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ORISSA HIGH COURT : CUTTACK

W.A. No.100 of 2026 (CNR No.ODHC010035172026),
W.A. No.106 of 2026 (CNR No.ODHC010035132026)
&
W.A. No.107 of 2026 (CNR No.ODHC010035142026)

In the matter of an Appeal under Article 4 of
the Odisha High Court Order, 1948
read with
Clause 10 of the Letters Patent constituting
the High Court of Judicature at Patna
and
Rule 6 of Chapter-III and Rule 2 of Chapter-VIII
of the Rules of the High Court of Odisha, 1948.

* * *

W.A. No.100 of 2026:

Dr. Labangalata Bisoi
Aged about 76 years
Daughter of Krishna Chandra Bisoi
Retired as Reader in Education from
Radhanath I.A.S.E., Cuttack
At present residing
At: Mohanadi Vihar, Plot No. 1298
P.O.: Nayabazar, District: Cuttack. ...

Appellant
(Petitioner in
writ petition)

-VERSUS-

1. State of Odisha
Represented through its
Principal Secretary
Higher Education Department



Secretariat Building
Bhubaneswar, District: Khordha.

- 2.** The Director
Higher Education
Heads of Department Building
Bhubaneswar, District: Khordha. ... Respondents
(Opposite parties
in writ petition).

W.A. No.106 of 2026:

Dr. Uma Chand Lal
Aged about 67 years
Son of Late Moti Lal
Retired as Reader in Commerce
From B.J.B. Autonomous College
Bhubaneswar, District: Khordha,
At present residing
At: Plot No.N4/268
IRC Village, Bhubaneswar
District: Khordha.

... Appellant
(Petitioner in
writ petition)

-VERSUS-

- 1.** State of Odisha
Represented through its
Principal Secretary
Higher Education Department
Secretariat Building
Bhubaneswar, District: Khordha.
- 2.** The Director
Higher Education



Heads of Department Building
Bhubaneswar, District: Khordha. ... Respondents
(Opposite parties
in writ petition).

W.A. No.107 of 2026:

Dr. Rama Nath Acharya
Aged about 69 years
Son of Late B. Acharya
Retired as
Reader in Physics
From Regional Office of H.E.
Southern Division, Berhampur
At present residing
At: Medical Colony, 5th Line
Berhampur, District: Ganjam. ... Appellant
(Petitioner in
writ petition)

-VERSUS-

1. State of Odisha
Represented through its
Principal Secretary
Higher Education Department
Secretariat Building
Bhubaneswar, District: Khordha.
2. The Director
Higher Education
Heads of Department Building
Bhubaneswar, District: Khordha. ... Respondents
(Opposite parties
in writ petition).



Advocates appeared in these cases:

W.A. No.100 of 2026:

- For the Appellant : Mr. Prafulla Kumar Rath
Senior Advocate
Assisted by
M/s. Saibrata Rath,
Adhiraj Behera, Shradha Das,
Sidhant Chandan,
Ankit Mohanty,
Swagat Mohapatra and
Adarsh Biswal, Advocates
- For the Respondents : Mr. Saswat Das,
Additional Government Advocate

W.A. No.106 of 2026:

- For the Appellant : Mr. Subir Palit
Senior Advocate
Assisted by
Mr. Satya Brata Dash,
Advocate
- For the Respondents : Mr. Saswat Das,
Additional Government Advocate

W.A. No.107 of 2026:

- For the Appellant : Mr. Budhadev Routray
Senior Advocate
Assisted by
M/s. Subhadutta Routray
Shakti Sekhar, Jagdish Biswal,
and Soumyakesh Swain,
Advocates
- For the Respondents : Mr. Saswat Das,
Additional Government Advocate



P R E S E N T:

**HONOURABLE CHIEF JUSTICE
MR. HARISH TANDON**

AND

**HONOURABLE JUSTICE
MR. MURAHARI SRI RAMAN**

Date of Hearing : 22.06.2026 :: Date of Judgment : 20.08.2026

JUDGMENT

MURAHARI SRI RAMAN, J.—

Assailed in these intra-Court appeals is a common Order dated 10.12.2025 (Annexure-15) of the learned Single Judge disposing off batch of writ petitions, bearing W.P.(C) No.33579 of 2025, W.P.(C) No.33628 of 2025 and W.P.(C) No.33720 of 2025 filed by the appellants, retired in the post of Reader, having raised identical issue(s).

Facts:

- 2.** Similitude in narration of facts in all these appeals and the writ petitions being found, facts disclosed in W.A. No.100 of 2026 (pertaining to W.P.(C) No.33579 of 2025) have been stated hereunder. However, certain facts necessary for adjudication of the issue found deficient in



other memorandum of appeals/writ petitions have also been discussed.

3. As unfurled in W.A. No.100 of 2026, the appellant-petitioner being selected on the recommendation of the Odisha Public Service Commission was appointed as Lecturer (Senior Scale) on 11.04.1986. By virtue of the Odisha Education Service (College Branch) Recruitment Rules, 1990 (for convenience referred to as “College Branch Rules, 1990”), deemed to have come into force with effect from 01.01.1986, the petitioner was placed in the post of Lecturer (Senior Scale) with effect from 11.04.1986 and subsequently in the post of Reader with effect from 11.04.1994 in terms of Rules 8 and 9 *ibid*. The post of “Reader” has been re-designated and called as “Associate Professor” *vide* Government of Odisha in Higher Education Department Resolution No.7889-HE-FEIB-MISC-43/2016/HE, dated 04.04.2016.

3.1. It is claimed by the appellant that though she had satisfied the criteria specified to be eligible for being promoted to the post of “Professor”, as no selection was conducted by the Odisha Public Service Commission as per the Odisha Education Service (Professors’ Grade) Recruitment Rules, 1990 (be referred to as “Professors’ Grade Rules”, for brevity), her case was not considered in its right earnest.



3.2. It is alleged that ignoring to consider the case of the appellant¹ for promotion, the respondents have accorded promotion in the rank of “Professor” to seventy-six Associate Professors, most of whom were juniors to the appellant(s), under the Career Advancement Scheme as envisioned in *THE UNIVERSITY GRANTS COMMISSION NOTIFICATION ON REVISION OF PAY SCALES, MINIMUM QUALIFICATIONS FOR APPOINTMENT OF TEACHERS IN UNIVERSITIES AND COLLEGES AND OTHER MEASURES FOR THE MAINTENANCE OF STANDARDS, 1998* (hereinafter be referred to as “CAS”).

3.3. The grievance of the appellant/petitioner as emanated from averments contained in paragraph 17 of the memorandum of writ appeal is that by way of Resolution bearing No.65312/N.IPM/UN-36/99/HE, dated 31.12.1999 (Annexure-7) the Government of Odisha in Higher Education Department adopted the recommendations of the University Grants Commission and have taken a decision to make the CAS applicable to all the teachers in the Colleges, who were in receipt of Scale of Pay specified by the University Grants Commission as on 01.01.1996, and consequently they would be entitled to be placed in the Lecture (Senior Scale), Lecturer (Selection Grade), Reader and Professor

¹ The post of “Reader” being re-designated as Associate Professor in terms of Resolution No.7889-HE-FEIB-MISC-43/2016/HE, dated 04.04.2016 issued by the Higher Education Department, which is now aligned with “Assistant Professor (Stage-III)” by virtue of the Odisha Education Service (College Branch), Rules, 2020 repealing the Odisha Education Service (College Branch), 1990 and the Odisha Education Service (Professors’ Grade) Rules, 1990.



(Promotion) in accordance with the University Grants Commission Guidelines. Insofar as the placement of appellant in the CAS is concerned, she had already been placed in the position of Lecturer (Senior Scale) and drawing Scale of Pay relevant for Reader. Nonetheless, it is claimed that the appellant was to be placed in the Scale of Pay applicable to a “Professor” with effect from 11.04.2002, *i.e.*, after 8 years of service as “Reader” to be counted from 11.04.1994 in view of Clause 4.9.0 read with Clause 4.10 of the Resolution dated 31.12.1999.

3.4. In pursuance of Rule 13 of the Odisha Education Service (College Branch) Recruitment Rules, 2020 the Department of Higher Education issued Notification bearing No.39664— HE-GCET-MISC-0122-2021/HE, dated 30.09.2021, promoting seventy-six numbers of teachers of Associate Professors or equivalent rank belonging to the Odisha Education Service (College Branch) Cadre carrying Scale of Pay in Level-14 of the Pay Matrix under the Odisha Revised Scales of Pay (CT) Rules, 2019 to the rank of Professor. As the representations of many similarly circumstanced teachers being considered, various writ petitions were filed, including W.P.(C) No.6034 of 2025 (writ petition of present appellant). Said writ application came to be disposed of on 06.03.2025 reserving liberty to the appellant to file representation before the Principal



Secretary, Higher Education Department with further direction to the said authority to consider such representation and communicate the order passed thereon to the appellant.

- 3.5. The Representation dated 02.04.2025 so filed by the appellant being considered by the Commissioner-*cum*-Secretary to Government in the Department of Higher Education *vide* Order dated 13.10.2025 (Annexure-13), the claim of the appellant came to be refused on the ground that the Odisha Education Service (College Branch) Recruitment Rules, 2020 came into force with effect from 18.02.2021, but the appellant got retired on superannuation before the said date in the post of Reader and the promotion to the rank of Professor accorded to seventy-six Associate Professors was made under the said College Branch Rules promulgated in the year 2021.
- 3.6. Being dissatisfied with such rejection of representation, a writ petition, being W.P.(C) No.33579 of 2025, was filed by the appellant questioning the propriety of Order dated 13.10.2025 of the Commissioner-*cum*-Secretary to Government in the Department of Higher Education. Said writ petition being dismissed along with ten other writ petitions tagged together *vide* common Order dated 10.12.2025, afore-noted intra-Court appeals have been filed.



Hearing:

4. Having conceded that the facts in all these appeals are identical and there was no much variation, the arguments are advanced. This Court proceeded to hear the counsel appearing for respective parties at length.
- 4.1. Heard Sri Budhadev Routray, Sri Prafulla Kumar Rath and Subir Palit, learned Senior Advocates assisted by Sri Subhodutta Routray, Sri Adhiraj Behera and Ms. Ananya Pradhan, learned Advocates for the appellants/petitioners; Sri Saswat Das, learned Additional Government Advocate for the opposite parties.
- 4.2. After conclusion of the hearing, the matter is reserved for preparation and delivery of Judgment/Order.

Relevant provisions:

5. Provisions so far as relevant for the present purpose are extracted hereunder:
- 5.1. Provisions of the Odisha Education Service (College Branch) Recruitment Rules, 1990²:
- “1. *Short title and commencement.—f*
- (1) *These Rules may be called the Odisha Education Service (College Branch) Recruitment Rules, 1990.*

² In terms of Rule 1(2), the Odisha Education Service (College Branch) Recruitment Rules, 1990, came into force with effect from 01.01.1986.



- (2) *They shall be deemed to have come into force with effect from the 1st day of January, 1986.*

2. *Definitions.—*

In these Rules, unless the context otherwise requires—

- (a) *AUTONOMOUS COLLEGE means any College declared as such by the University constituted under the Odisha Universities Act, 1989;*
- (b) *COLLEGE means a Government College imparting teaching of +3 EDUCATION and of above standard;*
- (c) *COMMISSION means the Odisha Public Service Commission;*
- (d) *COMMITTEE means the Screening Committee constituted under these Rules;*
- (e) *DISCIPLINE means a subject in which teaching is imparted in a College;*
- (f) *GOVERNMENT means the Government of Odisha;*
- (g) *LEAD COLLEGE means any College declared as such by Government from time to time;*
- ³[(h) *REGULAR APPOINTMENT means the appointment of a Lecturer made by the Government on the recommendation of the Commission.]*

³ Substituted clause (h) of Rule 2 with effect from 01.01.1993 by virtue of the Odisha Education Service (College Branch) Recruitment (Amendment) Rules, 1995, being published in the Odisha Gazette, Extraordinary No.1427, dated 18.12.1995. Prior to substitution, said clause stood thus:

“[(h) *REGULAR APPOINTMENT means the appointment of a Lecturer made by the competent authority on the recommendation of the Commission and the*



- (i) *SERVICE means the Odisha Education Service (College Branch);*
- (j) *UGC means the Universities Grants Commission of India;*
- (k) *Year means the Calendar Year.*

3. *Constitution of the service.—*

- (1) *The service shall comprise of the following categories of posts:*

Lecturer

Lecturer (Senior Scale)

*Assistant Directors in the Directorate of Education
Reader ⁴[***]*

*Principals of Degree College other than a Lead
College or an Autonomous College*

Vice-Principals of Colleges

*Deputy Directors in the Directorate of Education
Secretary, Selection Board*

- (2) *The service shall also comprise of such other categories of posts as the State Government may determine from time to time.*
- (3) *The scale of pay of the posts in different grade and posts of the service shall be such as may be determined by the Government from time to time.*

appointment of Lecturers regularised from a particular date by Government Order;

⁴ Omitted “/Lecturer (Selection Grade)” vide Higher Education Department Notification No.5442-II-E/A(1)-9/91-HE, dated 26.02.1993.



9. *Appointment in the Grade of Reader.—*

(1) *The provisions of sub-rules (1) and (2) of Rule 8 shall be followed mutatis mutandis, in the matter of selection and appointment of Readers.*

⁵[(2) *A Lecturer in order to be eligible for consideration by the Screening Committee constituted under Rule 11 must have completed—*

(a) *sixteen years of service as such under the Odisha Education Service after regular appointment; or*

(b) *thirteen years of service as such under the Odisha Education Service after regular appointment and have acquired a Ph.D., D.Litt.*

⁵ Substituted sub-rule (2) of Rule 9 with effect from 26.02.1993 by virtue of the Odisha Education Service (College Branch) Recruitment (Amendment) Rules, 1993, being published in the Odisha Gazette, Extraordinary No.333, dated 26.02.1993. Prior to substitution, said sub-rule stood thus:

“(2) *A lecturer in order to be eligible for consideration by the Committee constituted under Rule 11 must have—*

(a) *a Ph. D degree from a recognised University in the concerned discipline;*

(b) *completed 8 years of service in the senior scale:*

Provided that the requirement of 8 years shall be relaxed to the extent of three years in case of Lecturers in the Senior Scale if he has acquired the Ph.D. degree in the concerned discipline while continuing in the Grade of Lecturer (Senior Scale);

Provided further that the requirement of 8 years of service in the Grade of Lecturer (Senior Scale) shall not be applicable to a Lecturer who has already completed 13 years service as such under Odisha Education Service after regular appointment if he has acquired a Ph.D. degree from a recognised University;

(c) *consistently good performance appraisal reports;*

(d) *made some mark in the areas of scholarship and research as evidenced by the self-assessment, reports of referees, quality of publications, contribution to educational innovations and design of new courses and curricula;*

(e) *Participated in two refresher courses/Summer Institutes each of approximately four weeks duration or engaged in other appropriate continuing education programmes of comparable quality as may be specified by the U.G.C. on being sponsored by Government/Director, Higher Education after placement in the Senior Scale:*

Provided that in respect of cases due for consideration up to 31.12.1990, Government may relax the applicability of this provision.”



or D.Sc. degree from a recognised University in the concerned discipline, or fifteen years of service as such under the Odisha Education Service after regular appointment and acquired a M.Phil. or M.Litt. degree in the concerned discipline; or

- (c) ***eight years of service in the Grade of Lecturer (Senior Scale); or***
- (d) *five years of service in the Grade of Lecturer (Senior Scale) and acquired a Ph.D., D.Litt. or D.Sc. degree in the concerned discipline or seven years of service in the Grade of Lecturer (Senior Scale) and acquired a M.Phil. or M.Litt. degree in the concerned discipline while continuing in the said Grade;*
- (e) *consistently good performance appraisal reports;*
- (f) *made some work in the areas of scholarship and research as evidenced by the self-assessment reports, quality of publications, contribution to educational innovations and design of new courses and curricula; and*
- (g) *participated in two refresher courses or Summer Institutes each of approximately four weeks duration, or engaged in other appropriate continuing education programme of comparable quality as may be specified by the University Grants Commission on being sponsored by Government or Director, Higher Education, after placement in the Senior Scale:*



Provided that in respect of cases due for consideration up to 31st December, 1993, Government may relax the applicability of this provision.]”

5.2. Provisions of the Odisha Education Service (Professors’ Grade) Recruitment Rules, 1990⁶:

“1. Short title and commencement.—

- (1) These Rules may be called the Odisha Education (Professors’ Grade) Recruitment Rules, 1990.*
- (2) They shall be deemed to have come into force with effect from the 1st day of January, 1986.*

2. Definitions.—

In these Rules, unless the context otherwise requires—

- (a) COLLEGE means any Government Institution imparting Post Graduate Education;*
- (b) COMMISSION means the Odisha Service Commission;*
- (c) DISCIPLINE means a subject in which teaching is imparted in a College;*
- (d) GOVERNMENT means the Government of Odisha;*
- (e) RECRUITMENT YEAR means the Calendar Year;*
- (f) SERVICE means the Odisha Education Service (Professors’ Grade).*

⁶ In terms of Rule 1(2), the Odisha Education Service (Professors’ Grade) Recruitment Rules, 1990, came into force with effect from 01.01.1986.



⁷[(g) UNIVERSITY means the University incorporated by or under an Act of the Central or State Legislature.]

3. Other conditions of service not specifically provided for in these Rules shall be such as provided in other Statutory Rules and Orders issued from time to time by the Government for similar class of employees.

4. Constitution of service.—

The service shall consist of the posts of Professors in different discipline in the College or the State.

5. Recruitment to the post of Professor.—

⁸[(1) **The post of Professor in the Service shall be filled up by selection through the Commission from among the eligible Readers in Government Colleges of Odisha on merit and suitability with due regard to seniority.**]

(2) In order to be eligible for recruitment to the posts in the service, a person shall be a scholar of eminence in the concerned discipline and shall have the following qualification, namely:

(a) He/she shall be a citizen of India;

(b) He/she shall have minimum of Ph.D. Degree in the concerned discipline either from an Indian

⁷ Inserted with effect from 21.09.2001 by virtue of the Odisha Education Service (Professors' Grade) Recruitment Amendment Rules, 2001 being published in the Odisha Gazette, Extraordinary No.1735, dated 21.09.2001.

⁸ Substituted sub-rule (1) with effect from 20.07.2006 by virtue of the Odisha Education Service (Professors' Grade) Recruitment Amendment Rules, 2006 being published in the Odisha Gazette, Extraordinary No.1023, dated 20.07.2006. **Prior to substitution** sub-rule (1) stood thus:

"(1) The post of Professor in the service shall be filled up by direct recruitment on the basis of merit through all-India advertisement and through the selection made by the Commission."



University or from a Foreign University recognised equivalent thereto and published research work of excellence.

⁹[(c) He/she shall be an eminent scholar with published work of high quality, actively engaged in research with ten years of experience in Post-Graduate teaching, and/or experience in research at the University/ National Level Institutions, including experience of guiding research by at doctoral level;

Provided that in exceptional cases, the teachers with fifteen years of under Graduate teaching/research experience shall also be considered:

Provided further that an outstanding scholar with established academic reputation who has made significant to the concerned branch of teaching or research may be considered by the Commission eligible for appointment to the service;

Provided also that for the purpose of selection of a candidate to the service the Commission shall follow the system of evaluation as prescribed under Schedule 'A' of the University First Statutes, 1990, subject to the following:

⁹ Substituted clause (c) of sub-rule (2) with effect from 21.09.2001 by virtue of the Odisha Education Service (Professors' Grade) Recruitment Amendment Rules, 2001 being published in the Odisha Gazette, Extraordinary No.1735, dated 21.09.2001. Prior to substitution clause (c) of sub-rule (2) stood thus:
“(c) He/she shall possess at least ten years' experience in research and/or teaching in the concerned discipline or related area at the degree or post graduate level in any Indian University, or a College affiliated to such University or a Research Institution of repute or a Foreign University, and should have guided adequate number of scholars in doctoral research.”



(a) *For Graduation Degree to marks will be awarded for the ‘pass’ category.*

¹⁰[(aa) *For Graduation Degree with Distinction ‘two’ marks will be awarded irrespective of a candidate passing with or without Honours.]*

(b) *Interview marks will be fifteen instead of twenty-five.]*

¹¹[NOTE.— ***]

6. *The Government, whenever the occasion to fill up the post in a particular or different disciplines in the service arises, shall send requisition to the Commission to furnish the name of suitable persons.”*

5.3. Portion of the Odisha Education Service (College Branch) Recruitment Rules, 2020¹²:

“No.8075-HE-GCET-POLICY-0002/2020/HE.—

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and in

¹⁰ Inserted with effect from 20.07.2006 by virtue of the Odisha Education Service (Professors’ Grade) Recruitment Amendment Rules, 2006 being published in the Odisha Gazette, Extraordinary No.1023, dated 20.07.2006.

¹¹ Deleted with effect from 21.09.2001 by virtue of the Odisha Education Service (Professors’ Grade) Recruitment Amendment Rules, 2001 being published in the Odisha Gazette, Extraordinary No.1735, dated 21.09.2001. Prior to deletion “Note” stood thus:

“Note.—

For the purpose of this clause “University” means a University incorporated by or under an Act of the Central or State Legislature:

Provided that an outstanding scholar with established academic reputation who has made significant contribution to the concerned branch of teaching or research may be considered by the Commission eligible for appointment to the service.”

¹² In terms of Rule 1(2), the Odisha Education Service (College Branch) Recruitment Rules, 2020, came into force with effect from 18.02.2021, being published in the Odisha Gazette, Extraordinary No.288, dated 18.02.2021.



supersession of the Odisha Education Service (College Branch) Recruitment Rules, 1990, the Odisha Education Service (Senior Administrative Grade) Recruitment Rules, 1990 and the Odisha Education Service (Professors' Grade) Recruitment Rules, 1990, except as respect things done or omitted to have done before such supersession, the Governor of Odisha is pleased to make the following Rules to regulate the method of recruitment and conditions of service of the persons appointed to the Odisha Education Service (College Branch), namely:

1. Short title and Commencement.—

- (1) These Rules may be called the Odisha Education Service (College Branch) Recruitment Rules, 2020.*
- (2) They shall come into force on the date of their publication in the Odisha Gazette.*

2. Definitions.—

- (1) In these Rules, unless the context otherwise requires,—*
 - (a) COLLEGE means a Government college imparting under graduation education or post-graduation education or both and coming under the administrative control of Higher Education Department of Government of Odisha;*
 - (b) COLLEGE TEACHERS means the Lecturers, Lecturers (Senior Scale) and **Readers** who **shall be re-designated** as Assistant Professor (Stage-I), Assistant Professor (Stage-II), **Assistant Professor (Stage-III)** respectively*



and including Associate Professors and Professors;

- (c) COMMISSION means the Odisha Public Service Commission;*
 - (d) COMMITTEE means the Departmental Promotion Committee constituted under sub-rule (1) or (2) of Rule 14, as the case may be;*
 - (e) FOREIGN UNIVERSITY means a University or Institution, located outside India, with a ranking among the top 500 in the World University Ranking system as accepted by UGC;*
 - (f) GOVERNMENT means the Government of Odisha;*
 - (g) Indian University means a University or Institution, located in India, duly recognized by UGC;*
 - (h) ****
 - (n) SERVICE means the Odisha Education Service (College Branch);*
 - (o) SUBJECT means a subject of study in which teaching is imparted in a college;*
 - (p) UGC means the University Grants Commission of India;*
 - (q) YEAR means the Calendar Year.*
- (2) All other words and expressions used in these rules but not specifically defined shall, unless the context otherwise requires, have the same meaning as*



respectively assigned to them in the Odisha Service Code.

3. *Constitution of Service and Service condition.—*

(1) *The service shall comprise of college teachers of following ranks, namely:*

- (a) Assistant Professor (Stage-I);*
- (b) Assistant Professor (Stage-II);*
- (c) Assistant Professor (Stage-III);*
- (d) Associate Professor; and*
- (e) Professor.*

(2) *The Government shall be competent to appoint college teachers of the rank of Assistant Professor (Stage-III) and above in administrative and semi-academic posts.*

(3) ***All college teachers of all subjects and all ranks shall constitute the single Odisha Education Service (College Branch) Cadre (herein after referred as OES (CB) Cadre) and the number of posts in the Cadre shall be sanctioned by the Government from time to time and the sanctioned posts of the Cadre can be filled up by college teachers of any rank provided that entry into the OES (CB) Cadre, by way of direct recruitment as per Rule 5 or placement as per Rule 8, shall be made only in the rank of Assistant Professor (Stage-I).***

(4) *The scale of pay of different ranks of college teachers of the service and other service conditions*



such as allowances, leave rules, superannuation age, superannuation benefit, shall be determined by the Government from time to time or shall be such as provided in other Statutory Rules, Resolutions, Notifications or Orders issued by the Government from time to time for similar class of employees.

10. Promotion to the Rank of Assistant Professor (Stage III).—

(1) To be eligible for promotion to the rank of Assistant Professor (Stage-III), an Assistant Professor (Stage-II) must,—

(a) have completed eight years of regular service as Assistant Professor (Stage-II) or in equivalent rank having equivalent scale of pay;

(b) have participated, during the assessment period, in at least two physical or online refresher/orientation courses, or equivalent courses of minimum two weeks duration recognized by the UGC.

(2) Selection for promotion shall be made as per the select list made under Rule 17 and selected Assistant Professors (Stage-II) shall be promoted to the rank of Assistant Professor (Stage-II) ¹³[from the date of eligibility or from the date of commencement of these Rules, i.e., 18th February, 2021 whichever is later].

11. Promotion to the Rank of Associate Professor.—

¹³ Substituted for the words “from the date of eligibility” by virtue of the Odisha Education Service (College Branch) Recruitment (Amendment) Rules, 2022, *vide* Government of Odisha in Higher Education Department Notification No.23352— HE-GCET-POLICY-0002-2020/HE, dated 04.06.2022.



(1) *candidates of Assistant Professor (Stage-III) to be eligible for promotion to the rank of Associate Professor must,—*

- (a) *have completed five years of regular service as Assistant Professor (Stage-III), or in equivalent rank having equivalent scale of pay;*
- (b) *have participated, during the assessment period, in at least two physical or online refresher/orientation courses, or equivalent courses, of minimum two weeks duration recognized by the UGC.*

Provided that this condition shall be relaxed till two years from the date of publication of this Notification in the Odisha Gazette in case of those college teachers who otherwise become eligible for promotion to the rank of Associate Professor.

(2) *Selection for promotion shall be made as per the select list made under Rule 17 and the selected Assistant Professors (Stage-III) shall be promoted to the rank of Associate Professor ¹⁴[from the date of eligibility or from the date of commencement of these Rules, i.e., 18th February, 2021 whichever is later].*

12. *Advance Promotion Benefit for Possessing Higher Degree.—*

¹⁴ Substituted with effect from 08.06.2022 for the words “from the date of eligibility” by virtue of the Odisha Education Service (College Branch) Recruitment (Amendment) Rules, 2022, *vide* Government of Odisha in Higher Education Department Notification No.23352— HE-GCET-POLICY-0002-2020/HE, dated 04.06.2022, being published in the Odisha Gazette, Extraordinary No.1975, dated 08.06.2022.



- (1) *The minimum number of years of regular service prescribed in sub-rule (1)(a) of Rule 9, sub-rule (1)(a) of Rule 10 and sub-rule (1)(a) of Rule 11, as an eligibility condition for promotion of college teachers from one rank to another, shall be reduced by three years if the college teacher possesses Ph.D., D.Sc. or D.Litt. Degree, or by one year if he possesses M.Phil., M.Litt. or Post-Graduate Degree in Professional Courses such as LL.M., M.Tech., etc. besides Post Graduation; from an Indian or Foreign University in the concerned/ relevant allied subject.*
 - (2) *However, if a college teacher has availed advance promotion benefit of one year for possessing M.Phil., M.Litt. or PG Degree in Professional Courses as per sub-rule (1) above and subsequently acquires Ph.D., D.Sc. or D.Litt. Degree; he will be entitled for availing advance promotion benefit of only two years (not three years) for his subsequent promotion on account of possessing Ph.D., D.Sc. or D.Litt. Degree.*
 - (3) *Advancement of promotion under sub-rule (1) and sub-rule (2) above shall be limited to a maximum of 3 (three) years only during one's entire service period irrespective of the number of higher degrees one may possess or acquire.*
13. *Promotion to the rank of Professor.—*
- (1) *To be eligible for promotion to the rank of Professor, an Associate Professor must,—*
 - (a) *possess a Ph.D. Degree in concerned/ relevant/ allied subject from an Indian or Foreign University.*



- (b) *have completed five years of regular service in the rank of Associate Professor.*
- (c) *possess a minimum score point of 80 as per the academic and research performance assessment parameters given in Schedule-I appended to these Rules:*

Provided that this condition shall be relaxed in case of college teachers on completion of twelve years of regular service in the rank of Associate Professor or equivalent rank having equivalent scale of pay:

Provided further that this relaxation shall be valid till five years from the date of publication of this notification in the Odisha Gazette.

- (2) *Selection for promotion shall be made as per the select list made under Rule 17 and selected Associate Professors shall be promoted to the rank of Professor from the date of their eligibility or from the date of coming into force of these Rules, whichever is later.*

15. Procedure for Selection by the Committee.—

- (1) *The Committee shall meet at least once in a year, preferably in the month of January, to prepare a list of teachers, as are held by them, suitable for placement to the rank of Assistant Professor (Stage-I) or promotion to the next higher ranks.*
- (2) *The Committee, while considering the placement or promotion cases of suitable teachers and preparing the list, shall follow the provisions of the Odisha Civil Services (Criteria for Promotion) Rules, 1992.*



16. *Consultation with the Commission.—*

- (1) *The recommendations of the Committee under sub-rule (a) of Rule 14 shall be referred to the Commission for concurrence along with a list of all eligible candidates, including those who have not been recommended, together with the service particulars and their academic qualification and experience, if any.*
- (2) *The Commission shall consider the list along with the service and other particulars received under sub-rule (1) and shall furnish its recommendations to the Government.*

19. *Relaxation.—*

Where the State Government is of the opinion that for the interest of public service, it is necessary and expedient to do so, it may, by order, and for reasons to be recorded in writing and after consultation with the Commission, relax any of the provisions of these rules for any person or class of persons.

20. *Interpretation.—*

If any question arises relating to the interpretation of these rules, it shall be referred to the Government for decision.”

5.4. Re-designation of Lecturers and Readers of Universities and Colleges of the State:

¹⁵ [No.7889-HE-FEIB-MISC-43/2016/HE.]
Higher Education Department

¹⁵ Published in the Odisha Gazette, Extraordinary No.633, dated 05.04.2016.



Resolution
The 4th April, 2016

Subject: Re-designation of Lecturers and Readers of Universities and Colleges of the State.

*The question of re-designation of Lecturers and Readers of Universities and Colleges of the State was under active consideration of Government. After careful consideration, the State Government have been pleased **to re-designate the Lecturers and Readers of Universities and Colleges subject to fulfilling the minimum eligibility standard as per U.G.C. Regulation, 2010 and 2013 as follows:***

Sl. No.	Designation	Existing Scale of Pay	Re-designated as
(1)	(2)	(3)	(4)
1	Lecturer	Rs. 15600-39100/- + AGP- Rs. 6000/-	Assistant Professor (Stage-I)
2	Lecturer Sr. Scale	Rs. 15600-39100/- + AGP- Rs. 7000/-	Assistant Professor (Stage-II)
3	Readers (with less than 05 (five) years of Service)	Rs. 15600-39100/- + AGP- Rs. 8000/-	Assistant Professor (Stage-III)
4	Readers (with 05 (five) years of Service)	Rs. 37400-67000/- + AGP- Rs. 9000/-	Associate Professor

Promotion to Associate Professor Grade shall be subject to fulfilment of minimum Academic Performance Index (API) score involving research publications, research projects, research guidance, attending national/ international conferences etc. which shall be calculated as per UGC Regulation, 2010 and 2013 respectively, as amended from time to time.

The other terms and conditions of service and Career Progression shall remain unaltered.



This has been concurred in by the Finance Department vide their U.O.R. No.26-PCC, dated the 15th March, 2016.

ORDER

Ordered that this Resolution be published in the Extraordinary issues of Odisha Gazette and copy forwarded to all Departments of Government/ Accountant General (A&E), Odisha, Bhubaneswar/ Secretary to Government of India, Ministry of Human Resource Development (Higher Education Department), New Delhi/ Secretary, University Grants Commission, Bahadur Saha Zafar Marg, New Delhi/ Registrars of all Universities in the State/ Principals of all Government and Non-Government Aided Colleges.

By Order of the Governor

G.V.V. SARMA

Principal Secretary to Government”

Arguments advanced by the counsel representing respective parties:

- 6.** Sri Budhadev Routray, Sri Prafulla Kumar Rath and Sri Subir Palit, learned Senior Advocates sought to canvas that the learned Single Judge as if the appellants have been seeking for promotion to the rank of “Professor” from the post of “Reader”, later re-designated as “Associate Professor” *vide* the Higher Education Department Resolution No.7889-HE-FEIB-MISC-43/2016/HE, dated 04.04.2016, proceeded to deny the benefit flowing from the CAS on the foundation that “eligibility is one thing and entitlement is another”.



6.1. The plank of argument of the learned Senior Counsel was that the learned Single Judge maintaining parity with co-ordinate Bench decision *vide* common Order dated 27.11.2024 rendered in the case of *Dr. Dharendra Kumar Dalai Vrs. State of Odisha and Others, W.P.(C) No.36285 of 2021* and batch of matters tagged thereto ought to have directed the authority concerned to consider the claim of the appellants. Nevertheless, in course of hearing it is pointed out that the case of Dr. Dharendra Kumar Dalai being considered and denied the relief by the Government, a writ petition being W.P.(C) No.1203 of 2025 challenging said rejection order has been filed, which is *sub judice* before this Court.

6.2. Learned Senior Counsel for the respective appellants sought to contend that,

- i. the claim as made by the appellants/petitioners to place their Scale of Pay in the rank of Associate Professor (though they are retired in the post of Reader) to the Scale of Pay attached to Professor Grade under CAS is required to be considered in terms of the “UGC NOTIFICATION ON REVISION OF PAY SCALES, MINIMUM QUALIFICATIONS FOR APPOINTMENT OF TEACHERS IN UNIVERSITIES AND COLLEGES AND OTHER MEASURES FOR THE MAINTENANCE OF STANDARDS, 1998” as communicated by the UGC to the Vice-Chancellors of all the Universities and the



Education Secretaries of all the States/Union Territories *vide* Letter dated 24.12.1998 (for convenience referred to as, “UGC Notification, 1998”), which in unequivocal terms reflects as follows:

“1.0 These shall apply to every University established or incorporated by or under a Central Act, Provincial Act or a State Act, every institution including a constituent or an affiliated college recognized by the Commission, in consultation with the concerned University under Clause (f) of Section 2 of the University Grants Commission Act, 1956, and every institution Deemed to be a University under Section 3 of the said Act.

2.0 These shall come into force with immediate effect.”

- ii. Attention is drawn to the Government of Odisha in Department of Higher Education Resolution No.65312— N.IPM/UN-36/99/HE, dated 31.12.1999, relevant portion of which reads thus:

“Sub.: Revision of Pay Scales, Minimum Qualifications for the Appointment of the Teachers in the Universities and Colleges and other Measures for Maintenance of Standards

The State Government has decided to extend the University Grants Commission Pay Scales to the College Teachers and University Teachers with effect from 01.01.1986 vide



erstwhile Education and Youth Services Department Resolution No.44032-EYS, dated 06.10.1989 and No.44038/EYS, dated 06.10.1989.

2. *The Government of India after considering the various recommendation the U.G.C. on Revision of Pay Scales of University and College Teacher communicated their decision to State Government in their Letter No.F.1-22/97/UI dated 27.07.1998 and requested to implement the scheme in the State after taking local conditions into consideration, and with all conditions to be laid down in this regard by the U.G.C. by way of Regulations. Accordingly U.G.C. has communicated their Notification on "Revision of Pay Scales, Minimum Qualifications for appointment of Teachers in Universities and Colleges and Other Measures for the Maintenance of Standards, 1998" in their Letter No. F.3-1/94 (PS), 24.12.1998 and requested to implement the same for Universities and Colleges.*
3. *The question of Revision of Pay Scales for University and College Teachers the basis of the recommendations of Government of India and the U.G.C. was under consideration of Government for some time past. **After careful consideration the State Government has been pleased to implement the Scheme of Revision of Scales for University and College Teachers with the following terms and conditions.***



4.9.0. *Career Advancement.*—

- (a) *Minimum length of service for eligibility to move into the Grade of Lecturer (Senior Scale) would be four years for those with Ph.D., five years for those with M.Phil., and six years for others at the level of Lecturer, and for eligibility to move into the Grade of Lecturer (Selection Grade)/Reader, the minimum length of service as Lecturer (Senior Scale) shall be uniformly five years.*
 - (b) *For movement into Grades of Reader and above, the minimum eligibility criterion would be Ph.D. Those without Ph.D. can go up to the level of Lecturer (Selection Grade).*
 - (c) *A Reader with a minimum of eight years of service in that Grade will be eligible to be considered for appointment as a Professor.*
 - (d) *Selection Committees for Career Advancement shall be the same as those for Direct Recruitment for each category.”*
- iii. It is asserted that the stipulation contained in the said UGC Notification, 1998 is applicable to the appellants, who were working as Reader (re-designated in the year 2016 as “Associate Professor”) in different Colleges of the State.
- iv. Strong reliance is placed on Paragraph 7¹⁶ of UGC Notification, 1998, which deals with Career

¹⁶ Paragraph 7 of UGC Notification, 1998 reads thus:
“7.0.0 *Career Advancement.*—



Advancement of those holding the post of Reader. It is arduously submitted that a Reader with a minimum of eight years of service in that Grade would be eligible to be considered for appointment as a Professor.

- v. The appellants, in the present batch of cases, have the requisite years of service to be entitled to the benefit of Scale of Pay of Professor Grade under said CAS. As the Government of Odisha in Higher Education Department implemented the UGC Notification, 1998 by virtue of the Resolution dated 31.12.1999, the Odisha Public Service Commission having concurred with the proposal for promotion, seventy-six similarly situated Associate Professor or equivalent rank are promoted to the rank of Professor carrying Scale of Pay in Level 14 of Pay Matrix under the Odisha Revised Scales of Pay (CT) Rules, 2019 (corresponding to pre-revised Scale of

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- 7.1.1. *Minimum length of service for eligibility to move into the Grade of Lecturer (Senior Scale) would be four years for those with Ph.D., five years for those with M.Phil., and six years for others at the level of Lecturer, and for eligibility to move into the Grade of Lecturer (Selection Grade)/Reader, the minimum length of service as Lecturer (Senior Scale) shall be uniformly five years.*
- 7.1.2. *For movement into Grades of Reader and above, the minimum eligibility criterion would be Ph.D. Those without Ph.D. can go up to the level of Lecturer (Selection Grade).*
- 7.1.3. ***A Reader with a minimum of eight years of service in that Grade will be eligible to be considered for appointment as a Professor.***
- 7.1.4. *Selection Committees for Career Advancement shall be the same as those for Direct Recruitment for each category.*
- 7.1.5. *The existing Scheme of Career Advancement for non-academic staff namely Assistant Director of Physical Education, Assistant Registrar, Assistant Librarian would continue."*
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Pay of Rs.37,400-67,000 with AGP Rs.10,000) *vide* Higher Education Notification No. 39664— HE-GCET-MISC-0122-2021/HE, dated 30.09.2021.

vi. Such fact being derived from an information supplied under the Right to Information Act, 2005, it could be made known to the appellants that there was no sanctioned post, yet seventy-six Associate Professors were not only promoted to the rank of Professor but also have been extended pecuniary benefit under the CAS. It is, therefore, forcefully submitted that the list of seventy-six Associate Professors included retired Associate Professors also. It is accordingly argued vehemently that since benefit under the CAS as adopted by the Government of Odisha has been extended in favour of similarly situated Associate Professors by the Higher Education Department, even after retirement, the claim of the appellants-petitioners in the present batch of writ petitions ought not to have been rejected by the authorities concerned. Doing so, smacks arbitrariness and the action of the respondents/opposite parties is tainted with discriminatory treatment attracting *vice* of Article 14 of the Constitution of India.

vii. To wind up arguments, the Senior Counsel appearing for appellants assertively urged that it is



not the case of the appellants to place them in the post of “Professor”, but it is emphatically stated that the appellants are entitled to the benefit envisaged under the CAS, as adopted by the Government of Odisha in the Higher Education Department *vide* Resolution dated 31.12.1999.

viii. In essence, it is fervently prayed by the appellants that they are to be extended the benefit of Professors’ Grade as they fulfilled the eligibility criteria laid down in said UGC Notification, 1998 read with Higher Education Resolution dated 31.12.1999.

7. *Per contra*, Sri Saswat Das, learned Additional Government Advocate submitted that relevant facts, like date of retirement and the events of promotion, have not been placed either before the writ Court or are they made available at this stage.

7.1. It does emanate from Office Order bearing No.32201—HE-FE-II(A)-PLAN-0036/2012 (Pt)/ HE, dated 31.12.2012 issued by the Department of Higher Education (placed at page 46 of memo of appeal) that the appellant in W.A. No.100 of 2026 got retired with effect from 31.05.2006 while serving as Reader in Education, Radha Nath Institute of Advanced Studies in Education, Kataka and completed five years of service as



on 01.01.2006. The appellants are conscious of the fact that on that date they did not fulfil the eligibility criteria of completion of eight years of service as required under the CAS to be eligible for availing benefit of Scale of Pay attached to Professor's Grade. However, the dates of appointment and promotion to the rank of Reader were ante-dated and the appellants were placed as such since 1994 in the year 2019 by virtue of court's order/direction. After five years of such effect being given retrospectively to the appellants' promotion the writ petition relating to the instant case has been filed in the year 2025. Unexplained delay and laches on the part of the appellants cannot entail extension of benefit of Professors' Grade Scale of Pay.

7.2. Referring to Higher Education Department Resolution No.7889-HE-FEIB-MISC-43/2016/HE., 04.04.2016 by dint of which the post of "Reader" was re-designated, it is submitted by Sri Saswat Das, learned Additional Government Advocate that such re-designation is hedged with the condition, *i.e.*, "subject to fulfilling the minimum eligibility standard as per U.G.C. Regulation, 2010 and 2013". The appellants herein having got retired much before U.G.C. Regulation, 2010 and 2013 came into force in place of UPG Notification, 1998, they are not entitled to take shelter of said Resolution of 2016.



7.3. Sri Saswat Das, learned Additional Government Advocate laying stress on the word “appointment” as employed at Paragraph 7.1.3 under Paragraph 7.0.0 dealing with “Career Advancement” in the UGC Notification, 1998 read with Paragraph 4.9.0 of the Higher Education Department Resolution dated 31.12.1999 contended that they being not appointed at any point of time as “Professors”, at this belated stage much after their retirement, which events occurred way back in the year 2006, their claim has rightly been denied by the Commissioner-*cum*-Secretary to Government *vide* Order dated 10.10.2025 (Annexure-13). The decision cannot be put to question invoking Article 226/227 of the Constitution of India; on the contrary there is no flaw in decision making process of the competent Government in Higher Education Department. Such decision of the Government being affirmed by way of reasoned Order dated 10.12.2025 passed in the writ petitions upon hearing analogously, the view expressed by the learned Single Judge does not warrant intervention in these intra-Court appeals.

7.4. It is forcefully submitted by Sri Saswat Das, learned Additional Government Advocate that if the claim of the appellants is acceded to by extending the benefit of Professors’ Grade, the condition enshrined in Paragraph 7.0.0 of the CAS read with Paragraph 4.9.0 in the Higher



Education Department Resolution dated 31.12.1999 dealing with “Career Advancement” shall be rendered nugatory as it is significant to notice the word “appointment” employed therein. Said paragraph in unequivocal term makes it imperative for claiming Professors’ Grade in tune with such Notification and Resolution that “*A Reader with a minimum of eight years of service in that Grade will be eligible to be considered for **appointment as a Professor***”. There was no occasion for the Government to consider the cases of the appellants for the post of “Professor” nor are they found to be eligible for consideration for the said post in view of the fact that in the year 2002 they were promoted to the post of “Reader” and they got retired in the year 2006. Since they had no eligibility having not “served” for eight years in the Grade of Reader, they are not entitled to be extended with the benefit of Professor Grade.

7.5. Weighty reliance has been placed by Sri Saswat Das, learned Additional Government Advocate on *State of West Bengal Vrs. Amal Satpathi, 2024 INSC 906* and *State of U.P. Vrs. Giriraj Prasad Sharma, SLP(C) NOS.18460-18461 of 2023, vide Order dated 06.01.2025* to canvas that promotion cannot retrospectively be granted from a date anterior to the employee got into the Cadre, as it would violate the precincts of Articles 14 and 16 of the Constitution of India and there was no



mandate for the State to fill up the vacant posts in time-bound manner. He would submit that notional promotion cannot be granted on the ground of parity that too long after retirement and in absence of fulfilment of eligibility criteria enshrined in the provisions of the statute/notifications/resolutions.

7.6. To sum up, Sri Saswat Das, learned Additional Government Advocate urged that, since the appellants having got promotion to the post of Reader in the year 2002 and got retired on attaining the age of superannuation in the year 2006, they were not eligible to be considered for the post of Professor on the date of superannuation. Thus, there is no question of consideration of Scale of Pay of Professors' Grade even considering their promotion as ante-dated from the year 1994.

Analysis:

8. Having heard the counsel for the respective parties, perused the record and gone through the Order dated 10.12.2025 of the learned Single Judge, which is subject-matter of challenge in the present writ appeal.

8.1. Valiant attempt was made by the learned Senior Counsel for relegating the matter to the learned Single Judge by setting aside the order impugned for consideration of the matter in the light of Judgment dated 27.11.2024



passed in the batch of matters being *Dr. Dhirendra Kumar Dalai Vrs. State of Odisha, W.P.(C) No.36285 of 2025* rendered by a learned Single Judge of this Court. As the learned Single Judge is *in seisin* of the matter in W.P.(C) No.1203 of 2023 filed by *Dr. Dhirendra Kumar Dalai*, who challenged the rejection of his claim for Scale of Pay in the Professors' Grade by the Government of Odisha in Higher Education Department, it is fervently requested for relegating these matters for reconsideration by the learned Single Judge.

- 8.2. On proper scrutiny of the writ petitions, one of the prayers made therein is as follows [extracted from W.P.(C) No.33579 of 2025 (filed by Dr. Labangalata Bisoi)]:

“Issue a writ in the nature of mandamus or any other writ/writs, direction/directions directing the opposite parties more particularly opposite party No.1 to place the petitioner from Associate Professor to the Scale of Professor under the Career Advancement Scheme in terms of the Order dated 27.11.2024 passed in W.P.(C) No.36285 of 2021 (Dr. Dhirendra Kumar Dalai Versus State of Odisha) under Annexure:10 “the UGC Notification on Revision of Pay Scales, Minimum Qualifications for Appointment of Teachers in Universities and Colleges and Other Measures for the Maintenance of Standards, 1998” under Annexure-6 and the consequential Notification dated 31.12.1999 (Government of Orissa Notification on Revised U.G.C. Scales of Pay) under Annexure- 7 from the



date of completion of eight years of service as an Associate Professor.”

8.3. The following is the observation and direction of the learned Single Judge in *Dr. Dharendra Kumar Dalai Versus State of Odisha*, W.P.(C) No. 36285 of 2021, *vide* Order dated 27.11.2024:

“8. *Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that the present batch of writ petitions have been filed inter alia with the prayer to consider the claim of the Petitioners to get the benefit of the Professor Scale of Pay under Career Advancement Scheme. Such a claim has been made basing on the Notification issued by the UGC on 24.12.1998 and the acceptance of the said resolution by the Government in the Department of Higher Education vide resolution dated 31.12.1999.*

8.1. *Though it is the stand of the opposite parties that the Notification issued by the UGC on 24.12.1998 has not been accepted by the Government as yet and the Resolution dated 31.12.1999 is on a different context, but **this Court after going through the benefit extended in favour of similarly situated Associate Professors vide Notification dated 30.09.2021 and the information provided under RTI vide Letter dated 19.04.2023, is of the view that benefit of promotion to the rank of Professor has been extended in favour of Associate Professors vide Notification dated 30.09.2021 under the Career Advancement Scheme.***



8.2. *Therefore, this Court while disposing the writ petition, directs opposite party No.1 to consider the claim of the present petitioners to get the benefit of Professor Scale of Pay under Career Advancement Scheme. It is observed that while taking such a decision, benefit extended in favour of similarly situated Associate Professors vide Notification dtd.30.09.2021 and the information provided by the Department vide letter dtd.19.04.2023 to the effect that such benefit has been extended under Career Advancement Scheme be taken into consideration in its proper perspective. Opposite party No.1 is directed to take a decision on the claim of the Petitioners within a period of three (3) months from the date of receipt of this order.*

9. *All the writ petitions are accordingly disposed of.”*

8.4. In *P.S. Sathappan Vrs. Andhra Bank Ltd., (2004) Suppl.5 SCR 188*, it was laid down that:

*“*** It is well known that a judgment is an authority for what it decides and not what may even logically be deduced therefrom.*

While analysing different decisions rendered by this Court, an attempt has been made to read the judgments as should be read under the rule of precedents. A decision, it is trite, should not be read as a statute.

A decision is an authority for the questions of law determined by it. While applying the ratio, the court may not pick out a word or a sentence from the judgment divorced from the context in which the said question arose



for consideration. A judgment, as is well known, must be read in its entirety and the observations made therein should receive consideration in the light of the questions raised before it. [See Haryana Financial Corpn. Vrs. Jagdamba Oil Mills, (2002) 3 SCC 496, Union of India Vrs. Dhanwanti Devi (1996) 6 SCC 44, Nalini Mahajan (Dr.) Vrs. Director of Income Tax (Investigation), (2002) 257 ITR 123 (Del), State of U.P. Vrs. Synthetics and Chemicals Ltd. (1991)4 SCC 139, A-One Granites Vrs. State of U.P. (2001) 3 SCC 537, and Bhavnagar University Vrs. Palitana Sugar Mill (P) Ltd. (2003) 2 SCC 111].

Although decisions are galore on this point, we may refer to a recent one in State of Gujarat Vrs. Akhil Gujarat Pravasi V.S. Mahamandal, (2004) 5 SCC 155, wherein this Court held:

“It is trite that any observation made during the course of reasoning in a judgment should not be read divorced from the context in which it was used.”

It is further well settled that a decision is not an authority for the proposition which did not fall for its consideration.”

8.5. Again in *Amrendra Pratap Singh Vrs. Tej Bahadur Prajapati*, (2003) Suppl. 6 SCR 42, the Hon’ble Supreme Court of India reiterated that:

“A judicial decision is an authority for what it actually decides and not for what can be read into it by implication or by assigning an assumed intention to the judges, and inferring from it a proposition of law which the judges have not specifically laid down in the pronouncement.”



8.6. Conceptual perspective as laid down by the Hon'ble Supreme Court of India in the case of *Union of India Vrs. Arulmozhi Iniarasu*, (2011) 7 SCC 397 for applying the ratio of a decision to particular fact-situation is referred to herein below:

“14. Before examining the first limb of the question, formulated above, it would be instructive to note, as a preface, the well-settled principle of law in the matter of applying precedents that the Court should not place reliance on decisions without discussing as to how the fact situation of the case before it fits in with the fact situation of the decision on which reliance is placed. The observations of the courts are neither to be read as Euclid's theorems nor as provisions of statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Disposal of cases by blindly placing reliance on a decision is not proper because one additional or different fact may make a world of difference between conclusions in two cases. [Ref. Bharat Petroleum Corpn. Ltd. Vrs. N.R. Vairamani, (2004) 8 SCC 579; Sarva Shramik Sanghatana (KV) Vrs. State of Maharashtra, (2008) 1 SCC 494 and Bhuwalka Steel Industries Ltd. Vrs. Bombay Iron & Steel Labour Board, (2010) 2 SCC 273.”

8.7. Be that be, in course of hearing of these matters in appeal a photocopy of an Order dated 30.12.2024 passed by the Commissioner-cum-Secretary to Government of Odisha, Department of Higher Education in compliance of direction issued in the common Order



dated 27.11.2024 passed in the case of *Dr. Dhirendra Kumar Dalai, W.P.(C) No. 36285 of 2021 &c. (supra)* has been produced. Perusal of said Order it transpired that the claim of retired Reader/Associate Professor (Dr. Dhirendra Kumar Dalai) for his promotion from Associate Professor to the Scale of Pay in Professor Grade under the Career Advancement Scheme under the UGC Notification, 1998 as adopted in the Higher Education Department Resolution, dated 31.12.1999 in order to extend him the pensionary benefit from the date of his superannuation, *i.e.*, 31.03.2020 with all consequential service and financial benefits has been refused.¹⁷ At paragraph 27 of the writ appeal it has been asserted that the challenge has been laid against said order before this Court, which is stated to be pending in W.P.(C) No.1203 of 2025 before the learned Single Judge.

8.8. Under such premise, it would not be appropriate to concede to the demand of the appellants herein that the matter deserves to be relegated to the authority concerned for a decision in tune with common Order dated 27.11.2024 of the learned Single Judge passed in the case of *Dr. Dhirendra Kumar Dalai (supra), W.P.(C) No.36285 of 2021 and batch*. This Court is not called upon to examine similarity in facts obtained in said case

¹⁷ In the present cases the appellants got retired way back in the year 2006 on attaining age of superannuation in the post of “Reader”.



before the learned Single Bench with these appellants. It is clarified that by way of these appeals under the Letters Patent this Division Bench is required to examine whether the decision of the learned Single Bench in the matters at hand warrants interference.

9. What is placed for consideration in these appeals is the common Order dated 10.12.2025 in W.P.(C) No.33579 of 2025 and batch passed by the learned Single Judge, wherein the following observations are made:

“4. Having heard learned counsel for the parties and having perused the petition papers, this Court declines indulgence in the matter for the following reasons:

4.1. Petitioners were the Members of Odisha Education Service (College Branch) Cadre and therefore, they were governed by the provisions of Odisha Education Service (College Branch) Recruitment Rules, 1990. These Rules did not provide for promotion to the post of Professor at all. However, promotion to the post of Professor was governed by the provisions of Odisha Education Service (Professor's Grade) Recruitment Rules, 1990. These Rules provided for promotion by selection through the Odisha Public Service Commission from among eligible Readers, if vacancies were available. They did not contemplate automatic promotion under the CAS. This aspect has been in a way treated by the impugned orders.



- 4.2. True it is that the benefit of CAS does not depend upon availability of vacancies in the cadre of Professors. The UGC Notification of 1998, whereby CAS was promulgated, was not internalized by the State Government Resolution dated 31.12.1999 and therefore, the CAS does not operate *proprio vigore*. **Any financial benefit otherwise availing under the CAS, cannot be claimed as a matter of right, unless the same has been made a part of State Policy in terms of extant Rules that govern conditions of service of class of employees like the petitioners.** Therefore, the repeated contention, that for claiming benefit of CAS, vacancy in the cadre of Professors is irrelevant, though is true, would not enure to the benefit of petitioners.
- 4.3. The Government in the impugned orders has specifically stated that these Petitioners were superannuated long before the promulgation of the Odisha Education Service (College Branch) Recruitment Rules, 2020, which came into effect on 18.02.2021. **The promotions granted to seventy-six Associate Professors were under these Rules and all they were in service.** Those who had retired before the promulgation of these Rules, constitute a separate class that is not contemplated under these new Rules for the grant of benefit of the kind. Apparently, no challenge is laid to these Rules, either. **The observation of Co-ordinate Bench at Paragraph 8.2 of the judgment that while considering petitioners' claim, the benefit granted to these persons should be kept in view, does not mean petitioners should be treated on par with them, regardless of**



apparent difference, i.e., the promulgation of the new Rules with effect from 18.02.2021 and superannuation of the petitioners anterior to the same. Service Jurisprudence more than recognizes the pensioners as a class apart qua those who are still in service. Therefore, the reasoning of the impugned orders cannot be faltered on the grounds, such as equality & reasonableness.

- 4.4. *The vehement reliance of learned Senior Advocate on the Government Notification dated 31.12.1999 would not come to the aid of his clients. Despite turning its pages, it is not demonstrated that this Notification internalizes Paragraph 7.1.3 of the CAS, which reads as under:*

*“A Reader with **a minimum of eight years of service** in that Grade will be eligible to be considered for **appointment** as a Professor.”*

The text of the above provision only speaks of eligibility to be considered for appointment as a Professor and not as to entitlement for such appointment. Eligibility is one thing and entitlement is another. If the CAS 1998 intended entitlement, in its wisdom it would have employed the very same word. To put it metaphorically, eligibility is the starting point of the journey, whereas entitlement is the destination point.

In the above circumstances, these petitions being devoid of merits are liable to be rejected, and accordingly they are, costs having been made easy.”

- 9.1. Sri Saswat Das, learned Additional Government Advocate made a suave submission by stating that



promotion is not a matter of right and though consideration for promotion is a right provided the eligibility criteria are fulfilled. It is also submitted that it is not obligatory on the part of the employer to fill up all the vacancies even if it did exist in the Professor post.

9.2. Though the pleadings are silent about the date of superannuation except Annexure-2 series enclosed with the writ appeal, *i.e.*, Office Order dated 31.12.2012 wherefrom it is apparent that the appellant in W.A. No.100 of 2026 was retired on 31.05.2006. From Paragraph 4 of all the writ appeals it could be ascertained that while Dr. Labangalata Bisoi got promoted to the post of Reader with effect from 11.04.1994, Dr. Uma Chand Lal got said promotional post with effect from 14.11.1996 whereas Dr. Rama Nath Acharya with effect from 25.10.1994.

9.3. On behalf of the respondents it is argued that the UGC Notification of 1998 is no more in vogue; which is manifest from the decision in *Kalyani Mathiavanana Vrs. K.V. Jeyaraj*, (2015) 6 SCC 363, wherein the following are the observations:

“62. In view of the discussion as made above, we hold:

62.1. To the extent the State legislation is in conflict with the Central legislation including subordinate legislation made by the Central legislation under



Entry 25 of the Concurrent List shall be repugnant to the Central legislation and would be inoperative.

62.2. The UGC Regulations being passed by both the Houses of Parliament, though a subordinate legislation has binding effect on the universities to which it applies.

62.3. The UGC Regulations, 2010 are mandatory to teachers and other academic staff in all the Central universities and colleges thereunder and the institutions deemed to be universities whose maintenance expenditure is met by UGC.

62.4. The UGC Regulations, 2010 are directory for the universities, colleges and other higher educational institutions under the purview of the State legislation as the matter has been left to the State Government to adopt and implement the Scheme. Thus, the UGC Regulations, 2010 are partly mandatory and is partly directory.

62.5. The UGC Regulations, 2010 having not been adopted by the State of Tamil Nadu, the question of conflict between the State legislation and the Statutes framed under the Central legislation does not arise. Once they are adopted by the State Government, the State legislation to be amended appropriately. In such case also there shall be no conflict between the State legislation and the Central legislation."

9.4. Such fact is neither argued nor did it fall for consideration before the learned Single Judge. Nonetheless, Sri Saswat Das, learned Additional



Government Advocate explained that initially these appellants were given promotion to the post of Reader in the year 2002, but by virtue of direction of this Court in writ petition(s), the date of effect of promotion was ante-dated. Since they got retired in the year 2006 (no date of superannuation has been disclosed by the appellants in W.A. Nos.106 and 107 of 2026), computing the period of eligibility enshrined in the UGC Notification, 1998 read with the Higher Education Department Resolution, dated 31.12.1999, the appellants did not get promoted to the post of Professor as they did not complete eight years service in the post of Reader.

9.5. In this respect reliance is placed by Sri Saswat Das, learned Additional Government Advocate, on *State of West Bengal Vrs. Dr. Amal Satpathi, 2024 INSC 906*¹⁸, *disposed of vide Judgment dated 27.11.2024*, wherein it is observed that:

- “5. *Aggrieved by the denial of the benefits flowing from promotion, respondent No. 1 approached the Tribunal by filing O.A. No. 555 of 2017. ****
6. *The appellants challenged this order before the High Court in WPST No. 157 of 2019. The High Court, vide judgment dated 1st February, 2023 dismissed the writ petition, concurring with the Tribunal that **retrospective promotion was impermissible but noting that notional financial benefits were***

¹⁸ Reported at 2024 SCC OnLine SC 3512



justified given that no fault can be attributed to respondent No. 1. Aggrieved, the State has preferred this appeal by special leave.

8. *He further submitted that service jurisprudence does not recognize retrospective promotion without a specific enabling provision, therefore, notional promotion cannot be granted retrospectively unless there exists a specific rule or exceptional circumstances. **In the present case, Rule 54(1)(a) of the West Bengal Service Rules, precludes retrospective promotion.***
9. *Learned counsel further submitted that the final approval for the Chief Scientific Officer position was granted on 4th January, 2017, **after the respondent's superannuation on 31st December, 2016, thus, the promotion could not be effected during his service tenure and therefore, in the absence of any specific rule permitting retrospective promotion, the effective date of promotion should be the date on which it is granted, not the date of the vacancy.***

12. ***E-converso, learned counsel for respondent No.1 submitted that respondent No.1 had been serving as Principal Scientific Officer since 24th March, 2008, and could have been promoted to Chief Scientific Officer as early as in the year 2013, had the Department submitted a timely proposal to fill up the***



vacancy. It was submitted that the Department failed to timely provide the confidential reports and other details of respondent No.1 to the PSC by 13th April, 2016, as required under the Rules. This inaction, for reasons best known to the officials concerned, led to a significant delay in the promotion process and thus, respondent No.1 was deprived of this rightful claim to the fruits of promotion from the date of occurrence of vacancy as per his entitlement.

15. The primary question that arises for our consideration in the present appeal is whether respondent No.1, who was recommended for the promotion before his retirement but did not receive actual promotion to the higher post due to administrative delays, is entitled to notional financial benefits of the promotional post after his retirement?

17. The relevant provision i.e., Rule 54(1)(a) of the West Bengal Service Rules, is extracted hereinbelow for the sake of ready reference:

“Pay on Officiating Appointment.— 54(1)(a):

*Subject to the provisions of Chapter VII, a Government employee who is appointed to officiate in a post **shall not draw pay higher than* “his substantive pay” in respect of a permanent post, other than a tenure post, unless the officiating appointment involves the assumption of duties and responsibilities of greater importance than those attaching to the***



post, other than a tenure post, on which he holds a lien, or would hold a lien had it not been suspended:

Provided that the Governor may specify posts outside the ordinary line of a service the holders of which may, notwithstanding the provisions of this rule and subject to such conditions as the Governor may prescribe, be given any officiating promotion in the cadre of the service which the authority competent to order promotion may decide, and may thereupon be granted the same pay as they would have received if still in the ordinary line.” (emphasis supplied)

18. *Upon a bare perusal of Rule 54(1)(a) of the West Bengal Service Rules, it is clear that promotion cannot be retrospectively granted after retirement, as it requires the actual assumption of duties and responsibilities of the promotional post. In the present case, since respondent No. 1 superannuated before the final approval of his promotion, he could not have formally assume the charge of the promotional post of Chief Scientific Officer. Therefore, although respondent No. 1 was recommended for promotion, Rule 54(1)(a) of the West Bengal Service Rules precludes him from getting the financial benefits of the promotional post without having taken on the responsibilities of the said post, i.e., Chief Scientific Officer.*
19. *It is a well settled principle that promotion becomes effective from the date it is granted, rather than from the date a vacancy arises or the post is created. While the Courts have recognized the right to be considered for promotion as not only a statutory*



*right but also a fundamental right, there is no fundamental right to the promotion itself. ****

20. *In the instant case, it is evident that while respondent No. 1 was recommended for promotion before his retirement, he could not assume the duties of the Chief Scientific Officer. **Rule 54(1)(a) of the West Bengal Service Rules, clearly stipulates that an employee must assume the responsibilities of a higher post to draw the corresponding pay, thus, preventing posthumous or retrospective promotions in the absence of an enabling provision.***
21. *While we recognize respondent No.1's right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. **The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation.** Considering that respondent No. 1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity."*

9.6. It is the stance of Sri Budhadev Routray, learned Senior Advocate that the appellants/petitioners do not claim retrospective promotion in the post of Professor, rather they claim the benefit of Professors' Grade Scale of Pay



as they have completed eight years of service as Reader computing since 1994 as retrospective promotion to the said post was accorded to them by virtue of direction of this Court in the year 2019. *Quod ultra*, it is the statement of the learned Additional Government Advocate that the post of Reader has been re-designation as “Associate Professor” *“subject to fulfilling the minimum eligibility standard as per U.G.C. Regulation, 2010 and 2013”*, as the appellants got retired in the year 2006 before the amended Regulation came into force, the stand taken by the appellants cannot withstand judicial scrutiny. It is not the case of the appellants that they are eligible to claim the benefit under Regulations, 2010 and 2013. This apart, the appellants having not fulfilled eligibility criteria for promotion to the post of “Professor” postulated under Rule 5 of the Professors’ Grade Rules as it stood prior to their retirement, the contention of Sri Budhadev Routray, learned Senior Advocate does not stand to reason.

- 9.7. What is perceived is that the appellants were promoted to the post of “Reader” (though re-designated as “Associate Professor” by virtue of Resolution No.7889–HE-FEIB-MISC-43/2016/HE, dated 04.04.2016 issued by the Higher Education Department) ante-dating the date of effect, but on the basis of undisputed oral



submission made at the Bar it came to light that actually they worked in the said post in the year 2002. This Court, therefore, does not find force in the submission of the appellants. The following observation made in the case of *Government of West Bengal Vrs. Dr. Amal Satpathi*, 2024 INSC 906 = 2024 SCC OnLine SC 3512 may fruitfully be referred to:

“19. It is a well settled principle that promotion becomes effective from the date it is granted, rather than from the date a vacancy arises or the post is created. While the Courts have recognized the right to be considered for promotion as not only a statutory right but also a fundamental right, there is no fundamental right to the promotion itself. In this regard, we may gainfully refer to a recent decision of this Court in the case of *Bihar State Electricity Board and Others Vrs. Dharamdeo Das*, 2024 SCC OnLine SC 1768, wherein it was observed as follows:

‘18. It is no longer res integra that a promotion is effective from the date it is granted and not from the date when a vacancy occurs on the subject post or when the post itself is created. No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself. In this context, we may profitably cite a recent decision in *Ajay Kumar Shukla Vrs. Arvind Rai*,



(2022) 12 SCC 579 where, citing earlier precedents in Director, Lift Irrigation Corporation Ltd. Vrs. Pravat Kiran Mohanty, (1991) 2 SCC 295 and Ajit Singh Vrs. State of Punjab, (1999) 7 SCC 209, a three-Judge Bench observed thus:

‘41. This Court, time and again, has laid emphasis on right to be considered for promotion to be a fundamental right, as was held by K. Ramaswamy, J., in Director, Lift Irrigation Corpn. Ltd. Vrs. Pravat Kiran Mohanty in para 4 of the report which is reproduced below:

*‘4. *** There is no fundamental right to promotion, but an employee has only right to be considered for promotion, when it arises, in accordance with relevant rules. From this perspective in our view the conclusion of the High Court that the gradation list prepared by the corporation is in violation of the right of respondent-writ petitioner to equality enshrined under Article 14 read with Article 16 of the Constitution, and the respondent-writ petitioner was unjustly denied of the same is obviously unjustified.’*

42. A Constitution Bench in Ajit Singh Vrs. State of Punjab, (1999) 7 SCC 209, laying emphasis on Article 14 and Article 16(1) of the Constitution of India held that if a person who satisfies the eligibility and



the criteria for promotion but still is not considered for promotion, then there will be clear violation of his/her's fundamental right. Jagannadha Rao, J. speaking for himself and Anand, C.J., Venkataswami, Pattanaik, Kurdukar, JJ., observed the same as follows in paras 22 and 27:

'22. Articles 14 and 16(1): is right to be considered for promotion a fundamental right? Article 14 and Article 16(1) are closely connected. They deal with individual rights of the person. Article 14 demands that the 'State shall not deny to any person equality before the law or the equal protection of the laws'. Article 16(1) issues a positive command that:

'there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State'.

It has been held repeatedly by this Court that clause (1) of Article 16 is a facet of Article 14 and that it takes its roots from Article 14. The said clause particularises the generality in Article 14 and identifies, in a constitutional sense "equality of opportunity" in matters of employment and appointment to any



office under the State. The word “employment” being wider, there is no dispute that it takes within its fold, the aspect of promotions to posts above the stage of initial level of recruitment. Article 16(1) provides to every employee otherwise eligible for promotion or who comes within the zone of consideration, a fundamental right to be “considered” for promotion. Equal opportunity here means the right to be “considered” for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, then there will be a clear infraction of his fundamental right to be “considered” for promotion, which is his personal right. “Promotion” based on equal opportunity and seniority attached to such promotion are facets of fundamental right under Article 16(1).

- 27. In our opinion, the above view expressed in Ashok Kumar Gupta [Ashok Kumar Gupta Vrs. State of U.P., (1997) 5 SCC 201, and followed in Jagdish Lal Vrs. State of Haryana, (1997) 6 SCC 538, and other cases, if it is intended to lay down that the right guaranteed to*



employees for being “considered” for promotion according to relevant rules of recruitment by promotion (i.e. whether on the basis of seniority or merit) is only a statutory right and not a fundamental right, we cannot accept the proposition. We have already stated earlier that the right to equal opportunity in the matter of promotion in the sense of a right to be “considered” for promotion is indeed a fundamental right guaranteed under Article 16(1) and this has never been doubted in any other case before Ashok Kumar Gupta [Ashok Kumar Gupta Vrs. State of U.P.], right from 1950.’

20. *In State of Bihar Vrs. Akhouri Sachindra Nath, 1991 Supp.1 SCC 334, it was held that retrospective seniority cannot be given to an employee from a date when he was not even borne in the cadre, nor can seniority be given with retrospective effect as that might adversely affect others. The same view was reiterated in Keshav Chandra Joshi Vrs. Union of India, 1992 Supp.1 SCC 272, where it was held that when a quota is provided for, then the seniority of the employee would be reckoned from the date when the vacancy arises in the quota and not from any anterior date of promotion or subsequent date of confirmation. The said view was restated in*



Uttaranchal Forest Rangers' Assn. (Direct Recruit) Vrs. State of U.P., (2006) 10 SCC 346, in the following words:

'37. We are also of the view that no retrospective promotion or seniority can be granted from a date when an employee has not even been borne in the cadre so as to adversely affect the direct recruits appointed validly in the meantime, as decided by this Court in Keshav Chandra Joshi Vrs. Union of India held that when promotion is outside the quota, seniority would be reckoned from the date of the vacancy within the quota rendering the previous service fortuitous. The previous promotion would be regular only from the date of the vacancy within the quota and seniority shall be counted from that date and not from the date of his earlier promotion or subsequent confirmation. In order to do justice to the promotes, it would not be proper to do injustice to the direct recruits.

38. This Court has consistently held that no retrospective promotion can be granted nor can any seniority be given on retrospective basis from a date when an employee has not even been borne in the cadre particularly when this would adversely affect the direct recruits who have been



appointed validity in the meantime.
(emphasis supplied)’ ***”

9.8. It would not be out of place to have regard to the following legal perspective as enunciated by the Hon’ble Supreme Court of India in the case of *Haryana State Electricity Board Vrs. Gulshan Lal*, (2009) 8 SCR 950:

- “7. Whereas Anil Kapoor was in the grade of Senior Technician, Gulshan Lal and Kashmir Singh were in the Technician Grade I. The said suits were decreed, subject to the decision of the aforementioned RSA No. 800 of 1992.
8. On or about 13.01.1986, for the purpose of implementing the staffing pattern vis-a-vis recruitment and promotion policy for thermal power plants of the Board, inter alia a decision was taken to re-designate the regular technical posts in the thermal organization of Faridabad with effect from 15.01.1986 in the respective trades; the relevant entries thereof are as under:

28. Submission of Mr. Salman Khurshid that the right to obtain same remuneration would carry with it the designation also is not correct. **Promotion to a higher post cannot be claimed as a matter of right.** Before a person claims promotion, subject of course to just exceptions, the prevailing rules must be followed. **If the employee concerned while working in a particular grade does not acquire experience of working therein, he cannot be promoted to the next higher grade although**



experience in the immediately below post forms part of an essential qualification. A person, thus, who is ineligible to hold the post cannot be directed to be promoted thereto only on the ground of so called equality doctrine or otherwise.

29. We have noticed hereinbefore that even in Kashmir Singh's case, the High Court committed a serious illegality in treating the Senior Technicians and Technicians together. Similar reliefs were granted to both the categories of employees which was impermissible.
30. The basis on which the other judgments were passed, viz., the decision of the High Court in the second appeal is subject matter of one of the SLPs. The Trial Judge following the case of Anil Kapoor and Kashmir Singh had evidently not only directed grant of scale of pay but also an additional relief, viz., designation. It was also, in our opinion, wholly impermissible in law.
31. ***It is one thing to say that having regard to the provisions contained in Article 39(d) of the Constitution of India read with Article 14 thereof, a court invokes the doctrine of equal pay for equal work but the same would not mean that a person is not only granted the same relief but also granted a higher status to which he was not otherwise entitled to.***"

9.9. A cue from the following observation contained in *Union of India Vrs. B.M. Jha*, (2007) 11 SCC 632 may be relevant in the present context:



*“We have heard learned counsel for the parties. It was argued by learned counsel for the respondent that when a retrospective promotion is given to an incumbent normally he is entitled to all benefits flowing therefrom. However, this Court in the case of State of Haryana & Ors. Vrs. D.P. Gupta & Ors., (1996) 7 SCC 533 and followed in the case of A.K Soumini Vrs. State Bank of Travancore, JT (2003) 8 SC 35 has taken the view that even in case of a notional promotion from retrospective date, **it cannot entitle the employee to arrears of salary as the incumbent has not worked in the promotional post. These decisions relied on the principle of no work no pay.** The learned Division Bench in the impugned judgment has placed reliance on the case of State of Andhra Pradesh Vrs. K.V.L. Narasimha Rao & Ors., (1999) 3 SC 205. In our view, the High Court did not examine that case in detail. In fact, in the said judgment the view taken by the High Court of grant of salary was set aside by this Court. **Therefore, we are of the view that in the light of the consistent view taken by this Court in the abovementioned cases, arrears of salary cannot be granted to the respondent in view of the principle of no work no pay in case of retrospective promotion.** Consequently, we allow this appeal and set aside the impugned order of the High Court dated 17.05.2000 passed by the Division Bench of the High Court as also the order dated 11.01.2000 passed by the Central Administrative Tribunal, Principle Bench.”*

9.10. On the date of retirement of the appellant in the year 2006 since provisions of Rule 5 of the Professors' Grade Rules, 1990 was not in *pari materia* compared to the provisions introduced by way of amendment that is brought into force with effect from 20.07.2006, the claim



of the appellant(s) is not tenable as negative equalities is not conceived of under Article 14 of the Constitution of India.

10. The last limb of argument advanced by the learned Senior Counsel appearing for respective appellants is parity of treatment with those seventy-six Associate Professors who were accorded promotion to the post of Professor after supersession of the Odisha Education Service (College Branch) Recruitment Rules, 1990, the Odisha Education Service (Senior Administrative Grade) Recruitment Rules, 1990 and the Odisha Education Service (Professors' Grade) Recruitment Rules, 1990 by virtue of the Odisha Education Service (College Branch) Recruitment Rules, 2020 *vide* Department of Higher Education Notification bearing No.39664— HE-GCET-MISC-0122-2021/HE, dated 30.09.2021. It is submitted that the action of the authorities is arbitrary and discriminatory in granting promotion to the seventy-six numbers of Odisha Education Service (College Branch) Cadre Teachers of Associate Professors or equivalent rank to the rank of Professor carrying Scale of Pay in Level-14 of the Pay Matrix under the Odisha Revised Scales of Pay (CT) Rules, 2019.

10.1. Refuting the contention of the learned Additional Government Advocate that the eligible Associate Professors were given the benefit in the rank of



Professor, the learned Senior Advocate appearing for appellant(s) submitted that the list enclosed to aforesaid Higher Education Department Notification dated 30.09.2021 would reveal that certain Associate Professors are given the promotional post of “Professor” after their retirement. Nothing has been placed by the appellants/petitioners to suggest that their retirement was within close proximity of date of their respective retirement *vis-à-vis* eligibility criteria that prevailed on the date of retirement. The circumstance and factual considerations under which such grant has been extended to these seventy-six Associate Professors is not put forth before this Court.

10.2. Scrutiny of Annexure-A appended to said Notification goes to depict that it is a “*List of Associate Professor/equivalent rank OES Teachers fulfilling the minimum score point of 80 (as per parameters given in Schedule-I of 2020 Recruitment Rules)*”. Annexure-B thereto discloses that it is a “*List of Associate Professors/equivalent rank OES Teachers completing 12 years before ...*” (illegible copy furnished by the appellants). These annexures are clear indicators of the fact that the Government of Odisha has considered the eligibility criteria of Associate Professors for the post of “Professor”. Nonetheless, the appellants have not demonstrated that the retirement of such Associate



Professors (“Reader” is re-designated as “Associate Professor” in the year 2016) were prior to coming into force of the Odisha Education Service (Professors’ Grade) Recruitment (Amendment) Rules, 2006.

10.3. It could not be ascertained upon minute examination of the recitals in the columns against each of the Associate Professors appearing in the lists at Annexures-A and B appended to said Notification dated 30.09.2021 that the benefit given to the retired Associate Professors as reflected therein is in consideration whether they got retired before or after 2006. The appellants, who got retired before the Odisha Education Service (Professors Grade) Recruitment (Amendment) Rules, 2006 came into force, have placed no material to suggest that they are similarly situated with those Associate Professors in the lists. It is not clarified by the appellants whether the Readers, which post was re-designated as Associate Professors in the year 2016, got the “appointment” to the post of Professor after the date of retirement on superannuation prior to 2016. This Court is made to understand that the appellants/petitioners having reached the age of superannuation got retired in the year 2006. Therefore, the employee and employer relationship came to an end. This Court cannot remain oblivious that notional promotion may be considered by the Courts only if a junior employee has been promoted



in violation of the relevant Rules, not merely due to the availability of a vacancy. The mere existence of vacancy does not justify granting notional promotion, as the filling of such posts is the prerogative of the administration and cannot be claimed as matter of right by the employee. Therefore, there was no scope to consider their case for promotion so far as eligibility criteria are concerned on the basis of amendment to Rule 5 of the Professors' Grade Recruitment Rules, 1990 with effect from 20.07.2006. Whereas Rule 5 as it existed on the date of retirement of the appellants in the year 2006 (as seen from the Office Order dated 31.12.2012 issued by the Department of Higher Education enclosed with W.A. No.100 of 2026 specifying the date of retirement as 31.05.2006, i.e., prior to 20.07.2006) envisaged filling up of the post of Professor by way of "*direct recruitment on the basis of merit*", the claim of the appellants for grant of Professors' Grade Pay Scale is, thus, fallacious.

10.4. This takes the Court to have regard to the following observations made in *State of Odisha Vrs. Anup Kumar Senapati*, (2019) 12 SCR 472:

"In Kulwinder Pal Singh and another Vrs. State of Punjab and others, (2016) 6 SCC 532, this Court while relying upon State of U.P. Vrs. Rajkumar Sharma, (2006) 3 SCC 330, observed as under:



‘16. The learned counsel for the appellants contended that when the other candidates were appointed in the post against dereserved category, the same benefit should also be extended to the appellants. Article 14 of the Constitution of India is not to perpetuate illegality and it does not envisage negative equalities. In-State of U.P. Vrs. Rajkumar Sharma, (2006) 3 SCC 330 it was held as under (SCC p. 337, para 15)

‘15. Even if in some cases appointments have been made by mistake or wrongly, that does not confer any right on another person. Article 14 of the Constitution does not envisage negative equality, and if the State committed the mistake it cannot be forced to perpetuate the same mistake. (See Sneh Prabha Vrs. State of U.P, (1996) 7 SCC 426; Jaipur Development Authority Vrs. Daulat Mal Jain, (1997) 1 SCC 35; State of Haryana Vrs. Ram Kumar Mann, (1997) 3 SCC 321; Faridabad CT Scan Centre Vrs. DG, Health Services, (1997) 7 SCC 752; Jalandhar Improvement Trust Vrs. Sampuran Singh, (1999) 3 SCC 494; State of Punjab Vrs. Rajeev Sarwal, (1999) 9 SCC 240; Yogesh Kumar Vrs. Government (NCT of Delhi), (2003) 3 SCC 548; Union of India Vrs. International Trading Co., (2003) 5 SCC 437 and Kastha Niwarak Grahnirman Sahakari Sanstha Maryadit Vrs. Indore Development Authority, (2006) 2 SCC 604.)’

Merely because some persons have been granted benefit illegally or by mistake, it does not confer right upon the appellants to claim equality.’



In Arup Das and others Vrs. State of Assam and others, (2012) 5 SCC 559, this Court observed as under:

‘19. In a recent decision rendered by this Court in *State of U.P. Vrs. Rajkumar Sharma*, (2006) 3 SCC 330, this Court once again had to consider the question of filling up of vacancies over and above the number of vacancies advertised. Referring to the various decisions rendered on this issue, this Court held that filling up of vacancies over and above the number of vacancies advertised would be violative of the fundamental rights guaranteed under Articles 14 and 16 of the Constitution and that selectees could not claim appointments as a matter of right. It was reiterated that **mere inclusion of candidates in the select list does not confer any right to be selected, even if some of the vacancies remained unfilled.** This Court went on to observe further that even if in some cases appointments had been made by mistake or wrongly, that did not confer any right of appointment to another person, as **Article 14 of the Constitution does not envisage negative equality and if the State had committed a mistake, it cannot be forced to perpetuate the said mistake.**’

In State of Orissa and another Vrs. Mamata Mohanty, (2011) 3 SCC 436, it was observed:

‘56. **It is a settled legal proposition that Article 14 is not meant to perpetuate illegality and it does not envisage negative equality. Thus, even if some other similarly situated persons have been granted some benefit inadvertently or by mistake, such order does not confer any**



legal right on the petitioner to get the same relief. (*Vide Chandigarh Admn. Vrs. Jagjit Singh, (1995) 1 SCC 745, Yogesh Kumar Vrs. Govt. of NCT of Delhi, (2003) 3 SCC 548, Anand Buttons Ltd. Vrs. State of Haryana, (2005) 9 SCC 164, K.K. Bhalla Vrs. State of M.P., (2006) 3 SCC 581, Krishan Bhatt Vrs. State of J&K, (2008) 9 SCC 24, State of Bihar Vrs. Upendra Narayan Singh, (2009) 5 SCC 65 and Union of India Vrs. Kartick Chandra Mondal, (2010) 2 SCC 422.*)”

10.5. Upon diligent reading of the impugned order it transpires from the following reason ascribed by the learned Single Judge that the contention of parity of treatment of the appellants with the Readers/Associate Professors out of the seventy-six Readers/Associate Professors having been accorded with the Professors’ Grade after their retirement has been dispelled:

*“The promotions granted to seventy-six Associate Professors were under these Rules and all they were in service. Those who had retired before the promulgation of these Rules, constitute a separate class that is not contemplated under these new Rules for the grant of benefit of the kind. Apparently, no challenge is laid to these Rules, either. **The observation of Co-ordinate Bench at Paragraph 8.2 of the judgment that while considering petitioners’ claim, the benefit granted to these persons should be kept in view, does not mean petitioners should be treated on par with them, regardless of apparent difference, i.e., the promulgation of the new Rules with effect from***



18.02.2021 and superannuation of the petitioners anterior to the same. *Service Jurisprudence more than recognizes the pensioners as a class apart qua those who are still in service. Therefore, the reasoning of the impugned orders cannot be faltered on the grounds, such as equality & reasonableness.”*

10.6.A view so expressed by the learned Single Judge does not deserve to be varied by the Division Bench in exercise of power under the Letters Patent, if at all another view can be possible. Paucity of material fact being placed by the appellants/petitioners, as narrated above, does not warrant contrary view need to be taken than what was expressed by the learned Single Judge. No perversity being found in the common Order dated 10.12.2025 passed in W.P.(C) No.33579 of 2025, W.P.(C) No.33628 of 2025 and W.P.(C) No.33720 of 2025 this Court declines to show indulgence in the decision taken by the learned Single Judge.

Conclusion:

11. It remained undisputed by the learned Senior Counsel for the appellants against the fact asserted by the learned Additional Government Advocate that the appellants have never actually functioned as Professors, obviously for not having eligibility as per Rule 5(1) of the Professors Grade Recruitment Rules, 1990 as it existed prior to the date of retirement, and their promotion to the post of Reader was ante-dated to be reckoned from



1994 (as promotion to the post of Reader was ante-dated in compliance of direction of this Court in certain writ petitions), but they actually worked in the said post since 2002. With the above discussed legal perspective in mind and the factual position obtained as adumbrated in the pleadings, it can safely be said that the condition of “eight years in service” stipulated in Paragraph 7.1.3 under the Heading “Career Advancement” of the UGC Notification, 1998 read with Paragraph 4.9.0: Career Advancement of Higher Education Department Resolution dated 31.12.1999 has not been fulfilled.

11.1. Sri Subir Palit, learned Senior Advocate cited a Judgment of the Hon’ble Supreme Court of India rendered in the case of *Gambhirdan K. Gadhvi Vrs. State of Gujarat*, (2022) 5 SCC 179 to contend that if the Rules framed by the State is contrary to the UGC Regulation, the former legislation would yield to the latter. He referred to Paragraph 50 of said Judgment is runs as follows:

“50. It cannot be disputed that the UGC Regulations are enacted by the UGC in exercise of powers under Sections 26(1)(e) and 26(1)(g) of the UGC Act, 1956. Even as per the UGC Act every rule and regulation made under the said Act, shall be laid before each House of Parliament. Therefore, being a subordinate legislation, UGC Regulations becomes part of the



Act. In case of any conflict between the State legislation and the Central legislation, Central legislation shall prevail by applying the rule/principle of repugnancy as enunciated in Article 254 of the Constitution as the subject “education” is in the Concurrent List (List III) of the Seventh Schedule to the Constitution. Therefore, any appointment as a Vice-Chancellor contrary to the provisions of the UGC Regulations can be said to be in violation of the statutory provisions, warranting a writ of quo warranto.”

11.2. There is no two opinions about such proposition, yet the Additional Government Advocate would submit that the said reported case was concerning selection of Vice-Chancellor. In the instant case as on the date of retirement of the appellant the State Government/ University did not change/modify either the Odisha Education Service (Professors’ Grade) Recruitment Rules, 1990 or the Odisha Education Service (College Branch) Recruitment Rules, 1990 in tune with the UGC Notification on Revision of Pay Scales, Minimum Qualification for Appointments of Teachers in Universities, Colleges and Other Measures for the Maintenance of Standards, 1998 as adopted by the State Government by Resolution dated 31.12.1999. He submitted that in the above reported Judgment in the case of *Gambhirdan K. Gadhvi (supra)* the Hon’ble Supreme Court of India was considering the recitals contained in the UGC Regulations, 2010 which specified



that the Universities and State Government would modify or amend the relevant Acts and Statutes. He drew attention to Paragraph 25 of said Judgment which reads thus:

“25. Regulation 7.4.0 mandates that the universities/ State Governments shall modify or amend the relevant Acts/Statutes of the universities concerned within six months of adoption of these Regulations.”

11.3. The Senior Advocate(s) could not throw light on such requirement of amendment/change in the Odisha Education Service (Professors’ Grade) Recruitment Rules, 1990 or the Odisha Education Service (College Branch) Recruitment Rules, 1990 with reference to the UGC Notification on Revision of Pay Scales, Minimum Qualification for Appointments of Teachers in Universities, Colleges and Other Measures for the Maintenance of Standards, 1998 as adopted by the State Government by Resolution dated 31.12.1999.

11.4. However, the learned Additional Government Advocate laid emphasis on the word “*appointment*” employed in Paragraph 7.0.0 (particularly 7.1.3) of the UGC Notification, 1998 (CAS) read with 4.9.0 of the Higher Education Department Resolution, dated 31.12.1999. Presence of said word has much significance. The appellant(s) in the post of “Reader” during his/her service tenure was never “considered for appointment as



a Professor”. Hence, the claim has been rejected with justification. At Paragraph 4 of the instant writ appeals the appellants in W.A. Nos.100, 106 and 107 of 2026 simply stated that they were promoted to the post of Reader from Lecturer (Senior Scale) with effect from 11.04.1994, 14.11.1996 and 25.10.1994 respectively without bringing on record the circumstances which prevailed for ante-dating the promotion, though they actually got promoted to the said post of Reader in the year 2002, as contended by the learned Additional Government Advocate. However, much after the retirement of these appellants said post of Reader has been re-designated as Associate Professor by Higher Education Department Resolution No.7889-HE-FEIB-MISC-43/2016/HE, dated 04.04.2016.

11.5. It is sought to be canvassed by Sri Prafulla Kumar Rath, learned Senior Advocate that in Rule 5(1) of the Odisha Education Service (Professors’ Grade) Recruitment Rules, 1990 it has been specified by virtue of amendment in the Professors’ Grade Recruitment Rules in the year 2006, that *“the post of Professor in the Service shall be filled up by selection through the Commission from among the eligible Readers in Government Colleges of Odisha on merit and suitability with due regard to seniority”*. Therefore, he would submit that the appellant in W.A. No.100 of 2026 has the eligibility for being



considered for the post of “Professor”, as he was promoted to the post of “Reader” with effect from 11.04.1994 and retired on 31.05.2006. Having eight years of service in the Reader Grade, in view of sub-rule (1) of Rule 5 of the Professors’ Grade Rules as amended with effect from 20.07.2006 relief claimed ought to have been extended by the respondents.

11.6.To dispel such contention Sri Saswat Das, learned Additional Government Advocate would submit that said provision in sub-rule (1) of Rule 5 of the Professors’ Grade Rules was amended by virtue of the Odisha Education Service (Professors’ Grade) Recruitment Amendment Rules, 2006 with effect from 20.07.2006. By the time such amendment came to force, the appellant got retired. He expanded his argument by stating that prior to substitution of sub-rule (1) of Rule 5 of the Professors’ Grade Rules the provision read as *“The post of Professor in the service shall be filled up by direct recruitment on the basis of merit through all-India advertisement and through the selection made by the Commission”*. The recruitment process for the post of “Professor” being completely different than what was amended with effect from 20.07.2006 and such post of “Professor” was to be filled up by way of “direct recruitment” only, there was no scope or occasion for the appellant(s) to claim for the Professors’ Grade based on



subsequent amendment carried in the Rules after her retirement on 31.05.2006. Even if it is considered that the UGC Notification (CAS) has been adopted by the Higher Education Department, there was no provision to modify or amend the relevant Acts/Statutes of the University within period stipulated as is required under Regulation of 2010 [See, paragraph 25 of *Gambhirdan K. Gadhvi (supra)*]. This Court finds force in such submission. The learned Single Judge in his Order dated 10.12.2025 has candidly spoke that the text of the provision in Paragraph 7.1.3 of the UGC Notification, 1998 only speaks of eligibility to be considered for appointment as Professor and not as to entitlement for such appointment. The Professors' Grade Rules, 1990 in Rule 5(1) prior to amendment in 2006 postulated "*direct recruitment on the basis of merit through all-India advertisement and the selection made by the Commission*", which stands contradistinguished with the existing provision that requires "*selection through the Commission from among the eligible Readers in Government Colleges of Odisha on merit and suitability with due regard to seniority*". In other words, the appointment method changed from an open nationwide competitive test to an internal promotion system. The claim of the appellants/petitioners is not that they have qualified conditions enshrined in sub-rule (2) of Rule 5. Furthermore, Rule 6 makes it clear that whenever the



occasion to fill up the post in a particular or different discipline in the service arises, the Government shall send requisition to the Commission to furnish the name of suitable persons. Therefore, the argument based on the information provided to the appellant(s) under the Right to Information Act, 2005 pales into insignificance inasmuch as untrammelled answer is available in the Order dated 13.10.2025 passed by the Commissioner-cum-Secretary, Higher Education Department to the effect that:

“And whereas the petitioner retired from service well before the promulgation of the Odisha Education Service (College Branch) Recruitment Rules, 2020 which came into effect on 18.02.2021. The promotion of seventy-six Associate Professors cited by the petitioner was made under the 2020 Rules, which have prospective operation. As such, the petitioner, having retired prior to the enforcement of the new Rules, is not entitled to claim parity with Officers promoted under the said Rules.”

11.7. It is well-nigh settled that the moment the appellant/petitioner gets retired from service, the relationship between the employer and employee ceased to exist. Hence any amendment carried in statute would not entail the retiree to claim benefit in the promotional post derived from the provisions that come to exist subsequent to the date of retirement.



11.8. The expression 'retire' has been defined in *Legal Thesaurus by William C. Burton (Regular Edition Pg 453)* in the context of employment to mean to 'conclude a career'. It has the following other meanings:

"Abdicate, demit, drop out, give notice, give up office, give up work, leave, quit, relinquish, resign, stand aside, take leave, tender one's resignation, vacate".

11.9. With benefit this Court may refer to the following observations of the Hon'ble Supreme Court of India so far as revised pay scale *vis-à-vis* retired employees are concerned in *Chandrashekar A.K. Vrs. State of Kerala, (2009) 1 SCC 73*:

"11. Ordinarily, a person retiring from service on a pensionable post would obtain the benefit of the revision in the scale of pay. This was so held in U.P. Raghavendra Acharya Vrs. State of Karnataka, (2006) 9 SCC 630 wherein this Court opined:

'19. The fact that the appellants herein were treated to be on a par with the holders of similar posts in government colleges is neither denied nor disputed. The appellants indisputably are governed by the UGC scales of pay. They are entitled to the pensionary benefits also. They had been given the benefits of the revision of scales of pay by the Tenth Pay Revision Committee with effect from 01.01.1986. The pensionary benefits payable to them on attaining the age of superannuation or death were also stated to be on a par with



the employees of the State Government. The State of Karnataka, as noticed hereinbefore, for all intent and purport, has treated the teachers of the Government-aided colleges and the regional engineering colleges on the one hand and the teachers of the colleges run by the State itself on the other hand on a par. Even the financial rules were made applicable to them in terms of the notifications, applying the rule of incorporation by reference. Although Rule 296 of the Rules per se may not be applicable so far as the appellants are concerned, it now stands admitted that the provisions thereof have been applied to the case of the appellants also for the purpose of computation of pensionary benefits.'

The services of the appellant being not a pensionable one, in our opinion, U.P. Raghavendra Acharya, (2006) 9 SCC 630 has no application to the fact of the present case. In that case, the amount of pension was to be calculated. On what basis the same was required to be done was considered in the following terms: (U.P. Raghavendra Acharya case, (2006) 9 SCC 630, paras 22-23)

'22. The State while implementing the new scheme for payment of grant of pensionary benefits to its employees, may deny the same to a class of retired employees who were governed by a different set of rules. The extension of the benefits can also be denied to a class of employees if the same is permissible in law. The case of the appellants, however,



stands absolutely on a different footing. They had been enjoying the benefit of the revised scales of pay. Recommendations have been made by the Central Government as also the University Grants Commission to the State of Karnataka to extend the benefits of the Pay Revision Committee in their favour. The pay in their case had been revised in 1986 whereas the pay of the employees of the State of Karnataka was revised in 1993. The benefits of the recommendations of the Pay Revision Committee with effect from 01.01.1996, thus, could not have been denied to the appellants.

23. *The stand of the State of Karnataka that the pensionary benefits had been conferred on the appellants with effect from 01.04.998 on the premise that the benefit of the revision of scales of pay to its own employees had been conferred from 01.01.1998, in our opinion, is wholly misconceived. Firstly, because the employees of the State of Karnataka and the appellants, in the matter of grant of benefit of revised scales of pay, do not stand on the same footing as revised scales of pay had been made applicable to their cases from a different date. Secondly, the appellants had been given the benefit of the revised scales of pay with effect from 01.01.1996. **It is now well settled that a notification can be issued by the State accepting the recommendations of the Pay Revision Committee with retrospective effect as it was beneficent to the employees. Once such a retrospective effect is given to the recommendations of***



the Pay Revision Committee, the employees concerned despite their reaching the age of superannuation in between the said dates and/or the date of issuance of the notification would be deemed to be getting the said scales of pay as on 01.01.1996. By reason of such notification, as the appellants had been deprived of a vested right, they could not have been deprived therefrom and that too by reason of executive instructions.'

13. We have noticed hereinbefore that both the Central Government as also the State of Kerala categorically stated that the notification had not come into force on the dates on which the representations of the appellant dated 01.01.1996 and 14.02.1996 were rejected by them in terms of their Letters dated 31.01.1996 and 30.07.1996, respectively. In this view of the matter, it is difficult to agree with the contention of the learned counsel for the appellant that the benefit of recommendation of his pay revision committed stood implemented on the day on which the appellant resigned. This aspect of the matter has also been considered in *State of T.N. Vrs. Seshachalam*, (2007) 10 SCC 137 stating:

- '15. It is one thing to say that the State had come up with a policy decision which is beneficial to all the employees irrespective of the fact as to whether they had reached the age of superannuation or not, the only criterion being that they were recruited to the Tamil Nadu Secretariat Service on or***



before 28.01.1994 but it is another thing to say that the claim petitions filed by the respondents were based on the success of their colleagues before the Administrative Tribunal in the year 1994. The employees working in the Finance Department had been promoted long back. We have noticed hereinbefore that some of them retired as Additional Secretaries whereas the respondents retired as merely Assistants. Presumably, promotions to the employees of the Finance Department were given systematically over a long period of time but no such grievance was made nor was any application filed before the appropriate forum. Such grievance, in our opinion, should have been raised or proper application before the Tribunal should have been filed long long back. It was in the aforementioned situation, the Tribunal was of the opinion that their applications were barred by limitation. Assuming that the cause of action for filing such applications arose in view of the observations made by the Tribunal in its order dated 16.04.1993 passed in Original Application No. 166 of 1990, but then in terms of the Act and the Rules, the respondents were required to file a proper application within a period of one year only. It is borne out from the records that, in fact, 62 such applications were already pending when GOMs No. 126 was issued.'



Therein U.P. Raghavendra Acharya, (2006) 9 SCC 630 was distinguished, stating: (Seshachalam case, (2007) 10 SCC 137, pp. 149-50, para 28)

‘28. Reference has also been made by Mr Venkataramani to a decision of this Court in U.P. Raghavendra Acharya Vrs. State of Karnataka, (2006) 9 SCC 630 wherein it was held that pension is not a bounty and it is a deferred salary. This Court is not concerned herein with such a situation. In the said decision, this Court was concerned with a case where an employee retiring on a particular date was to receive 50% of the pension on the enhanced salary. In the fact situation obtaining therein that as the revision of pay and consequent revision in pension had come into force and by reason of a notification, the modality of computing the pension was required to be determined, those who had fulfilled the conditions laid down therein were held to be entitled to the benefits provided for thereunder holding that the employees concerned had a vested right therein.’

- 14. The question as to whether the scale of pay would be revised or not is a matter of policy decision for the State. No legal right exists in a person to get a revised scale of pay implemented. It may be recommended by a body but ultimately it has to be accepted by the employer or by the State which has to bear the financial burden. This aspect of the matter has been considered by this Court in HEC Voluntary**



Retd. Employees Welfare Society Vrs. Heavy Engg. Corpn. Ltd., (2006) 3 SCC 708 p. 716, para 19):

*‘19. It is not in dispute that the effect of such voluntary retirement scheme is cessation of jural relationship between the employer and the employee. Once an employee opts to retire voluntarily, in terms of the contract he cannot raise a claim for a higher salary unless by reason of a statute he becomes entitled thereto. **He may also become entitled thereto even if a policy in that behalf is formulated by the Company.**’*

(See also LIC Vrs. Retired LIC Officers Assn., (2008) 3 SCC 321).”

11.10. Thus, it is evident that the word ‘retirement’ is a word of wide import and the same *inter alia* means the conclusion of a career. From the documents enclosed with the memorandum of appeal *vide* W.A. No.100 of 2026 it could be ascertained that the appellant got retired on superannuation on 31.05.2006, at the cost of repetition it may be stated that the appellants in W.A. Nos.106 and 107 of 2026 have conspicuously avoided to disclose the date of superannuation. The learned Senior Counsel did not raise objection to the submission of the learned Additional Government Advocate that the appellants, promoted to the rank of Reader in the year 2002 (later ante-dated to 1994), have got retired in the year 2006 prior to the Odisha Education Service



(Professors' Grade) Recruitment (Amendment) Rules, 2006 came into force with effect from 20.07.2006.

11.11. Conspectus of above discussion would lead to the conclusion that the appellants cannot be allowed the relief claimed for inasmuch as the learned Single Judge has rightly stated that CAS *vide* UGC Notification, 1998 as adopted by the Government of Odisha in Higher Education Department Resolution, 31.12.1999 only speaks about "*eligibility to be considered for appointment as a Professor and not as to entitlement for such appointment*".

11.12. The scope of interference with the judgment/order of the learned Single Judge of this Court in intra-Court appeal filed under Article 4 of the Odisha High Court Order, 1948 read with Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna and Rule 6 of Chapter-III and Rule 2 of Chapter-VIII of the Rules of the High Court of Odisha, 1948, can be couched in the observations contained in following decisions rendered by Courts:

i. *N. Ramachandra Reddy Vrs. State of Telengana, (2019) 11 SCR 792:*

"43. Further, in the case of Management of Narendra & Company Pvt. Ltd. Vrs. Workmen of Narendra & Company, (2016) 3 SCC 340,



while considering the scope of the intra court appeal, this Court has held that, unless Appellate Bench concludes that findings of the learned Single Judge are perverse, it shall not disturb the same.”

- ii. *Management of Narendra & Company Pvt. Ltd. Vrs. Workmen of Narendra & Company, (2016) 3 SCC 340:*

“Be that as it may, in an intra-court appeal, on a finding of fact, unless the appellate Bench reaches a conclusion that the finding of the Single Bench is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the Single Judge, unless both sides agree for a fairer approach on relief.”

- iii. *Wander Ltd. Vrs. Antox India (P) Ltd., 1990 Supp.1 SCC 727:*

“14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material



and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in Printers (Mysore) Private Ltd. Vrs. Pothan Joseph, (1960) 3 SCR 713 = AIR 1960 SC 1156: (SCR 721)

*“*** These principles are well established, but as has been observed by Viscount Simon in Charles Osenton & Co. Vrs. Jhanaton, 1942 AC 130:*

*“*** the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case’. ***’ ...”*

- iv. Anindita Mohanty Vrs. The Senior Regional Manager, H.P. Co. Ltd., Bhubaneswar, 2020 (II) ILR-CUT 398:*



*“*** Let us first examine the power of the Division Bench while entertaining a Letters Patent appeal against the judgment/order of the Single Judge. This writ appeal has been nomenclatured as an application under Article 4 of the Orissa High Court Order, 1948 read with clause 10 of the Letters Patent Act, 1992. Letters Patent of the Patna High Court has been made applicable to this Court by virtue of Orissa High Court Order, 1948. Letters Patent Appeal is an intra-Court appeal where under the Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction as vested in the Single Bench. (Ref: (1996) 3 SCC 52, Baddula Lakshmaiah Vrs. Shri Anjaneya Swami Temple). The Division Bench in Letters Patent Appeal should not disturb the finding of fact arrived at by the learned Single Judge of the Court unless it is shown to be based on no evidence, perverse, palpably unreasonable or inconsistent with any particular position in law. This scope of interference is within a narrow compass. Appellate jurisdiction under Letters Patent is really a corrective jurisdiction and it is used rarely only to correct errors, if any made.*

In the case of B. Venkatamuni Vrs. C.J. Ayodhya Ram Singh reported in (2006) 13 Supreme Court Cases 449, it is held that in an intra-Court appeal, the Division Bench undoubtedly may be entitled to reappraise both questions of fact and law, but entertainment of a letters patent appeal is discretionary and normally the Division Bench would not, unless there exist cogent reasons, differ from a finding of fact arrived at by the Single Judge. Even a Court of first appeal which is the final Court



of appeal on fact may have to exercise some amount of restraint. Similar view was taken in the case of Umabai Vrs. Nilkanth Dhondiba Chavan reported in (2005) 6 SCC 243. In the case of Commissioner of Income Tax Vrs. Karnataka Planters Coffee Curing Work Private Limited reported in (2016) 9 SCC 538, it is held that the jurisdiction of the Division Bench in a writ appeal is primarily one of adjudication of questions of law. Findings of fact recorded concurrently by the authorities under the Act concerned (Income Tax Act) and also in the first round of the writ proceedings by the learned Single Judge are not to be lightly disturbed. Thus a writ appeal is an appeal on principle where the legality and validity of the judgment and/or order of the Single Judge is tested and it can be set aside only when there is a patent error on the face of the record or the judgment is against established or settled principle of law. If two views are possible and a view, which is reasonable and logical, has been adopted by a Single Judge, the other view, howsoever appealing may be to the Division Bench; it is the view adopted by the Single Judge, which would, normally be allowed to prevail. If the discretion has been exercised by the Single Judge in good faith and after giving due weight to relevant matters and without being swayed away by irrelevant matters and if two views are possible on the question, then also the Division Bench in writ appeal should not interfere, even though it would have exercised its discretion in a different manner, were the case come initially before it. The exercise of discretion by the Single Judge should manifestly be wrong which would then give scope of interference to the Division Bench.”



11.13. Above position of fact and law leads to conclude that this Court perceives no infirmity or illegality in the view expressed by the learned Single Judge through decision *vide* Order dated 10.12.2025 passed in *W.P.(C) No.33579 of 2025 (Dr. Labangalata Bisoi Vrs. State of Odisha and Another) and batch* (Annexure-15).

12. In the result, finding no merit in the writ appeals challenging the common Order dated 10.12.2025 *vide* Annexure-15, the W.A Nos.100, 106 and 107 of 2026 stand disposed of, but in the circumstances, there shall be no order as to costs.

I agree.

(HARISH TANDON)
CHIEF JUSTICE

(MURAHARI SRI RAMAN)
JUDGE

Signature Not
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Assistant (Secretary in-
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High Court of Orissa, Cuttack
The 20th August, 2026/Aswini/Bichi/Laxmikant

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