



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Pronounced on: 01.07.2025

1) CWP No.6154 of 2020 (O&M)

Dr. Hardeep Lal Joshi and others ...Petitioners

Versus

Kurukshetra University Kurukshetra and others ...Respondents

2) CWP No.18746 of 2023

Dr. Ramesh Kumar Kait and others ...Petitioners

Versus

Kurukshetra University Kurukshetra and others ...Respondents

3) CWP-19612-2023

Dr. Chand Ram Jilova and others ...Petitioners

Versus

Kurukshetra University Kurukshetra and others ...Respondents

4) CWP-21408-2023

Dr. Baljeet Singh Saharan ...Petitioner

Versus

Ch. Charan Singh Haryana Agriculture
University, Hisar and others ...Respondents



5) CWP-5972-2024

Dr. Ranjana ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Anshul Labana, Advocate,
for the petitioners in CWP No.19612 of 2023, and
for petitioner no.3 in CWP-18746-2023.

Mr. Anurag Goyal, Advocate, and
Mr. Nikhil Lather, Advocate,
Mr. Siddharth Sharma, Advocate,
for petitioners no.10, 15 and 16 in CWP No.6154 of 2020, and
for petitioners no.1, 2 and 4 in CWP No.18746 of 2023

Mr. Raman Kumar, Advocate, for
Mr. Sunil Saharan, Advocate,
for the petitioner in CWP No.21408 of 2023.

Mr. K.S. Boparai, Advocate,
for petitioners no.1 & 13 in CWP No.6154 of 2020.

Mr. Ishan Khanna, Advocate (through Video Conferencing), and
Mr. Vibhu Agnihotri, Advocate,
for petitioner no.2 in CWP No.6154 of 2020, and
for the petitioner in CWP No.5972 of 2024.

Mr. Aman Mehta, Advocate, for
Dr. Pankaj Nanhera, Advocate,
for respondent no.1 in CWP No.21408 of 2023.

Mr. Prateek Mahajan, Advocate, and
Mr. Daanish Mahajan, Advocate,
for respondent no.1 in CWP Nos. 18746 & 19612 of 2023,
6154 of 2020, and for respondent no.2 in 21408-2023.

Mr. Parveen Mehta, Deputy Advocate General, Haryana.



TRIBHUVAN DAHIYA, J.

These petitions involve common questions of law based on similar facts, therefore, the same are being decided together, with facts from CWP 6154 of 2020 and CWP 18746 of 2023. Prayer in the first petition *inter alia* is for setting aside the Executive Council resolution dated 30.06.2007 deciding to implement the New Defined Contributory Pension Scheme; and in the second petition to set aside memo dated 24.07.2023 passed by the respondent/Director Higher Education, whereby order dated 13/17.07.2023 extending the benefit of Office Memorandum (OM) dated 08.05.2023 to employees of the Kurukshetra University has been withdrawn. Further, a writ of *mandamus* has been sought in both these petitions directing the respondents to restore the Kurukshetra University Employees Pension Scheme/Rules, 1997, *qua* the petitioners from the date of their appointment.

Facts in brief

2. Facts relevant to decide these petitions are the following:

2.1. The Central Government introduced National Pension System vide Ministry of Finance (Department of Economic Affairs) notification dated 22.12.2003, for all Government servants appointed on or after 01.01.2004. The existing Central Civil Services (Pension) Rules, 1972 and other connected rules were amended vide notification dated 30.12.2003, to make the same inapplicable to the Government servants appointed after 31.12.2003.

2.2. The petitioners were appointed as Lecturers in different departments in the respondent University between May to November 2006 in response to advertisements 3/2005 dated 07.10.2005, 1/2006 dated



05.04.2006, and 4/2006 dated 14.07.2006. At that time, the Kurukshetra University Employees Pension Scheme, 1997 (for short, 'the OPS') was in force in the University, having been implemented with effect from 01.04.1995. It was made applicable to some of the petitioners as well, and they were allotted General Provident Fund (GPF) numbers; the University thereupon started deducting the amount of GPF from their salaries.

2.3. On the pattern of Central Government, the State Government vide notification dated 28.10.2005 carried out amendment to the Punjab Civil Services Rules, Volume-I, Part-I, as applicable to the State of Haryana, to the effect that the said Rules shall not apply to the Government employees appointed on or after 01.01.2006, and they shall be covered by the New Defined Contributory Pension Scheme to be notified by the Government. The notification amending the Rules was circulated by the Financial Commissioner and Principal Secretary to Government Haryana to all the Heads of Department, vide letter dated 22.12.2005, which is to the following effect:

I am directed to invite your attention on the subject cited above and to say that the decision of implementing the Defined Contributory Pension Scheme System and amendment in Rule 1.2 of CSR Volume 1 was engaging the attention of the State Government. Now after due consideration and keeping in view the pattern of Government of India, the Government has decided to carry out the necessary amendment vide notification No. 1/1/2004-Ipension (FD), dated 28.10.05, a copy of which is enclosed herewith in Hindi & English.

Similarly please find enclosed herewith the copy of Government of India according to which modalities of implementing the New Pension Scheme has been discussed is



sent herewith for information and necessary action. Similar modalities will be adopted by the State Government mutatis mutandis in due course.

2.4. After deciding to introduce the New Defined Contributory Pension Scheme for its employees with effect from 01.01.2006, the Government through its Department of Higher Education sent a memo, dated 20.04.2007, to the State Universities, including the respondent University, enclosing a letter dated 27.02.2007, which is to the following effect:

Subject: Implementation of new Pension Scheme for the employees of Universities, added (aided) schools/colleges and Educational Institutions.

Will the Financial Commissioner & Principal Secretary to Govt. Haryana Education Department and Agriculture Department kindly refer to the subject cited above.

2. Haryana Govt. has introduced New Defined Pension Scheme for the Government employees joining service on or after 1.1.2006 on the pattern of Govt. of India vide Finance Department letter No.1/1/04-1Pension (F.D.) dated 22th Dec.2005 (copy enclosed). After due consideration it has been decided that like Govt. Employees, New Defined Contributory Pension Scheme may be made applicable in the case of employees joining on or after 1.1.2006 in all the aided schools, colleges, Universities, technical and Educational Institutions.

3. He is, therefore, advised to make necessary provision by amending the relevant Rules/Notifications so as to provide for application of New Defined Contributory Pension Scheme in the case of employees of all such aided institutions who joined service on or after 1.1.2006.



2.5. In the light of aforementioned communication, the University took the matter before its Executive Council (EC) on 30.06.2007, which resolved as under:

18. Considered the adoption of Defined Contributory Pension Scheme for the employees of the University appointed on or after 1.1.2006 as conveyed by the Higher Education Commissioner, Haryana, Chandigarh vide memo No.18/163-2006-UNP(4) dated 20.4.2007 as per annexure 18 (1-54).

RESOLVED THAT DEFINED CONTRIBUTORY PENSION SCHEME AS ABOVE BE ADOPTED FOR IMPLEMENTATION IN THE UNIVERSITY.

The new pension scheme was notified by the Government on 18.08.2008, namely, Haryana New Pension Scheme, 2008. On the same pattern, the University framed 'University Employee's New Pension Scheme, 2008' (for short, 'the University NPS'), dated 27.01.2012, for its employees who joined service on or after 01.01.2006.

2.6. After about twenty years of introducing National Pension System, vide notification dated 22.12.2003, for employees appointed on or after 01.01.2004, the Central Government allowed its employees who had been appointed against the posts advertised prior to the date of notification, and were covered under the new System on joining service on or after 01.01.2004, one time option to be covered under Central Civil Services (Pension) Rules, 1972. A notification to that effect, dated 03.03.2023, was issued by the Government of India, which is as follows:

Subject: Coverage under Central Civil Services (Pension) Rules, in place of National Pension System, of those Central Government employees who were recruited against the



posts/vacancies advertised/notified for recruitment, on or before 22.12.2003.

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3. Representations have been received in this Department from the Government servants appointed on or after 01.01.2004 requesting for extending the benefit of the pension scheme under Central Civil Services (Pension) Rules, 1972 (now 2021) on the ground that their appointment was made against the posts/vacancies advertised/notified for recruitment prior to notification for National Pension System, referring to court judgments of various Hon'ble High Courts and Hon'ble Central Administrative Tribunals allowing such benefits to applicants.

4. The matter has been examined in consultation with the Department of Financial Services, Department of Personnel & Training, Department of Expenditure and Department of Legal Affairs in the light of the various representations/references and decisions of the Courts in this regard. It has now been decided that, in all cases where the Central Government civil employee has been appointed against a post or vacancy which was advertised/notified for recruitment/appointment, prior to the date of notification for National Pension System i.e. 22.12.2003 and is covered under the National Pension System on joining service on or after 01.01.2004, may be given a one-time option to be covered under the CCS (Pension) Rules, 1972 (now 2021). This option may be exercised by the concerned Government servants latest by 31.08.2023.

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2.7. In line therewith, the State Government also issued an OM dated 08.05.2023 to give one-time option to be covered under Haryana Civil Services (Pension) Rules, 2016, in place of New Defined Contributory Pension Scheme, to those of its employees who had been recruited against



the posts/vacancies advertised on or before 28.10.2005. The OM reads as under:

Subject: Coverage under Punjab Civil Services Rules (CSR) Vol.-II (now Haryana Civil Services (Pension) Rules, 2016), in place of New Defined Contributory Pension Scheme, of those State Government employees who were recruited against the posts/vacancies advertised/notified for recruitment, on or before 28.10.2005.

I am directed to invite your kind attention to the Finance Department's Notification No.1/1/2004-1Pension Dated 18.08.2008 wherein the Defined Contributory Pension Scheme (Haryana New Pension Scheme, 2008) for the State Government employees appointed on or after 01.01.2006 was notified and further relevant instructions/Guidelines issued vide letter No. 1/1/2004-1Pension dated 04.12.2008 and others from time to time. Instructions were also issued vide letter No. 2/47/2007-1Pension (FD) dated 22.06.2020, 27.01.2022, 20.10.2022 & 16.11.2022 and letter No 2/32/2012-IPension (FD) Dated 17/21.2.2022, 10.10.2022 & 05.12.2022.

2. Consequent on introduction of National Pension System (NPS) vide Government of Haryana Notification No. 1/1/2004-1Pension dated 28.10.2005, all State Government employees appointed on or after 01.01.2006 to the posts in the State Government service are mandatorily covered under the NPS. The Punjab CSR Vol. II and other connected rules were also amended vide Notification dated 28.10.2005 and, after the said amendment, those rules are not applicable to the Government servants appointed to Government service after 31.12.2005.

3. Government of India vide OM No. 57/05/2021-P&PW (B) dated 03.03.2023 has decided to give one time option in all cases where the Central Government civil employee has been appointed against a post or vacancy which was advertised/notified for recruitment/appointment, prior to the



date of notification for National Pension System i.e. 22.12.2003 and is covered under the National Pension System on joining service on or after 01.01.2004 to be covered under the CCS(Pension) Rules, 1972 (now 2021).

4. Various representations have been received in Finance Department from the State Government employee(s)/servant(s) appointed on or after 01.01.2006 requesting for extending the benefit of the pension scheme under the Punjab CSR Vol. II on the ground that their appointment was made against the posts/vacancies advertised/notified for recruitment prior to notification for NPS. Even some State Government employee(s) /servant(s) have also filed Court cases for claiming such benefit.

5. The State Government, after due consideration, has decided that:

(i) in all cases where the State Government employee(s)/servant(s) has been appointed against a post or vacancy which was advertised / notified for recruitment / appointment, prior to the date of notification for New Defined Contribution Pension Scheme i.e. 28.10.2005 and is covered under the Defined Contribution Pension Scheme (Haryana New Pension Scheme, 2008) on joining service on or after 01.01.2006, may be given a one-time option to be covered under the Punjab CSR Vol.-II (now Haryana Civil Services (Pension) Rules, 2016). This option may be exercised by the concerned State Government employee(s)/servant(s) latest by 31st August, 2023.

(ii) those Government employee(s)/servant(s) who are eligible to exercise option in accordance with point no. (i) above, but who do not exercise this option by the stipulated date of 31st August, 2023, shall continue to be covered by the Defined Contributory Pension Scheme (Haryana New Pension Scheme, 2008).

(iii) the option once exercised shall be final.



(iv) the matter regarding coverage under the Punjab CSR Vol.-II (now Haryana Civil Services (Pension) Rules, 2016), based on the option exercised by the State Government employee(s)/servant(s), shall be placed before the Appointing Authority of the posts for which such option is being exercised for consideration, in accordance with these instructions.

In case the Government employee(s)/servant(s) fulfills the conditions for coverage under the Punjab CSR Vol.-II (Now Haryana Civil Services (Pension) Rules, 2016), in accordance with these instructions, necessary order in this regard shall be issued latest by 31st October, 2023.

The NPS account of such State Government employee(s) /servant(s) shall, consequently, be closed w.e.f. 31st December, 2023.

(v) to (vii) xxx xxx

2.8. Further, the said OM dated 08.05.2023 was forwarded by the Higher Education Department to the State Universities, including the respondent University, for strict compliance, vide order dated 13/17.07.2023, which reads as under:

A letter No. 1/1/2004-1Pension (FD) dated 08.05.2023 has been received from Joint Secretary Finance (Pension) O/o Additional Chief Secretary to Government Haryana Finance Department regarding “Coverage under Punjab Civil Services Rules (CSR) Vol.-II (now Haryana Civil Services (Pension) Rules, 2016) in place of New Defined Contributory Pension Scheme, of those State Government employees who were recruited against the posts/vacancies advertised/notified for recruitment, on or before 28.10.2005” is forwarded to the following for strict compliance.

2.9. However, before OM dated 08.05.2023 could be given effect to by the University, it was withdrawn by the Department vide impugned



memo dated 24.07.2023, addressed to the concerned State Universities, which reads as under:

It is submitted that an order bearing No. 1/1/2004-1Pension (FD) dated 08.05.2023 received from Additional Chief Secretary to Government Haryana Finance Department was forwarded to your universities for strict compliance by this department vide order issued under endst. No. KW 12/01-2019 Ad (3) dated 17.07.2023. On re-consideration it has come to the notice of this department that no action is required to be taken by your universities in the matter. Hence the aforesaid order in respect of universities be treated as withdrawn.

Submissions

3. In this factual background, learned counsel for the petitioners have raised two-fold submissions. *Firstly*, it has been contended that on the date of appointment in the University, the OPS was in operation and the petitioners were made its members by allotment of GPF numbers; contributions towards the fund were being regularly deducted out of their salaries. Later, in terms of the EC resolution, dated 30.06.2007, the University NPS was notified on 27.01.2012, and the petitioners were made members of this new scheme without even obtaining their consent. The rights vested in them by virtue of being members of OPS could not have been taken away in this manner; nor could the scheme have been made applicable retrospectively. In this regard, learned counsel have relied upon the law laid down by the Supreme Court in *Punjab State Co-operative Agricultural Development Bank Ltd. v. Registrar, Co-operative Societies and others*, 2022(4) SCC 363. *Secondly*, it has been contended that vide letter dated 08.05.2023 the Government extended benefit of CSR/old pension rules



to its employees who were governed under NPS, provided they were appointed in response to the advertisements issued on or before 28.10.2005. Most of the petitioners have also been appointed in response to the advertisements issued prior to this date. Therefore, benefit in terms of the letter was rightly extended to the University employees also, vide order dated 13/17.07.2023, which was suddenly withdrawn vide impugned memo dated 24.07.2023, without any cause or citing any reason. This makes the action illegal and arbitrary. Accordingly, the petitioners are entitled to the benefits under OM dated 08.05.2023. Learned counsel have also made reference to clause 15.2.1 (iii) of the University NPS to contend that any change in grant of pensionary benefits by the Government for its employees has to be made applicable to the University employees also, but no action has been taken in that direction. The University is bound to watch interests of its employees which has not been done.

4. *Per contra*, learned counsel for the Kurukshetra University has contended that at the time of petitioners' appointment the University was in the process of implementing the NPS in consultation with the State Government, therefore, they were allotted GPF numbers. It was only for the purpose that the amount of their own share and that of the University may be maintained in a proper way until finalisation of the University NPS. After it was implemented and made applicable for the employees appointed on or after 01.01.2006, vide EC resolution dated 30.06.2007, a separate account in the name of V.C.K.U. Defined Contributory Pension Scheme was opened with the State Bank of India, Kurukshetra, in 2007 for maintaining the contribution of the employees appointed on or after 01.01.2006. Thereafter,



in 2008, the Government circulated NPS notification, dated 18.08.2008. Following the procedure prescribed, a consent letter dated 17.07.2011 was sent to CEO, NPS Trust, PFRDA, New Delhi, for implementing the scheme. Also, a letter dated 19.07.2011 was sent to Deputy Director (Treasuries and Accounts), Government of Haryana, Chandigarh, for the purpose. The process to implement the scheme could be finalised in November 2011, as informed by the Manager, Central Recordkeeping Agency, National Securities Depository Ltd. (NSDL), Mumbai, vide e-mail dated 22.11.2011. Thereupon, the University issued a notification, dated 27.01.2012, asking its employees who were appointed on or after 01.01.2006 to submit their Permanent Retirement Account Number (PRAN) forms for registration under the new scheme. In response thereto, all the petitioners as well as other employees submitted their forms in 2012, and they were registered under the University NPS by allotting PRAN numbers. Their contributions along with up-to-date interest from their respective dates of joining to March 2012, which were kept in the separate account as aforementioned, were transferred to NSDL, Mumbai, for transmission in their respective PRAN accounts. Ever since, regular deductions have been made from their salaries as per the University NPS, which has never been objected to by them. Accordingly, the petitioners are estopped from challenging the scheme by filing the instant petitions. He also contended that the issue came up before a Division Bench of this Court earlier and the relief was declined to the petitioners therein vide judgment dated 19.05.2022, passed in CWP No.10102 of 2022 titled *Ranjeet Singh and others v. State of Haryana and another*.



5. Learned State counsel, while adopting the submissions made by learned counsel for the University, failed to cite any reason or justification for withdrawal of order dated 13/17.07.2023, whereby the benefit of OM dated 08.05.2023 had been extended to the University employees.

Analysis

6. Submissions made by learned counsel for the parties have been considered.

First argument

7. The first argument on behalf of the petitioners that having been made members of the OPS by allotting GPF numbers, the University NPS could not have been made applicable to them vide EC resolution dated 30.06.2007, does not cut much ice. The petitioners cannot claim to be governed under the OPS merely because initially they were allotted GPF numbers, or that their terms of appointment did not make them members of the University NPS from the date of joining. The fact remains that after introduction of this new scheme they opted for it of their own and never asserted their rights to be governed under the OPS at any stage. As per the University NPS notification, dated 27.01.2012, all the employees who were appointed on or after 01.01.2006 were asked to submit their PRAN forms. The petitioners submitted the same and got themselves registered as members of the University NPS, and their GPF contributions were transferred to PRAN accounts under the new scheme. Ever since they have been paying contributions towards it without any protest. Also, the EC resolution, dated 30.06.2007, making the new scheme applicable to the employees appointed after 01.01.2006 was never questioned, nor was any



challenge laid to the notification dated 27.01.2012. The petitioners, accordingly, acquiesced to the University NPS without demur and willingly accepted its membership more than a decade back. Much water has flown under the bridge since then. At this stage, they cannot be allowed to turn around and seek benefits under the OPS which was voluntarily given up in favour of the new scheme. Therefore, the argument stands rejected, as also the challenge to EC resolution dated 30.06.2007.

7.1. The claim of a few Government employees on similar facts was earlier considered by a Division Bench in *Ranjeet Singh* case (*supra*) and rejected, holding as under:

The petitioners were appointed in pursuance of the selection process vide advertisement dated 10.08.2005 (Annexure P-1). Their appointment letters were eventually issued on 07.07.2006 (Annexure P-6). Clause 13 of the said appointment letter specifically provided that the petitioners were covered by the “New Defined Contribution Pension Scheme” as per the notification dated 28.10.2005, which is subject matter of challenge. If the terms and conditions were acceptable to the petitioners, the joining report was to be given to the Principal within 15 days.

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A period of more than 14 years is gone since the same was in force and the petitioners, thus, have contributed towards the said scheme for the last almost 14 years. For petitioners at this stage to raise the issue at such a belated stage and for this Court to consider and call upon the State to justify would be totally uncalled for.

7.2. Reliance placed by learned counsel for the petitioners on the judgment in *Punjab State Co-operative Agricultural Development Bank Ltd.*



case (*supra*) is also misplaced, since the law laid down has no application to the instant case. The judgment decided the issue, whether vested or accrued rights can be taken away with retrospective effect by the rules made under proviso to Article 309 or by an Act made under that article. In that case, after obtaining options, the Bank employees had been made members of a pension scheme introduced from 01.04.1989. And pension was being paid to them continuously till 2010 when the Bank failed in its obligation, forcing the employees to approach this Court. Later, the scheme itself was withdrawn with effect from 01.04.1989. In these circumstances, it was held that by availing the benefit of pension scheme a right had accrued to the employees which could not have been taken away by an amendment to the contrary and giving it retrospective operation. Whereas, in the case at hand the petitioners were never given pension or any other benefit under the OPS. Besides, they did not challenge their being made members of the University NPS at any stage, as already discussed.

Second argument

8. The second argument on behalf of the petitioners to claim benefit of OPS is based upon a decision taken by the State Government vide OM dated 08.05.2023, and it deserves to be accepted for the following reasons.

8.1. Initially, the University employees were governed under the OPS, that was implemented with effect from 01.04.1995. The Central Government as well as the State Government had similar schemes for its employees, *viz.*, Central Civil Services (Pension) Rules, 1972, and the Punjab Civil Services Rules, respectively. However, it was decided to



introduce a new pension scheme for the Central Government employees, namely, National Pension Scheme, which was notified on 22.12.2003, and made applicable for the employees joining service on or after 01.01.2004. On the same pattern, vide notification dated 28.10.2005, the State Government also decided to introduce a new pension scheme for its employees, and carried out necessary amendments in the Punjab Civil Services Rules, Volume-I, Part-I, as applicable to the State of Haryana, to the effect that the said rules shall not apply to the Government employees appointed on or after 01.01.2006, and they shall be covered by the New Defined Contributory Pension Scheme, which was notified on 18.08.2008.

8.2. Since pension liabilities of the University employees, as also employees of aided schools/colleges, were to be borne by the Government substantially, it was decided to make the new scheme applicable to these educational institutions as well. And the Higher Education Department, vide memo dated 20.04.2007, asked the University to amend its rules so as to provide for application of the New Defined Contributory Pension Scheme for its employees who joined service on or after 01.01.2006. In terms therewith, the University, vide EC resolution dated 30.06.2007, resolved to introduce the new scheme for its employees appointed on or after 01.01.2006, and notified the same as the University NPS after a prolonged process of obtaining clearances from the concerned authorities, vide notification dated 27.01.2012.

8.3. Later, considering various representations from its employees, the Central Government issued OM on 03.03.2023 deciding to give the benefit of one-time option to its employees covered under the Central NPS



but appointed against the posts/vacancies advertised prior to the date of notification for NPS, i.e., 22.12.2003, to be governed under the old pension rules/Central Civil Services (Pension) Rules, 1972 (now 2021). The State Government followed suit and by considering the representations received from its employees favourably, issued OM dated 08.05.2023 extending the same benefit to them. It also gave one-time option to its similarly placed employees covered under the State NPS to seek benefit of the old scheme/Haryana Civil Services (Pension) Rules, 2016, by allowing them to exercise such option by 31.08.2023. The said OM dated 08.05.2023 was forwarded for strict compliance to the respondent University, along with other Universities, vide order dated 13/17.07.2023. However, before the compliance could be made, it was abruptly withdrawn vide the subsequent memo dated 24.07.2023, impugned herein, without citing any reason or offering any justification. Even before this Court, the State Government has failed to come up with any explanation justifying issuance of memo dated 24.07.2023. The written statement cryptically states, the Department *“decided to withdraw the earlier letters dated 13.07.2023 and 17.07.2023 as the same were issued inadvertently without noticing the applicability of the Office Memorandum dated 08.05.2023 and therefore was withdrawn by issuing letter dated 24.07.2023.”*

8.4. In the conspectus of the facts enumerated herein before, the impugned memo was required to be made applicable to the University employees as well. It is because the State Government introduced NPS for its employees vide notification dated 18.08.2008, following the footsteps of the Central Government. The University was also asked to follow suit



leading to introduction of the University NPS there. Later, the Central Government decided to give one-time option to its employees covered under the NPS to opt for the old scheme; the State Government also gave the same benefit to its employees vide OM dated 08.05.2023. This makes it incumbent for the Government to extend this benefit to the University employees also, and its order dated 13/17.07.2023 was a step in that direction; its sudden withdrawal without any reasonable basis renders the decision whimsical. Evidently, the University was asked to frame new pension scheme for its employees on the lines of the one framed by the State Government for its employees, and it did so. Once the State Government allowed the category of its employees appointed against the posts advertised prior to the date of notification for New Defined Contributory Pension Scheme, i.e., 28.10.2005, to go back to the old scheme by exercising an option, as a necessary corollary the benefit was required to be extended to the same category of the University employees also. To see it from another angle, the stream of extended benefits of one-time option flowing from the Central Government notification to that effect, dated 03.03.2023, which reached the State Government leading to the decision on similar lines vide OM dated 08.05.2023, has to be logically allowed to flow down to the University employees as well who have been brought under the new pension system following directions by the State Government only. Accordingly, depriving them of the benefit of one-time option extended by the State Government to its employees, is unreasonable. Furthermore, after extending the benefit initially vide order dated 13/17.07.2023, the Government backtracked leaving them high and dry, and issued the impugned memo



dated 24.07.2023. Such an about-turn without any rationale smacks of high handedness on the Government's part which is deplorable, and cannot be acceded to. In the Constitutional scheme of things no executive authority can anoint to itself absolute power to act or not to act at will, without mentioning any justifiable reason; it is rather anathema to the rule of law that must permeate every executive action. This shows the impugned memo has been issued for extraneous reasons; it is a result of arbitrary exercise of power, and cannot be sustained. The petitioners being University employees are, resultantly, held entitled to the benefits under OM dated 08.05.2023 on the same terms as these have been extended to the State Government employees.

Clause 15.2.1 (iii) of the University NPS

9. Additionally, it is pertinent to refer to clause 15.2.1 (iii) of the University NPS, which is as follows:

Any change(s) in grant of Pensionary benefits as made by the Haryana Govt. to its employees from time to time shall be made applicable to the University employees after approval by the Vice-Chancellor.

The clause specifically provides that any change in grant of pensionary benefits as made by the Government for its employees shall be made applicable to the University employees after approval by the Vice-Chancellor. Once the scheme itself mandates that any change in pensionary benefits for government employees will be made applicable to the University employees also, there is no justification to deprive them of the change brought about in pensionary benefits for the government employees vide OM dated 08.05.2023. Despite this positive obligation under the scheme, the University on its part has not taken any step in that direction and



appears to have abdicated its authority. The Government is on record stating, “...no such proposal/matter was received by the office of respondent extending the benefit of Old Pension Scheme to Universities in reference to memorandum dated 08.05.2023.” Apparently, instead of safeguarding the interests of its employees and ensuring applicability of the beneficial change for them, the University has chosen to be a mute spectator, leaving its employees at the mercy of the Government which has deprived them of the benefits under the OM in an autocratic manner without any justification, as discussed hereinbefore. The University is, accordingly, censured for this failure.

9.1. There is another aspect of the matter, doublespeak by the Government. Its stand in the written statement is, the University is a an autonomous body and free to take its own decisions regarding appointments and termination of teachers/employees, engagement of contractual employees and their remuneration, etc. However, it cannot revise pay scales of the employees and their consequent pensions, etc. without prior approval of the Government as required under Section 12 A of the Kurukshetra University Act, 1986. Concededly, pension liabilities of the University employees are met by the Government. It is not the Government’s case that communications to the University, dated 27.02.2007 and 20.04.2007, asking it to implement the New Defined Pension Scheme were issued after the University sought its approval or implementation; it was the Government’s fiat to its autonomous body meant to be followed. Accordingly, the justification to withhold benefits of OM dated 08.05.2023 issued under the new pension scheme from the University employees on the plea that the



same were never asked for by the latter, cannot be countenanced. It only shows the State Government's changing stands to suit its whims, and an attempt to justify the same by using perverse logic. It cannot be allowed to blow hot and cold in the same breath and take self-contradictory stands at the cost of University employees, who have been made to suffer due to this apathetic attitude. If it suits the Government, these employees are brought under the new pension scheme meant for its employees, if it does not, they are treated as aliens and even the benefits available to the Government employees under the same scheme are denied to them on the specious plea of not receiving any proposal from the University in this regard. This callous attitude towards University employees is deplorable to say the least, and the Government too is hereby censured on that account. Once the new defined scheme has been extended to the University employees, the benefits flowing thereunder have also to be extended *mutatis mutandis*, not doing so is arbitrary and unreasonable. On this basis also the petitioners are held entitled to benefits under OM dated 08.05.2023.

Conclusion

10. In view of the discussion, the impugned memo dated 24.07.2023 is set aside. The respondents are directed to extend the benefit of OM dated 08.05.2023 to those of the petitioners who have been appointed against the posts advertised on or before 28.10.2005. They will be allowed two weeks' time to complete the requisite formalities, and thereafter their NPS accounts shall be closed. They will be made members of the OPS and will be released due benefits as admissible. These directions are to be carried out within eight weeks of receiving a certified copy of this judgment.



10.1. The respondents are burdened with costs of these five petitions which are quantified as ₹5,00,000 (Rupees five lacs), to be paid to the petitioners in equal proportion; of these costs ₹4,00,000 are to borne by the Department of Higher Education, Government of Haryana, and the remainder by the Kurukshetra University. The costs shall be paid within the period stipulated above.

11. The petitions stand allowed in the aforementioned terms.

12. A photocopy of this order be placed on the connected files.

(TRIBHUVAN DAHIYA)
JUDGE

01.07.2025
Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No