. Further, a decision was taken to merge the 1st respondent with the regular activities of the Ministry. The 1st respondent had been established as a Center of Excellence under the Ministry and was registered under the Societies Registration Act, 1860. The 1st respondent was being provided grants in aid as a Center of Excellence under the Center of Excellence Scheme. However, the Ministry had decided to discontinue the said scheme with the end of the 12th Five Year Plan and had therefore decided to merge the 1st respondent with the Ministry.

21. He would further submit that by OM dated 23.06.2022, it was decided to ensure compliance of the merger of the 1st respondent with the regular activities of the Ministry and its research and capacity building activities. In the meeting of the Finance Committee of the 1st respondent held on 22.07.2022, which was convened to obtain the broad overview of the financial position and assess the assets and liabilities of the 1st respondent as decision had been taken to dissolve the same. One of the resolution passed therein was that subsequent to its merger with the Ministry, the 1st respondent would become part of the Ministry and future financial requirements will be considered only by the Ministry. Thereafter, by an order dated 25.04.2023, the 2nd respondent had



merged the 1st respondent with the WII. The order clearly stated that with the merger, the permanent positions of the 1st respondent ceased with effect from the date of the dissolution of the Society and the permanent staff of the 1st respondent were required to be merged and treated as the permanent staff of the WII from the date of the merger. He would therefore submit that with effect from the date of merger, the petitioners and other permanent employees of the 1st respondent had become employees of the WII and were also fell under the administrative control of the Ministry.

22. Meanwhile, the Government of India, Ministry of Personnel Public Grievances and Pensions Department of Personnel and Training had issued a communication dated 13.07.2023 stating that with the introduction of the National Pension System (NPS) vide notification of the Ministry of Finance dated 22.12.2003, All India Service (Death-Cum-Retirement Benefit) Rules, 1958 and All India Service (Provident Funds) Rules 1955, were amended by notifications dated 07.02.2004 and 17.05.2014 respectively to mandate that the members of the All India Services appointed on or after 01.01.2004 would be covered under the NPS.



23. He would further contend that, pursuant to the said notifications, various Courts had considered and directed the extension of the benefits of the Old Pension Scheme to Government servants who had been appointed prior to the cut-off date prescribed under the notifications. Consequently, it was decided by the Government to grant a one-time option to eligible members of the service to be covered under the Old Pension Scheme. The order stipulated that such option should be exercised on or before 30.11.2023, failing which the employees concerned would continue to be governed by the National Pension System (NPS).

24. The learned counsel for the petitioners would contend that, by virtue of the merger of the 1st respondent with the 2nd respondent, the petitioners are deemed to have become employees of the 2nd respondent and, consequently, became entitled to exercise the option for coverage under the OPS. The petitioners had made several representations seeking OPS which came to be rejected by the 1st respondent by contending that as per the decision taken in the 73rd WII Governing Body Meeting held on 03.09.2024, it was decided that permanent members who had joined the 1st respondent before 01.01.2004 were called upon to give their consent for regularisation of the CPF or shifting from CPF to NPS on or before 28.02.2025. He would further submit that both the petitioners had exercised their option to be covered under the Old Pension



Scheme. However, their request was rejected on the ground that, in the 73rd Governing Body Meeting of the 2nd respondent, it had been decided that the merger order contemplated only the regularisation of the existing Contributory Provident Fund (CPF) Scheme or a switch to the National Pension System (NPS) for the purpose of extending pensionary benefits. Since the merger order did not provide for an option to be covered under the Old Pension Scheme, the petitioners' request for such coverage was not acceded to.

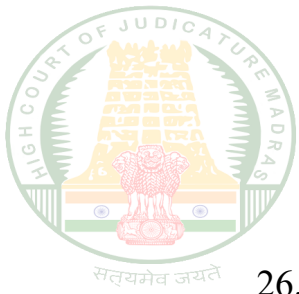
25. He would submit that upon merger, the petitioners were entitled to be treated on par with the employees of the WII. He would rely upon the following judgments in support of the aforesaid arguments:-

(i) (2006) 12 SCC page 53 – Union of India and another Vs. S.L. Verma and others.

(ii) 2017 SCC OnLine Mad 4641 – Union of India and others Vs. S.Subbiaah and others.

(iii) 2021 SCC OnLine Mad 1667 – Dr.Kishore K.John and Others Vs. Union of India and Others.

(iv) 2022 (15) SCC 325 -University of Delhi Vs. Shashi Kiran and Others.



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26. Per contra, the learned Assistant Solicitor General would contend that, even at the time of their initial appointment in the service of the 1st respondent, the terms and conditions governing the petitioners' service specifically provided that they would be entitled only to the benefits under the CPF Scheme, in accordance with the rules of the 1st respondent which is evident from the respective letters of appointment issued to the petitioners.

27. He would further submit that in the merger order 25.04.2023 it has been clearly mentioned that the option to regularise the CPF account or switch to NPS for extending pension support was asked to be examined by WII. He would submit that nowhere was it stated that the employees would be entitled to the OPS. He would further submit that, in light of all these categorical assertions and even as per the option given, the employees were required to either opt to continue under the CPF scheme or switch over to the NPS, and where no option was exercised, such employees would automatically be governed by the NPS. He would rely upon the judgment of the Hon'ble Supreme Court reported in **(2016) 10 SCC 77 – State of Himachal Pradesh and Others Vs. Rajesh Chander Sood and others.**



28. Heard the learned counsel on either side and perused the records.

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29. The issues that arise for consideration in the above Writ Petitions are:-

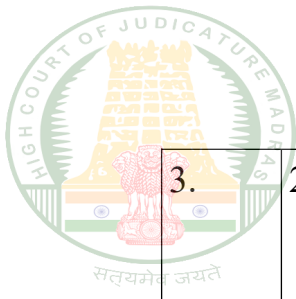
(i) *Whether the petitioners who had been appointed as per the prevailing rules of the 1st respondent can claim the benefit of the Old Pension Scheme?*

(ii) *Whether the Office Memoranda dated 03.03.2023 and 13.07.2023 which are applicable to the employees of the WII can be extended to the petitioners post the merger of the 1st respondent with the WII?*

30. In order to answer the above issues, it would be relevant to briefly set out the relevant dates and events common to both writ petitions, which would have a bearing on the case on hand.

Dates and Events.

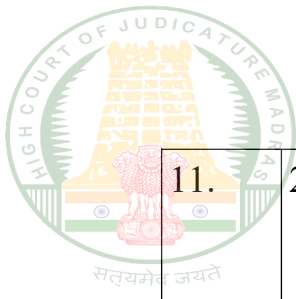
S.No.	Dates	Events
1.	01.11.1988	The 1 st respondent is established by Ministry of Environment & Forests as Center of Excellence.
2.	24.08.1992	Offer of appointment to the post of Scientist issued to the petitioner in WP.No.5613 of 2025, Dr.S.Muralidharan, which he accepted on 26.08.1992 and made permanent on completion of probation on 30.01.1996.



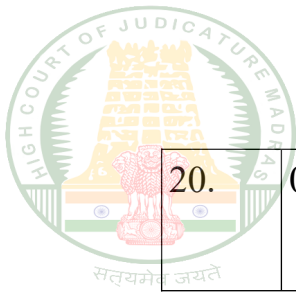
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3.	24.11.1998	Offer of appointment to the post of Personal Assistant to the Director issued to the petitioner in WP.No.15789 of 2025, Mr.V.Vaidiyanathan, which he accepted on 15.02.1999 and made permanent on completion of probation on 12.06.2001.
<i>*As per the offer of appointment, the petitioners were informed that they would receive CPF benefits as per Rules of the 1st respondent.</i>		
4.	05.02.2014	Audit Report of the Principal Director of Audit, Scientific Department flagging irregularities in the working of the CPF scheme run by the 1 st respondent as the same is not notified in the schedule to the Employees Provident Fund Act.
5.	12.08.2015	The Ministry rejects the request of the 1 st respondent for registration under NPS.
6.	14.02.2017	OM of the Ministry notifying scheme of Center of Excellence would cease and that the Ministry would have no financial commitment.
7.	30.09.2020	Merger of the 1 st respondent with the Ministry recommended and it is confirmed that the 1 st respondent is not longer an Autonomous Body.
8.	23.06.2022	OM of the Ministry recommending merger of the 1 st respondent Society with regular activities of the Ministry.
9.	26.07.2022	Minutes of the Extraordinary General Meeting of the 1 st respondent Society passing a resolution to dissolve the 1 st respondent Society.
10.	03.03.2023	OM of the Ministry of Personnel, Public Grievances & Pension extending benefit of OPS to Central Government Employees, who were in service prior to the date of notification of NPS ie. 22.12.2003.



11.	27.03.2023	Circular issued by the Indian Council of Forestry Research & Education granting coverage under OPS for employees recruited before 22.12.2003
12.	25.04.2023	Merger order of the Ministry, merging the 1 st respondent with the WII.
13.	26.04.2023	Dr.Muralidharan requested, the Director of WII for switch over to OPS which is in vogue for existing employee of WII, who were recruited on or before 01.01.2004.
14.	28.04.2023	Request of Dr.Mularidharan was rejected.
15.	30.04.2023	Dr.Muralidharan, retires from service.
16.	13.07.2023	OM issued by Ministry of Personnel, Public Grievances & Pensions regarding coverage under All India Services(Death cum Retirement Benefit) Rules, 1958 in place of National Pension System for those members of All India Services who were recruited against posts/vacancies notified on or before 22.12.2003.
17.	20.10.2023	Government of India clarifies that there is no restriction on applicability of the OM dated 03.03.2023 to Central Government employees who were otherwise eligible for coverage under OPS and who have retired from service.
18.	09.04.2024	The Governing Body of WII held 72 nd Meeting wherein issue relating to restrict options available to permanent employees to either regularise the CPF account or switch to the NPS account is discussed and the said issue referred to Sub-Committee.
19.	31.07.2024	The Sub-Committee reiterates the decision to treat permanent staff of the 1 st respondent as permanent employees of WII and restrict their entitlement of pensionaries benefits to either CPF or NPS.

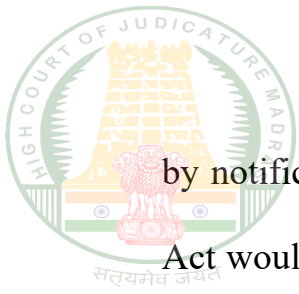


20.	03.09.2024	Minutes of the 73 rd Governing Body of WII, restricting entitlement of pensionaries benefits to either CPF or NPS.
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31. From the above dates and events, it is seen that the 1st respondent, which was a creature of the Ministry and established as a Centre of Excellence, had been merged with the WII, pursuant to the orders of the Ministry under which WII functioned.

32. It is also seen that OMs have been issued regarding the implementation of the OPS for the permanent employees who had joined service prior to 01.01.2004 and that NPS would automatically be applicable to the employees joining after 01.01.2004, however, an option to regularise the CPF account or switch over to the NPS has been given only to those employees of the 1st respondent who had joined services of the 1st respondent prior to 01.01.2004 and persons who have joined after 01.01.2004 were automatically governed by the NPS. When the petitioners had been appointed in the 1st respondent society their offer of appointment clearly stipulated that they would receive CPF funds as per the rules of the 1st respondent. However, the office of the Principal Director of Audit Scientific Departments, had after an inspection submitted a report raising an alert that the power to apply for the provident fund Act to other provident funds can be made only after the appropriate Government



by notification in the official gazette makes a declaration that provisions of the Act would apply to any provident fund of any institute which is specified in the schedule to the Act and on such declaration, the Act would apply accordingly.

The report further stated that the 1st respondent institute is not notified in the schedule to the Provident Fund Act, 1925 nor notified in any official gazette of the Government and had called upon the 1st respondent to take necessary remedial action. Therefore, by reason of the aforesaid, the clause in the appointment letter that the CPF would apply to the petitioners pales into insignificance. Consequently, the 1st respondent institute would stand governed by the then extant regulation. It is at this juncture that the Ministry has come forward to issue necessary OMs dated 03.03.2023 and 27.03.2023.

33. A perusal of the OM dated 03.03.2023 would indicate that this OM has come to be issued on account of the representations being received from the Government Servants appointed on or after 01.01.2004 requesting extension of benefits of the OPS under the Central Civil Services (Pension) Rules, 1972. After examining the request, the Ministry had decided that in all cases where the Central Government Civil Employees had been appointed against the post or vacancies which were advertised/notified for recruitment/appointment prior to the date of notification of the NPS ie. 22.12.2003 and covered under the NPS on joining service on or after 01.01.2004, such persons were given a one time



option to be covered under the OPS. These employees were directed to exercise the option prior to 31.08.2023. All Ministry/Departments were requested to give wide publicity to the said office order. The Indian Council of Forestry Research and Education had circulated this OM under the cover of their letter dated 27.03.2023 to all the ISFRE Institutes.

34. In the light of the judgements of various High Courts and Central Administrative Tribunals allowing benefits of the OPS to the Government Servants appointed on or after 01.01.2004 against the posts/vacancies advertised for appointment prior to 22.12.2003 (ie. the date of notification of NPS), the Ministry of Personnel, Public Grievances and Pensions by their circular dated 13.07.2023 extended the time for exercising the option to opt for OPS till 30.11.2023.

35. The 1st respondent had been merged with the WII pursuant to the orders of the Ministry dated 25.04.2023. The merger order clearly states that the 1st respondent was being merged with the WII both of which are under the control of the Ministry on certain terms and conditions. With regard to the account management and pension the merger order provides that the employees of the 1st respondent who had joined the services prior to 01.01.2004 had the



option to either regularise their CPF account or switch to the NPS and this option had to be explored by WII.

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36. In the case on hand, both the petitioners had been employed in the 1st respondent institute prior to 01.01.2004. That apart, on the merger of the 1st respondent with the WII, the employees have been treated as the permanent employees of the WII. That apart, the merger had taken place after the first OM dated 03.03.2023, wherein the last date for exercising the option to opt for the OPS had been stated as 31.08.2023. The merger had taken place after 03.03.2023 on 25.04.2023, prior to the second OM dated 13.07.2023. The second OM had extended the date for exercising the option till 30.11.2023. Admittedly, the petitioners had not exercised the option within the given time. As discussed earlier, since the CPF Scheme maintained by the 1st respondent had not been recognised by the competent authority, the petitioners by reason of the then prevalent rules were governed by the OPS.

37. Further, the 1st respondent Society is an autonomous centre of the Ministry and thereby falling within the definition of the State and the same had already been held by a learned Single Judge of this Court in the case reported in **(2002) 3 MLJ 441** which was confirmed by a Division Bench of this Court in



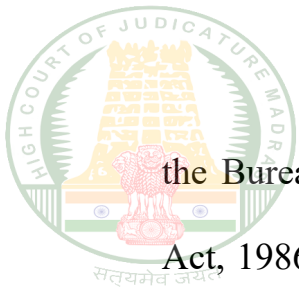
the judgement reported in **2010 (1) CWC 641**. The Division Bench had held as follows:-

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“The mere fact that the appellant is having its own Bye-laws, Rules and Regulations by itself cannot be a reason to hold that it is not an instrumentality of the State. It is also seen from the records that when there was an unrest in the appellant society, the matter was reported to the Ministry of Environment and Forests, Government of India with a request to depute a suitable officer to make a fact finding study and give a report with suitable recommendations to the governing council. The above said letter of the appellant dated 07.06.1995 itself is a clear indication of the control of the Government of India over the 1st appellant.”

Therefore, considering the fact that the 1st respondent is an arm of the Government, the OMs dated 03.03.2023 and 13.07.2023 would apply to the 1st respondent Society as well. Therefore, the 2nd issue has to be necessarily be answered in favour of the petitioners.

38. The Hon'ble Supreme Court had occasion to consider a similar issue regarding the applicability of the Pension Scheme and the CPF Scheme in the Judgement reported in **(2006) 12 SCC page 53 – Union of India and another Vs. S.L. Verma and others**. The respondents 1 to 13 therein were employees of



the Bureau of Indian Standards created under the Bureau of Indian Standards Act, 1986. The respondents 1 to 13 were members of the Contributory Pension

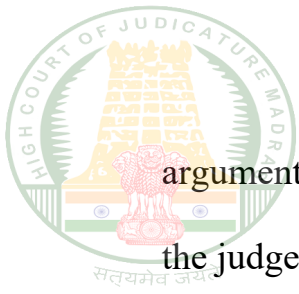
Scheme. An OM dated 01.05.1987, similar to the OMs which are the subject matters of the instant Writ Petitions had been issued by the Government of India. Certain employees had opted to continue in the CPF Scheme and some of them had not exercised the option. Since the Central Government was under the misconception that it was obligatory on the part of the employees to exercise the option, they had extended the time for exercising this option. Apparently, respondents, 1 to 13 had not even thereafter exercised their option and they were therefore deemed to have switched over to the Pension Scheme. The Ministry had adopted the stance that since the Pension Scheme was not in existence and it was only the new one that was in existence that the respondents had automatically switched over to the Pension Scheme. Ultimately, the Hon'ble Supreme Court had observed as follows:-

“It is not disputed that the said respondents did not give their options by 30.9.1987. In that view of the matter respondent Nos. 1 to 13 in view of the legal fiction created, became members of the Pension Scheme. Once they became the member of the Pension Scheme, Regulation 16 of the Bureau of Indian Standards(Terms and Condition of Service of Employees Regulation, 1988) had become ipso-facto applicable in their case also. It may be that they had made an option to continue with the CPF Scheme at a later stage but if by reason of



the legal fiction created, they became members of the Pension Scheme, the question of their reverting to the CPF would not arise. The respondent No.14 has correctly arrived at a conclusion that an anomaly would be created and in fact the said purported option on the part of respondent No.1 to 13 was illegal when a request was made by respondent No.14 to the Union of India for grant of approval so that all those employees shall come within the purview of the Pension Scheme. In our opinion, the Ministry of Finance proceeded on a wrong premise that the Pension Scheme was not in existence and it was a new one. Two legal fictions, as noticed hereinbefore, were created, one by reason of the memorandum, and another by reason of the acceptance of the recommendations of the Fourth Central Pay Commission with effect from 1.1.1986. In terms of such legal fictions, it will bear repetition to state, the respondent nos.1 to 13 would be deemed to have switched over to the pension scheme, which a fortiori would mean that they no longer remained in the CPF scheme.”

39. A Division Bench of this Court in the case reported in **2017 SCC OnLine Mad 4641 – Union of India and others Vs. S.Subbiaah and others** was considering a batch of Writ Petitions challenging the order passed by the Central Administrative Tribunal, Madras Bench allowing the applications filed by the employees seeking declaration that they are deemed pensioners and to bring them under the Pension Scheme. The Division Bench after hearing the

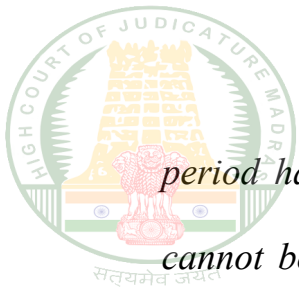


arguments and considering the judgement produced before them which included the judgement of **S.L. Verma** cited supra, observed as follows:-

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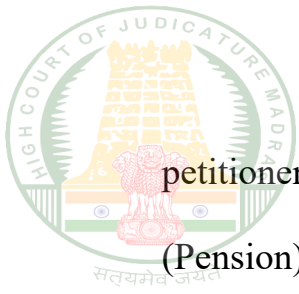
“14. From the above, it could be seen that even the employees who have originally opted to remain in CPF Scheme and switched over to Pension Scheme because the same was being more beneficial to them, the Court has held that non-grant of better benefits by way of pension and denying the same to one set of employees per se discriminatory notwithstanding the option exercised by the employees to remain in CPF scheme which was given during the extended period of time, are entitled to seek pension under the Pension Scheme. The Delhi High Court has adverted to several decisions of the Hon'ble Supreme Court and other High Courts and passed a detailed judgment in a batch of appeals. The issues raised before the Delhi High Court were identical and the Court has answered the issues in favour of the employees.

15. This Court, after hearing the arguments on either side, gave its anxious consideration with reference to the pleadings and the decisions of the Hon'ble Supreme Court and the decision of the Delhi High Court. The natural conclusion emanated from our anxious consideration will only lead to hold that the respondent employees despite their option to remain in CPF Scheme which was given during the extended period of time, are entitled to seek pension under the Pension Scheme. Firstly, the said option given during the time of extended



period has no sanctity in law. Secondly, such option given by the employees cannot be held against them in view of the fact that several similarly placed employees of the Central Government were allowed to switch over to the GPF Scheme, meaning that no seriousness attached to the cut of date prescribed originally by the Official Memorandum dated 1.5.1987. If these employees were denied pension in the facts and circumstances, it would certainly amount to discrimination, which per se constitutionally impermissible. Moreover, the decision of the Delhi High Court cited supra and the contentions which were extracted above, would unequivocally supported the claim of the respondent employees notwithstanding the fact that whether they exercised their option or not.

40. A single Judge of this Court who was a party to the Division Bench judgment reported in **2017 SCC OnLine Mad 4641** had considered a similar issue in a batch of Writ Petitions reported in **2021 SCC OnLine Mad 1667 – Dr.Kishore K.John and Others Vs. Union of India and Others** wherein the challenge was to rejection of the request made by the petitioners to convert the petitioners as beneficiaries to Contributory Provident Fund scheme to the General Provident Fund scheme and consequently grant them pension in accordance with the Central Civil Services (Pension) Rules, 1972. The Writ Petitioners were appointed as Lecturers of various Arts and Science Colleges in the Union Territory of Pondicherry. The respondents therein argued that the



petitioners were not entitled to pension benefits under the Central Civil Services (Pension) Rules, 1972, on the ground that they were not Government servants.

The learned Judge had rejected this objection, holding as follows:-

“The stand of the respondents that being the servants of the 2nd respondent society, these petitioners could not claim the benefit envisaged for the Government servants, in the opinion of this Court, appears to be a mere smoke screen to colour the status of the petitioners in its form, but in substance, the society is nothing but an another arm of the State, the society being established presumably for functional autonomy and Administrative convenience. But the fact of the matter is that the 2nd respondent though called as society, but fully controlled and administered by the Government. When the society is indisputably controlled by the Government of Puducherry fully, it cannot call itself an independent entity merely because it is registered under the Societies Registration Act for the purpose of treating its servants differently. In the absence of any semblance of dispute from the respondents' side of factual matters touching upon the pervasive control of the Government in running the affairs of the society and also the applicability of UGC Regulations and norms and CCS (CCA) Rules to the staff of the society, this Court has to come to an inexorable conclusion that these petitioners are to be treated as Government servants for conferment of all benefits that are being made applicable and extended to the staff of the Government of Puducherry and Central Government.

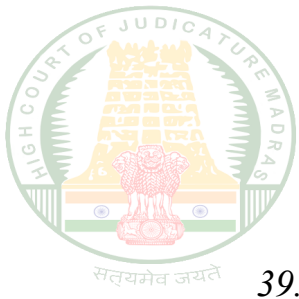


In the said circumstances, this Court has no hesitation to overrule the objections of the respondents on this aspect.

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41. The learned Judge, after considering and addressing the objections raised by the respondents therein, ultimately held that the petitioners were entitled to be covered under the Old Pension Scheme (OPS), observing as follows:—

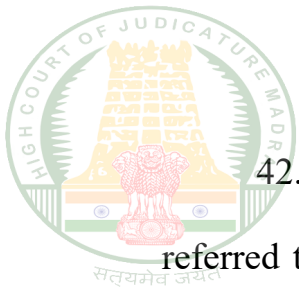
“38. The last objection is that while these petitioners were appointed, in their appointment letters, it was clearly stipulated that they would be covered by CPF scheme and therefore, the petitioners are estopped from protesting against the said claim made applicable to them. This objection of the respondents cannot held to be valid for the reason that the right of these petitioners to be brought under the GPF scheme, in the facts and circumstances, cannot be forced to be parted with because there was a stipulation in their appointment letters, detrimental to their interest. Such stipulation, in the opinion of this Court, cannot stand the test of judicial scrutiny when these petitioners at the time of their appointment, had no inkling as to the mandatory nature of the GPF scheme which was brought into force after IVth Central Pay Commission from 01.01.1986. In any event, there cannot be any estoppel against exercise or enforcement of constitutional and fundamental right. In such view of the matter, the said objection would have to be rejected as being without merit.



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39. *This Court also finds that when the petitioners were sought to be admitted to CPF scheme at the time of their recruitment/appointment in terms of the Contributory Provident Fund Rules (India), 1962 which is again Government of India Rules applicable to the same Government servants who opted for the GPF benefits, it cannot be gain said that the 2nd respondent being a society can legitimately claim insulation from applicability of Government scheme, namely, the GPF. When CPF scheme of the Central Government is made applicable, the claim of the petitioners herein gets narrowed down only to see whether the CPF or the GPF is applicable to these petitioners. In that view of the matter, there cannot be any other conclusion by this Court except to hold that as between the two Government of India schemes, the GPF scheme alone is applicable to these petitioners. The objection that the society being the employer of these petitioners as a consequence of which, their status would suffer diminution would have no legal sanctity or relevance for the ultimate consideration of the petitioners' claim.*

The above referred case is also similar to the case on hand in as much as at the time of appointment, it was stated that the petitioners would be covered by the CPF Scheme. Therefore, the 1st issue is also answered in favour of the petitioners.



42. Therefore, in the light of the above discussions and the judgements referred to supra, it is concluded that the petitioners are entitled to be covered under the OPS and the rejection of their request is totally misconceived more particularly when the CPF Scheme of the 1st respondent has been held to be without authority and therefore nonest.

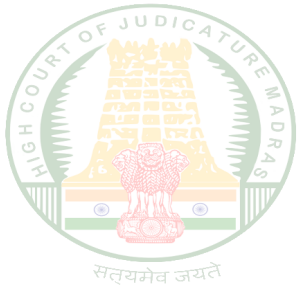
43. Accordingly, the Writ Petitions are allowed as prayed for. No costs. Consequently, the connected Miscellaneous Petitions are closed.

08-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SHR

To

1. Salim Ali Center For Ornithology And Natural History
Rep By Its Director Virendra Tiwari, South India Centre Of Wildlife Institute Of India, Anaikatty Po., Coimbatore- 641 108.
2. The Secretary
Ministry Of Environment , Forest And Climate Change, Indira Paryavaran Bhavan, Jorbagh Road, New Delhi-110 003.



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WP Nos. 15789 & 5613 of 2



P.T.ASHA J.

SHR

**WP No. 15789 of 2025
AND
WP NO. 5613 OF 2025, WMP NO. 6194 OF 2025, WMP NO. 6196 OF
2025, WMP NO. 6197 OF 2025, WMP NO. 17854 OF 2025, WMP NO. 17855
OF 2025, WMP NO. 17857 OF 2025**

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