



2025:CGHC:56368

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HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6436 of 2021****Order Reserved on : 18.09.2025****Order Delivered on : 19.11.2025**

- 1** - Amrit Lal Sahu S/o Kanhaiyalal Sahu Aged About 37 Years Working As Lecturer (T) And Posted At Govt. Higher Secondary School Baghaba, Block Gharghoda, District Raigarh Chhattisgarh.
- 2** - Ravi Kumar Shrivash S/o Shri Radha Krishna Shrivash Aged About 31 Years Working As Upper Division Teacher (E.) And Posted At Govt. Natwar Middle School Raigarh, District Raigarh Chhattisgarh.
- 3** - Manoj Kumar Manhar S/o Chhottoo Lal Manhar, Aged About 36 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kumhali, Block Mohla District Rajnandgaon Chhattisgarh.
- 4** - Jitesh Kumar S/o Deendayal Aged About 35 Years Working As Lecturer And Posted At Govt. High School Hemalkohdo, Block Amba Chowki, District Rajnandgaon Chhattisgarh.
- 5** - Chamanlata Singrame D/o Shri Birbal Singrame Aged About 29 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kholjhar, Block Dondilohara, District Balod Chhattisgarh.
- 6** - Swati Tirkey D/o Shri Nestore Tirkey Aged About 32 Years Working As Lecturer And Posted At Govt. High School Sudhela, Block Baloda Bazar District Baloda Bazar Bhatapara Chhattisgarh.



- 7** - Jitendra Kumar S/o Kamta Ram Sahu Aged About 34 Years Working As Lecturer And Posted At Govt. Higher Secondary School Beloudi, Block Magarlod, District Dhamtari Chhattisgarh.
- 8** - Pratipal Garhewal S/o Shri Sundar Garhewal Aged About 45 Years Working As Lecturer And Posted At Govt. High School Dadarkhurd, Block Korba, District Korba Chhattisgarh.
- 9** - Smt. Jharana Chandrakar W/o Shri Avinash Chandrakar Aged About 33 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bharr, Block Patan, District Durg Chhattisgarh.
- 10** - Sohan Lal Kurrey S/o Oli Ram Kurrey Aged About 39 Years Working As Lecturer And Posted At Govt. Higher Secondary School Faguram, Block Malkharoud, District Janjgir Champa Chhattisgarh.
- 11** - Smt. Jyoti Chanakya W/o Shri Vishwa Kumar Chanakya, Aged About 37 Years Working As Lecturer And Posted At Govt. Maharani Laxmi Bai, Girls Higher Secondary School Jashpur, District Jashpur, District Jashpur Chhattisgarh.
- 12** - Chandrashekhar Chandraker, S/o Shri Dhanuram Chandraker Aged About 41 Years Working As Lecturer And Posted At Govt. Higher Secondary School Raitum, Block Mahasamund, District Mahasamund Chhattisgarh.
- 13** - Himeshwari Sahu W/o Vallabh Kumar Sahu Aged About 33 Years Working As Lecturer And Posted At Govt. Girls Higher Secondary School Nagari, Block Nagari, District Dhamtari Chhattisgarh.
- 14** - Rajesh Singh Bhoi, S/o Late Shri Bhuwaneshwar Singh Bhoi Aged About 32 Years Working As Lecturer And Posted At Govt. High School Kharri, Block Malkharoda, District Janjgir Champa Chhattisgarh.
- 15** - Kishun Singh Sidar S/o Makhan Singh Sidar, Aged About 32 Years Working As Lecturer And Posted At Govt. Higher Secondary School Khaparikala, Block Lormi, District Mungeli Chhattisgarh.
- 16** - Mohan Ballabh Dahariya S/o Shri Dilharan Lal Dahariya Aged About 38 Years Working As Lecturer And Posted At Govt. Higher



Secondary School Chhal, Block Dharamjaigarh, District Raigarh, Chhattisgarh.

17 - Chandrashekhar Singh S/o Dharam Lal Aged About 41 Years Working As Lecturer And Posted At Govt. Higher Secondary School Katekonikhurd, Block Dabhra, District Janjgir Champa Chhattisgarh.

18 - Raghunandan Singh Paikra S/o Chain Singh Paikra Aged About 40 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bade Rabeli, Block Malkharoda, District Janjgir Champa Chhattisgarh.

19 - Ashok Thakur S/o Hiridaya Narayan Thakur, Aged About 40 Years Working As Lecturer And Posted At Govt. Higher Secondary School Reda, Block Dabhra, District Janjgir Champa Chhattisgarh.

20 - Rajkamal Bharti S/o Bhagwat Prasad Bharti Aged About 34 Years Working As Lecturer And Posted At Govt. Higher Secondary School Karri, Block Podiuproda , District Korba Chhattisgarh.

21 - Smt. Pragya Sharma W/o Shri Dilip Kumar Aged About 38 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kudekela, Block Dharmjaigarh, District Raigarh Chhattisgarh.

22 - Tikesh Kumar Netam S/o Shri Chamar Singh Netam Aged About 29 Years Working As Lecturer And Posted At Govt. High School, Makaddi Khuna Block, Kanker District Kanker Chhattisgarh.

23 - Chhabikiran Sao W/o Vivek Kumar Sao Aged About 42 Years Working As Lecturer And Posted At Govt. Higher Secondary School Badhiyatola, Block Dongargarh, District Rajnandgaon Chhattisgarh.

24 - Smt. Asha Kiran Minj W/o Shri Niranjana Tirkey Aged About 33 Years Working As Lecturer And Posted At Govt. Girls Higher Secondary School Sarangarh District Raigarh Chhattisgarh.

25 - Radheshyam Sao S/o Shri Jagadish Prasad Sao Aged About 45 Years Working As Lecturer And Posted At Govt. Higher Secondary School Vijay Nagar, Block Dharamjaigarh, District Raigarh Chhattisgarh.



26 - Raju Kumar Chandrakar S/o Ramsharam Chandrakar Aged About 47 Years Working As Lecturer And Posted At Govt. Higher Secondary School Mungaser, Block Bagbahara, District Mahasamund Chhattisgarh.

27 - Ku. Kishori Vaishnav D/o Shri Balddau Das Vaishnav Aged About 41 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bindranawagarh Block Gariyaband, District Gariyaband Chhattisgarh.

28 - Manoj Kumar S/o Shri Deendayal Aged About 31 Years Working As Lecturer And Posted At Govt. Higher Secondary School Khadgaon, Block Dharamjaigarh, District Raigarh Chhattisgarh.

29 - Gautam Kumar Shori S/o Subelal Shori Aged About 35 Years Working As Lecturer And Posted At Govt. Higher Secondary School Sangam, Block Koyalibeda, District Kanker Chhattisgarh.

30 - Ved Prakash Soni S/o Shri Kailash Kumar Soni Aged About 31 Years Working As Lecturer And Posted At Govt. High School Devpur, P.V. 02, Block Koyalibeda, District Kanker Chhattisgarh.

31 - Mithlesh Sahu S/o Uday Ram Sahu Aged About 32 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bhainsbod, Block Doundi, District Balod Chhattisgarh.

32 - Smt. Khileshwari Vishwakarma W/o Shri Bhujbal Kumar Aged About 34 Years Working As Lecturer And Posted At Govt. Higher Secondary School Baijanpuri, Block Bhanupratappur, District South Baskar Kanker Chhattisgarh.

33 - Deepak Kumar S/o Devendra Kumar Thakur Aged About 31 Years Working As Lecturer And Posted At Govt. Higher Secondary School Khobha, Block Chhuriya, District Rajnandgaon Chhattisgarh.

34 - Lalit Kumar Dewangan S/o Shri Bhagavati Prasad Dewangan Aged About 38 Years Working As Lecturer And Posted At Govt. Higher Secondary School Gidhali, Block Basna, District Mahasamund Chhattisgarh.



- 35** - Rakesh Kumar Kant S/o Lakhan Lal Kant Aged About 38 Years Working As Teacher And Posted At Govt. Middle Schoolashram School Basin, Bahra, Block Sarangarh District Raigarh Chhattisgarh.
- 36** - Bipin Kumar Seth S/o Shri Jaylal Seth Aged About 31 Years Working As Teacher And Posted At Govt. Middle School Tanaud, Block Pamgarh, District Janjgir Champa Chhattisgarh.
- 37** - Mahesh Kumar Pisda, S/o Shri Alee Ram Pisda Aged About 35 Years Working As Teacher And Posted At Govt. Middle School Singhabhedhi, Block Ambagarh Chwki, District Rajnandgaon Chhattisgarh.
- 38** - Dinesh Kumar Rathia S/o Ram Prasad Rathia, Aged About 31 Years Working As Teacher And Posted At Govt. Middle School Kewali, Block Kharsiya, District Raigarh Chhattisgarh.
- 39** - Kaushal Ram Rathia S/o Late Budhram Rathia Aged About 30 Years Working As Teacher And Posted At Govt. Middle School Junwanipara, Siringa Block Dharmjaigarh, District Raigarh, Chhattisgarh.
- 40** - Ghanshyam Kumar Dadsena, S/o Shri Chandrabhushan Aged About 35 Years Working As Teacher And Posted At Govt. Middle School Govinda, Block Bamhanidih, District Janjgir Champa Chhattisgarh.
- 41** - Naresh Kumar Pradhan S/o Shri Nishmar Pradhan Aged About 36 Years Working As Upper Division Teacher And Posted At Govt. Higher Secondary School Bharadoli, Block Basna, District Mahasamund Chhattisgarh.
- 42** - Yeshvant Gupta, S/o Shri Bihari Lal Gupta Aged About 30 Years Working As Upper Division Teacher And Posted At Govt. Middle School Dewalsurra, Block Pussor, District Raigarh Chhattisgarh.
- 43** - Rajendra Kumar Sahu S/o Mohan Lal Sahu Aged About 31 Years Working As Teacher And Posted At Govt. Middle School Thakurdiya, Block Kharsiya, District Raigarh Chhattisgarh.



44 - Rupdhar Pradhan S/o Sanyasi Pradhan Aged About 29 Years Working As Teacher And Posted At Govt. Middle School Karrajor, Block Pussour, District Raigarh Chhattisgarh.

--- **Petitioners**

Versus

1 - State of Chhattisgarh Through Secretary, Department of Education, Mahanadi Bahwan, Mantralaya New Raipur, District Raipur Chhattisgarh.

2 - Secretary, Department of Finance, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur Chhattisgarh.

3 - Director Director of Chhattisgarh Public Instruction, Indravati Bhawan, Raipur, District Raipur Chhattisgarh.

--- **Respondents**

WPS No. 957 of 2022

1 - Pratipal Garhewal S/o Shri Sundar Lal Garhewal, Aged About 23 Years R/o. House No. 23, Cityindarpur, Post Odgi, District Surajpur Chhattisgarh

2 - Sohan Lal Kurrey, S/o. Padma Bai Kurrey, Aged About 39 Years R/o. House No. 76, City Faguram, Post Faguram, District Janjgir Champa Chhattisgarh

3 - Vivek Kumar, S/o Shri Yugal Kishore, Aged About 35 Years R/o. House No. 160/f, City Balod, Post Balod, District Balod Chhattisgarh

4 - Amrit Lal Sahu, S/o Shri Kanhaiya Lal Sahu, Aged About 38 Years R/o House No. 89, City Sarwani Kharsiya, Street-High School Mohalla, Aksharabhata, Post Sarwani, Raigarh, District Raigarh Chhattisgarh

5 - Manoj Kumar S/o Shri Deendayal, Aged About 30 Years R/o House No. 134, City Dhaskamunda, Street- Mudabhata, Post Maharajganj, Raigarh, District Raigarh Chhattisgarh

---**Petitioners**

Versus



- 1 - State of Chhattisgarh Through Its Principal Secretary, Department of Finance, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)
- 2 - State of Chhattisgarh, Through Its Principal Secretary, Department of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh
- 3 - Director, Directorate of Public Instruction, Department of School Education, Indrawati Bhawan, Block-C, 1st Floor, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
- 4 - Joint Director, Directorate of Public Instruction, Department of School Education Indrawati Bhawan, Block-C, 1st Floor, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
- 5 - Joint Director, Department of School Education, Bilaspur Division District Bilaspur Chhattisgarh
- 6 - Joint Director, Department of School Education, Surguja Division District Surguja Chhattisgarh
- 7 - Joint Director, Department of School Education, Durg Division District Durg Chhattisgarh
- 8 - District Education Officer, Surajpur District Surajpur Chhattisgarh
- 9 - District Education Officer, Sakti District Janjgir Champa Chhattisgarh
- 10 - District Education Officer, Balod, District Balod (Chhattisgarh)
- 11 - District Education Officer, Korba, District Korba Chhattisgarh
- 12 - District Education Officer, Raigarh District Raigarh Chhattisgarh

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WPS No. 1175 of 2022

- 1 - Mukesh Kumar Vaishnava S/o Shri Satyanarayan Vaishnava Aged About 34 Years Working As Lecturer And Posted At Govt. High School Sonajori, Block Lailunga, District Raigarh Chhattisgarh



- 2** - Aniruddh Kumar Sahu S/o Shri Salik Ram Sahu Aged About 33 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bakma, Block Bagbahra, District Mahasamund Chhattisgarh
- 3** - Daneshwar Kumar Sahu S/o Shri Krishna Kumar Sahu Aged About 40 Years Working As Lecturer And Posted At Govt. High School Bhaibod, Block Kurud, District Dhamtari Chhattisgarh
- 4** - Pallavi Dixit W/o Rakesh Kumar Mishra Aged About 36 Years Working As Lecturer And Posted At Govt. High School Larima, Block Kusmi, District Balrampur Ramanujganj Chhattisgarh
- 5** - Pratima Kamalsen D/o S.K. Kamalsen Aged About 32 Years Working As Lecturer And Posted At Govt. High School Lohari, Block Marwahi, District Gourela Pendra Marwahi Chhattisgarh
- 6** - Paras Nath S/o Mukund Lal Aged About 28 Years Working As Lecturer And Posted At Govt. Higher Secondary School Udari, Block Lundra, District Surguja Chhattisgarh
- 7** - Babita Dewangan D/o Bhuneshwar Dewangan Aged About 29 Years Working As Lecturer And Posted At Govt. High School Kilkila, Block Lailunga, District Raigarh Chhattisgarh
- 8** - Anil Kumar Banjare S/o Resham Lal Banjare Aged About 30 Years Working As Lecturer And Posted At Govt. Higher Secondary School Malhar, Block Masturi, District Bilaspur Chhattisgarh
- 9** - Ashish Kumar S/o Takhat Ram Aged About 29 Years Working As Lecturer And Posted At Govt. Higher Secondary School Rengakathera, Block Mohla, District Rajnandgaon Chhattisgarh
- 10** - Suman Patel D/o Laxmi Patel Aged About 28 Years Working As Lecturer And Posted At Govt. Higher Secondary School Pussore, Block Pussore District Raigarh Chhattisgarh
- 11** - Damendra Kumar S/o Beerbal Aged About 26 Years Working As Assistant Teacher And Posted At Govt. Primary School Andhiyatola, Block Balod, District Balod Chhattisgarh



- 12** - Durpati D/o Shri Chandan Singh Aged About 29 Years Working As Lecturer And Posted At Govt. Higher Secondary School Pussore, Block Pussore, District Raigarh Chhattisgarh
- 13** - Manorama D/o Radhelal Aged About 28 Years Working As Lecturer And Posted At Govt. Higher Secondary School Singhra, Block Malkharouda, District Education District Sakti District Janjgir Champa Chhattisgarh
- 14** - Ekta Chandrakar D/o Narendra Kumar Chandrakar Aged About 28 Years Working As Lecturer And Posted At Govt. Higher Secondary School Ghatgaon, Block Lailunga, District Raigarh Chhattisgarh
- 15** - Tikeshwari Sahu W/o Daulal Sahu Aged About 30 Years Working As Lecturer And Posted At Govt. High School Potra, Block Lailunga, District Raigarh Chhattisgarh
- 16** - Ruchi Shrivastava W/o Ishwar Chandra Shrivastava Aged About 34 Years Working As Lecturer And Posted At Govt. High School Karwarjor, Block Lailunga, District Raigarh Chhattisgarh
- 17** - Dushyant Kumar Sahu S/o Shri Jeevan Lal Sahu Aged About 31 Years Working As Lecturer And Posted At Govt. Higher Secondary School Sorid, Block Chhura, District Gariyaband Chhattisgarh
- 18** - Balmukund S/o Gaiand Ram Aged About 35 Years Working As Lecturer And Posted At Govt. High School Bharritola, Block Ambagarh Chowki, District Rajnandgaon Chhattisgarh
- 19** - Poornima Yadav W/o Shanti Lal Yadav Aged About 31 Years Working As Lecturer And Posted At Govt. Higher Secondary School Jamargi D, Block Dharamjaigarh, District Raigarh Chhattisgarh
- 20** - Rina Sahu W/o Gaurang Sahu Aged About 37 Years Working As Lecturer And Posted At Govt. Higher Secondary School Jamargi D, Block Dharamjaigarh, District Raigarh Chhattisgarh.
- 21** - Sunil Kumar Sahu S/o Chhedilal Sahu Aged About 30 Years Working As Lecturer And Posted At Govt. Higher Secondary School Morga Block Podiuproda, District Korba Chhattisgarh.



- 22** - Sunidhi W/o Bhuwaneshwar Pratap Singh Aged About 29 Years Working As Lecturer And Posted At Govt. Higher Secondary School Ghatgaon, Block Lailunga, District Raigarh Chhattisgarh.
- 23** - Manish Chandrakar S/o Purushottam Lal Chandrakar Aged About 27 Years Working As Assistant Teacher (Prayogsala) And Posted At Govt. Higher Secondary School Birgaon, Block Dharsiwa, District Raipur Chhattisgarh.
- 24** - Hitesh Kumar S/o Aniruddha Kesharwani Aged About 30 Years Working As Lecturer And Posted At Govt. Higher Secondary School Pandariya, Block Kawardha, District Kabirdham Chhattisgarh.
- 25** - Prakash Kumar Dhruw S/o Narayan Prasad Dhruw Aged About 31 Years Working As Teacher, And Posted At Govt. Middle School Bamhu, Block Bilha, District Bilaspur Chhattisgarh.
- 26** - Komal Singh Garg S/o Mohan Lal Aged About 30 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kaudikasa, Block Ambagarh Chowki, District Rajnandgaon Chhattisgarh.
- 27** - Digesh Chand S/o Chinta Singh Aged About 29 Years Working As Lecturer And Posted At Govt. Higher Secondary School Jhalmala, Block Bodla, District Kabirdham Chhattisgarh.
- 28** - Chandrakiran S/o Santram Aged About 39 Years Working As Lecturer And Posted At Govt. Higher Secondary School Farkanara, Block Lailunga, District Raigarh Chhattisgarh.
- 29** - Sarita Saroj Dayal W/o Digvijay Dayal Aged About 42 Years Working As Lecturer And Posted At Govt. Higher Secondary School Farkanara, Block Kharsia, District Raigarh Chhattisgarh.
- 30** - Rajanigandha D/o Budhanath Singh Aged About 29 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bangursiya, Block Raigarh, District Raigarh Chhattisgarh.
- 31** - Poonam Chand Jain S/o Subhash Chand Jain Aged About 36 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bhukel, Block Basna, District Mahasamund, Chhattisgarh.



- 32** - Sufia Khatoon D/o Mohammad Ali Johar Aged About 33 Years Working As Lecturer And Posted At Govt. High School Lohdapani, Block Sarangarh District Raigarh Chhattisgarh.
- 33** - Prabhat Kumar Sahu S/o Krishna Sahu Aged About 26 Years Working As Teacher And Posted At Govt. Middle School Saraipali Block Sarangarh, District Raigarh Chhattisgarh.
- 34** - Jaishri Tekam D/o Shyam Lal Sidar Aged About 30 Years Working As Lecturer And Posted At Govt. High School Potra, Block Lailunga, District Raigarh Chhattisgarh.
- 35** - Om Prakash S/o Jeevan Lal Aged About 44 Years Working As Lecturer And Posted At Govt. Higher Secondary School Piparchhedi, Block Gariyaband, District Gariyaband Chhattisgarh.
- 36** - Pradeep Singh S/o Darshan Singh Aged About 29 Years Working As Lecturer And Posted At Govt. High School Sonajori, Block Lailunga, District Raigarh Chhattisgarh.
- 37** - Hemkanti Gupta D/o Sagar Chand Gupta Aged About 39 Years Working As Lecturer Now On Deputation At Sages Pussore District Raigarh Chhattisgarh.
- 38** - Ajit Vishal S/o Satyanand Vishal Aged About 29 Years Working As Teacher And Posted At Govt. Middle School Kanakbira, Block Sarangarh, District Raigarh Chhattisgarh.
- 39** - Narsingh Nishad S/o Bhagwati Nishad Aged About 33 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kachna, Block Kurud, District Dhamtari Chhattisgarh.
- 40** - Upendra Patel S/o Hetram Patel Aged About 34 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kachana Block Tamnar, District Raigarh Chhattisgarh.
- 41** - Sonu Singh S/o Dinesh Prasad Singh Aged About 34 Years Working As Lecturer And Posted At Govt. Higher Secondary School Samari, Block Kusmi, District Balrampur, Chhattisgarh.



42 - Sandhya Dutta D/o Shri S.K. Dutta Aged About 42 Years Working As Lecturer And Posted At Govt. Higher Secondary School Semariya, Block Dhamdha, District Durg, Chhattisgarh.

43 - David Golu Kujur D/o Shri Domnic Kujur Aged About 33 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bakma, Block Bagbahara, District Mahasamund, Chhattisgarh.

44 - Kishor Kumar Tiwari S/o Shri Hari Prasad Tiwari Aged About 39 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bakma, Block Pithora, District Mahasamund, Chhattisgarh.

45 - Bhimendra Sahu S/o Shri Yashwant Sahu Aged About 30 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bhainsbod, Block Kurud, District Dhamtari Chhattisgarh.

---Petitioners

Versus

1 - State of Chhattisgarh Through Secretary, Department of Education, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur Chhattisgarh.

2 - Secretary Department of Finance, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur Chhattisgarh.

3 - Director Directorate of Chhattisgarh Public Instruction, Indravati Bhawan, Raipur, District Raipur Chhattisgarh.

--- Respondents

WPS No. 1682 of 2022

1 - Vikas Kumar Sahu S/o Shri Ratan Lal Sahu, Aged About 31 Years Working As Teacher (E) Cadre, And Posted At Govt. Middle School Jarhabhatha, Block Bilha, District Bilaspur Chhattisgarh.

2 - Shatruhan Kumar, S/o Chetan Ram Kashyap, Aged About 34 Years Working As Teacher (E) Cadre, And Posted At Govt. Middle School Jarhabhatha, Block Bilha, District Bilaspur Chhattisgarh



3 - Khelan Singh Thakur, S/o Shri Vikram Singh, Aged About 31 Years Working As Teacher (E) Cadre, And Posted At Govt. Middle School Barahi, Block Takhatpur, District Bilaspur Chhattisgarh

4 - Nilesh Kumar Patle, S/o Shri Ramnarayan Patle, Aged About 33 Years Working As Teacher (E) Cadre, And Posted At Govt. Middle School Aarsameta, Block Akaltara, District Janjgir Champa Chhattisgarh

5 - Akash Sharma, S/o Shri Govind Prasad Sharma, Aged About 31 Years Working As Teacher (E) Cadre, And Posted At Govt. Middle School Bijaur, Block Bilha, District Bilaspur Chhattisgarh

---Petitioners

Versus

1 - State of Chhattisgarh Through Secretary, Department of Education, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

2 - Secretary, Department of Finance, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

3 - Director, Directorate of Chhattisgarh Public Instruction, Indravati Bhawan Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

--- Respondents

WPS No. 1878 of 2022

Manoj Kumar Patel S/o Lekh Ram Patel Aged About 36 Years Posted As Teacher (E Cadre), Subject English, Posted At Government Middle School Hirri, Block Dhamdha, District Durg (Chhattisgarh)

---Petitioner

Versus

1 - State of Chhattisgarh Through- The Secretary, School Education Department, Mantralaya, Mashanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)



- 2 - Secretary State of Chhattisgarh Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
- 3 - Secretary State of Chhattisgarh, Finance Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
- 4 - Joint Director Education Department, Durg, Infront of District Panchayat Office G. E. Road Durg (Chhattisgarh)
- 5 - District Education Officer Durg, District Durg (Chhattisgarh)
- 6 - Chief Executive Officer Janpad Panchayat Dhamdha, District Durg (Chhattisgarh)

--- Respondents

WPS No. 2471 of 2022

- 1 - Uttam Singh Patel S/o. Narmada Prasad Patel, Aged About 34 Years Working As Teacher (E-Cadre), Subject English At Govt. Middle School, Mandragodhi, Block Malkharouda, Education District Sakti, District Janjgir Champa Chhattisgarh
- 2 - Narendra Kumar Sahu S/o Girdhari Lal Sahu, Aged About 35 Years Working As Teacher (E-Cadre), Subject Biology At Govt. Middle School Bilari (K), Block Kasdol, District Baloda Bazar Bhatapara (Chhattisgarh)
- 3 - Kamlesh Kumar Dhirhe S/o Jogi Ram Dhirhe, Aged About 34 Years Working As Teacher (E-Cadre) At Govt. Middle School Gopalpur, Block Masturi, District Bilaspur (Chhattisgarh)
- 4 - Rakesh Kumar Rajwade, S/o Gopal Prasad Rajwade, Aged About 38 Years Working As Teacher (E-Cadre) Subject English At Govt. Middle School Baksara, Block Baloda, District Janjgir Champa Chhattisgarh
- 5 - Bhagwat Prasad Dewangan S/o Ram Kumar Dewangan, Aged About 33 Years Working As Teacher At Govt. Middle School Sone, Block Masturi, District Bilaspur (Chhattisgarh)
- 6 - Ritesh Kumar Sai S/o Ramkumar Sai, Aged About 33 Years Working As Assistant Teacher (E-Cadre), Subject English At Government Middle



School, Malidih, Block Kasdol, District Baloda Bazar Bhatapara
(Chhattisgarh)

---Petitioners

Versus

1 - State of Chhattisgarh Through The Secretary, Department of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)

2 - Secretary, Department of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh

3 - Secretary, Department of Finance, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh

4 - Director, Directorate of Public Instruction, Chhattisgarh, Indravati Bhawan, Block-3, 1st Floor, Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)

5 - Divisional Joint Director, Education Division, Bilaspur, District Bilaspur Chhattisgarh

6 - Divisional Joint Director, Education Division, Raipur, District Raipur Chhattisgarh

7 - District Education Officer, Education District Sakti District Janjgir Champa Chhattisgarh

8 - District Education Officer, Baloda Bazar- Bhatapara, District Baloda Bazar Bhatapara (Chhattisgarh)

9 - District Education Officer, Janjgir, District Janjgir Champa Chhattisgarh

10 - District Education Officer, Bilaspur, District Bilaspur Chhattisgarh

... Respondents

WPS No. 2656 of 2022

1 - Smt. Jharna Chandrakar W/o Shri Avinash Chandrakar Aged About 34 Years R/o H.N. Block 13- A, Quarter No. 5, City G.E. Rad Bhilai 3,



Post Bhilai 3, District Durg Chhattisgarh. Presently Posted As Lecturer, At Government Higher Secondary School, Bharar, Block Patan District Durg Chhattisgarh.

2 - Vikas Kumar Tiwari S/o Shri Vidyashankar Tiwari Aged About 43 Years R/o H.N. 165/6, City D.D.U Nagar, Ward No. 69, Rohnipuram, Ptrsu District Raipur Chhattisgarh, Presently Posted As Lecturer At Government Girls Higher Secondary School, Navapara, Rajim, Block Abhanpur, District Raipur Chhattisgarh.

---Petitioners

Versus

1 - State of Chhattisgarh Through Secretary, Department of School Education, Mantralaya Mahanadi Bhavan, Atal Nagar , Naya Raipur, District Raipur Chhattisgarh.

2 - Secretary Department of Finance Government of Chhattisgarh, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.

3 - Director Directorate of Public Instruction Chhattisgarh, 1st Floor, C Block Indravati Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh.

--- Respondents

(Cause-title taken from Case Information System)

For Petitioners (In WPS Nos.6436/2021, 1175/2022 & 1682/2022)	:	Mr. Ajay Shrivastava, Advocate
For Petitioners (In WPS No.957/2022)	:	Ms. Naushina Afrin Ali and Mr. Ajay Kumrani, Advocate
For Petitioner (In WPS No.1878/2022)	:	Mr. Praveen Dhurandhar, Advocate
For Petitioners (In WPS No.2471/2022)	:	Mr. Govind Prasad Dewangan, Advocate
For Petitioners (In WPS No.2656/2022)	:	Mr. Prabhakar Tiwari, Advocate on behalf of Mr. Manish Upadhyay, Advocate
For State/Respondents	:	Mr. Ajay Kumar Pandey, Government Advocate



Hon'ble Shri Amitendra Kishore Prasad, Judge

CAV Order

1. Since all the writ petitions involve a common question of law and are founded on similar facts and circumstances, they have been clubbed together, heard analogously, and are being disposed of by this common order. This approach has been adopted to avoid multiplicity of proceedings and to ensure uniformity and consistency in the adjudication of the issues involved.
2. The petitioners are aggrieved by the action of the respondents in applying the subsequent notifications dated 28.07.2020 and 29.07.2020 retrospectively to the vacancies advertised on 09.03.2019 by contending that the said notifications are prospective in nature and could not have been made applicable to the recruitment process initiated under the advertisement dated 09.03.2019. Accordingly, the petitioners seek a direction to the respondent authorities to modify their appointment orders in accordance with the Rules and instructions prevailing on the date of the advertisement and on the date when the vacancies actually arose, i.e., 09.03.2019. It is further contended that as per the Rules existing at the time of advertisement, the probation period for the post in question was two years. However, by virtue of the subsequent notifications dated 28.07.2020 and 29.07.2020, the probation period was extended to three years. Since the petitioners' appointments are pursuant to the advertisement dated



09.03.2019, the conditions introduced through the later notifications regarding the extended probation period are not applicable to them. Therefore, the probation period in the petitioners' case ought to be treated as two years instead of three years. Hence, all these writ petitions have been preferred.

3. For the sake of convenience and clarity, Writ Petition (S) No. 6436 of 2021 has been treated as the lead case, and the facts of the said petition are being referred to for the purpose of adjudication. The decision rendered herein shall, however, govern all the connected writ petitions as well, as the issues raised therein are identical in nature.
4. The brief facts, as projected by the petitioners, are that an advertisement was issued on 09.03.2019 inviting applications for recruitment to various teaching posts, namely Assistant Teacher, Teacher, and Lecturer under the School Education Department. The said recruitment was conducted in accordance with the prevailing recruitment rules and guidelines then in force. In pursuance of the said advertisement, all the petitioners, being eligible in terms of educational qualification, age, and other prescribed criteria, duly submitted their applications and successfully participated in the selection process. Upon completion of the recruitment process, they were selected and appointed to their respective posts as mentioned in the cause title of the petition.



5. It is stated that prior to the issuance of the aforesaid advertisement, several of the petitioners were already serving in various capacities under the State Government, including as Teacher (L.B.) Cadre, Supervisor (Women and Child Development Department), Assistant Veterinary Field Officer (AVFO), Assistant Development Extension Officer (ADEO) and other equivalent posts. After obtaining proper No Objection Certificates from their respective departments, they applied for the said recruitment and, upon selection, tendered formal resignations from their earlier posts before joining their new appointments under the Teacher Cadre. The petitioners submit that, as per the then prevailing rules and circulars dated 03.09.2018, candidates appointed under such recruitment were to be placed on probation for a period of two years and were entitled to receive the minimum basic pay of the post to which they were appointed. These were the governing conditions of service at the time when the advertisement was issued and the recruitment process was initiated. However, at the time of issuing the appointment orders, the respondents applied the provisions of a subsequent circular dated 28.07.2020, under which newly appointed teachers were to be paid only a stipend instead of the minimum basic pay, during the period of initial service. The petitioners contend that the said circular was issued much after the advertisement of 09.03.2019 and therefore cannot be made applicable to their case, retrospectively.



6. It is further case of the petitioners that the amendment introduced by the circular dated 28.07.2020 is prospective in nature and not retrospective. The recruitment process pursuant to the advertisement of 09.03.2019 had already commenced and, in many cases, the results had been declared and the petitioners had been provisionally selected prior to the issuance of the said circular. Their documents were duly verified in accordance with the earlier procedure, and the verification confirmed their eligibility and selection for appointment. Subsequently, however, the respondents cancelled the earlier document verification and conducted a fresh verification process, applying the provisions of the amended circular. This, according to the petitioners, was arbitrary and contrary to settled legal principles, as it retrospectively altered the conditions of recruitment after the process had already reached an advanced stage.
7. Thereafter, the petitioners had raised representations and objections before the competent authorities, requesting that their appointments be governed by the rules and instructions applicable at the time of advertisement, and that they be granted the minimum basic pay along with a probation period of two years. However, despite their repeated representations, no decision was taken by the respondents, and their grievances remained unredressed. It is the categorical stand of the petitioners that their appointments ought to be governed by the Chhattisgarh Civil



Services (General Conditions of Service) Rules, 1961, read with the instructions dated 03.09.2018, which were in force on the date of the advertisement and initiation of the recruitment process. The subsequent circular dated 28.07.2020, being prospective in operation, cannot have retrospective effect to deprive them of their rightful entitlement to basic pay and other benefits.

8. Mr. Ajay Shrivastava, Ms. Naushina Afrin Ali assisted by Mr. Ajay Kumrani, Mr. Praveen Dhurandhar, Mr. Govind Prasad Dewangan and Mr. Prabhakar Tiwari holding brief of Mr. Manish Upadhyay, learned counsels appearing for the petitioners, jointly submit that as per the prevalent rules and instructions in force at the time of the advertisement dated 09.03.2019, the petitioners were entitled to be appointed on probation for a period of two years and to receive 100% of the basic pay of the post to which they were appointed. However, the respondent authorities, instead of applying the then existing circular dated 03.08.2018, have erroneously applied the subsequent circular dated 28.07.2020, which introduced the *stipend system* — granting only 70% of basic pay in the first year, 80% in the second year, and 90% in the third year of service. It is submitted that the said circular is not applicable to the petitioners, as the recruitment process had already commenced prior to its issuance.
9. It is further submitted that the petitioners have filed the present writ petition seeking directions to the respondents to grant 100% basic



pay in accordance with the rules applicable on the date of advertisement, and to quash the application of the circular dated 28.07.2020 in their cases. The State Government, vide its subsequent notification dated 12.09.2023, has already decided to abolish the stipend system by modifying the earlier circular dated 28.07.2020 and to grant 100% basic pay to employees. However, clause 3.1 of the said notification provides that the benefit shall be extended only from the date of the circular, and that the fixation of pay from the date of appointment shall be notional, with no arrears payable for the intervening period. The petitioners contend that this decision is arbitrary and unjust, as they have continuously discharged duties from the date of appointment, and depriving them of actual salary by notionally fixing pay amounts to denial of legitimate entitlement.

10. Learned counsels further submit that the impugned action of the respondents in denying full pay protection is contrary to Fundamental Rules 22-A and 22-B, which specifically provide for protection of last pay drawn in cases where a Government servant resigns technically from a previous post and joins another Government post with due permission. It is argued that under Fundamental Rule (FR) 22-A, where a Government servant is appointed or promoted to a post carrying higher responsibilities, he shall draw as initial pay the stage next above the pay drawn in the lower post. Further, FR 22-B(1) provides that a Government



servant who is appointed to another post under the Government shall be entitled to draw the same pay as he was drawing in the previous post, provided that he holds a lien on the said post. Thus, the fundamental rules safeguard a Government servant from any monetary loss upon such appointment.

11. Learned counsels submit that the petitioners were earlier working as Teacher (L.B.) Cadre, Supervisor (Women & Child Development), AVFO, ADEO, etc., and after obtaining due No Objection Certificates from their respective departments, they participated in the recruitment process of 09.03.2019, tendered technical resignations, and joined the posts of Assistant Teacher, Teacher and Lecturer under the School Education Department. Their transition, being a case of technical resignation, ensured continuity of service and entitled them to pay protection under FR 22-B. It is further submitted that the Finance Department Instruction No. 41/2008 dated 03.08.2018 provides that in cases of technical resignation, the previous service shall be counted for the purpose of pay fixation and other benefits, and such employees shall be granted full basic pay rather than stipend. The subsequent circular dated 28.07.2020, introducing the 70%-80%-90% pay structure, is prospective in nature and cannot retrospectively alter the service conditions of candidates appointed against an advertisement issued in 2019.



12. Learned counsels also place reliance on Finance Direction No. 33/2023 dated 12.09.2023, whereby the State Government abolished the stipend system. Clause 3.2 of the said direction recognizes the entitlement of employees, who joined another government service through proper channel and technical resignation, to pay protection under the Fundamental Rules. However, Clause 3.3 unjustly restricts the actual financial benefit from the date of the order, depriving employees of arrears for the period between appointment and issuance of the circular. It is submitted that such a restriction is arbitrary and discriminatory, particularly when similarly situated employees in other districts have been granted the benefit of pay protection with arrears, violating Article 14 of the Constitution of India.
13. It is urged that technical resignation does not break continuity of service, as consistently clarified in the Office Memoranda of the Department of Personnel and Training (DoPT) dated 26.07.2005 and 26.12.2013, and reaffirmed in various judicial pronouncements including ***Krishna Kant Tiwari v. Kendriya Vidyalaya Sangathan and another, (2014) 13 SCC 471*** and ***Sh. Jitender Kumar v. Indraprastha Power Generation Co. Ltd. and others, 2017 SCC OnLine Del 6903***. In these decisions, it has been held that resignation tendered for joining another Government post through proper channel is a *technical*



resignation, and that the employee is entitled to continuity of service and pay protection.

14. The learned counsels further contend that the State Government has already extended the benefit of pay protection to similarly situated employees in several districts, but has denied the same to the present petitioners, which is violative of the principle of equality enshrined in Article 14 of the Constitution. Reliance is also placed on the judgments of the Hon'ble Supreme Court in ***State of Bihar and others v. Mithlesh Kumar (2010) 13 SCC 467***, ***Arjun Singh Rathore and others v. B.N. Chaturvedi and others (2007) 11 SCC 605***, and ***Y.V. Rangaiah and others v. J. Sreenivasa Rao and others (1983) 3 SCC 284***, wherein it has been held that vacancies which arise prior to an amendment shall be governed by the rules which were in force on the date of the vacancy, and the subsequent amendments cannot be applied retrospectively.
15. It is therefore submitted that the application of the circular dated 28.07.2020 to the petitioners, who were selected pursuant to an advertisement issued on 09.03.2019, is illegal, arbitrary, and unconstitutional. The petitioners, having rendered continuous service under the Government with due departmental permission and having tendered technical resignations, are legally entitled to pay protection and 100% of the basic pay from the date of their appointment, along with consequential arrears. Accordingly,



learned counsels for the respective petitioners pray that this Court may be directed the respondents to:-

- Grant the petitioners 100% of the basic pay from the date of appointment instead of the stipend system (70%-80%-90%) applied under circular dated 28.07.2020;
- Extend the benefit of pay protection under FR 22-B(1) from the date of their appointment; and
- Quash the restriction imposed in notification dated 12.09.2023, which limits the financial benefit to notional fixation without arrears.

16. Per contra, Mr. Ajay Kumar Pandey, learned Government Advocate appearing for the State, opposes the submissions advanced on behalf of the petitioners and submits that the entire writ petition, as framed and filed, is bereft of merit, misconceived both on facts and in law, and deserves to be dismissed in limine. It is submitted that the petitioners have failed to demonstrate any enforceable legal or constitutional right for invocation of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Learned Government Advocate submits at the outset that the present writ petition, as filed in a consolidated form by several petitioners, is not maintainable, inasmuch as each of the petitioners was appointed individually and on separate posts, thereby giving rise to distinct causes of action. It is a settled



proposition of law that a joint petition involving separate and unconnected causes of action is not maintainable in writ jurisdiction. Therefore, the instant petition deserves to be dismissed on this ground alone. It is further contended that the present petition suffers from delay and laches, as the petitioners have assailed the notifications dated 28.07.2020 and 29.07.2020 after an unexplained delay of more than one year. The petitions have been filed on 25.10.2021, without any plausible explanation for such delay. It is argued that despite being aware of the impugned circulars, the petitioners did not take any legal recourse at the relevant time and voluntarily accepted their appointments under the new regime. Therefore, having acquiesced to the terms of appointment and continued in service without any protest, the petitioners are now estopped from challenging the very notifications under which they have been appointed.

17. Learned Government Advocate further submits that the issue involved in the present batch of petitions is no longer res integra, as an identical controversy has already been adjudicated upon and decided by this Court in ***W.P.(S) No. 2530/2021 (Vijayendra Mahilane and Others v. State of Chhattisgarh and Others) and other connected petitions***, which were dismissed vide order dated **10.03.2023**, holding that employees appointed subsequent to the circular dated 28.07.2020 are governed by the amended policy and not by the earlier circular dated 03.08.2018. The said



decision has attained finality, and therefore, the present petitions, being founded on identical facts and issues, are liable to be dismissed in view of the binding precedent. It is contended that the advertisement dated 09.03.2019 was merely an invitation to apply for recruitment and did not confer any vested or accrued right upon the petitioners. During the pendency of the recruitment process, the Government, in exercise of its executive powers, amended the service conditions by issuing circulars dated 28.07.2020 and 29.07.2020, prescribing that candidates appointed thereafter would be governed by the stipend system during the probation period. Since the appointment orders of the petitioners were issued only after the enforcement of these circulars, their service conditions are necessarily governed by the rules and instructions prevailing on the date of appointment, not on the date of advertisement.

- 18.** Learned Government Advocate submits that the petitioners joined their posts after issuance of the circular dated 28.07.2020, and thus, the amended rules had already come into force prior to their joining. The petitioners, with full knowledge of the changed policy, accepted their appointment orders without any protest, joined their duties, and continued in service. Having done so, they are estopped by their own conduct from turning around and challenging the applicability of the said circulars at this belated stage. It is further contended that the plea of the petitioners that



their resignation from earlier posts was a technical resignation is without any basis or documentary substantiation. No material has been placed on record to demonstrate that such resignations were tendered after due accord and approval of the competent authority, nor that such resignations were accepted in terms of FR 22-B or the corresponding instructions governing pay protection. In the absence of specific evidence to this effect, their claim of “technical resignation” cannot be accepted, and consequently, the benefit of pay protection is not available to them. Learned Government Advocate further submits that even otherwise, the petitioners cannot claim application of the earlier circular dated 03.08.2018, as the same stood superseded by the subsequent circular dated 28.07.2020, which was in force at the time of their appointment. The said circulars dated 28.07.2020 and 29.07.2020 clearly provide that newly appointed teachers under the School Education Department shall be entitled to a stipend of 70%, 80%, and 90% of the basic pay during the first, second, and third years respectively, in lieu of probationary basic pay. The service conditions of the petitioners are, therefore, governed by the rules and circulars in force on the date of their appointment. It is argued that the petitioners’ reliance on the principle of pay protection is misplaced. Such protection is available only when an employee joins another post in Government service through proper channel after tendering technical resignation duly accepted by the competent authority. Since the petitioners have failed to establish



such procedural compliance, the question of granting pay protection does not arise.

- 19.** Furthermore, the amended financial instruction No. 21/2020 governs their probationary period and entitles them only to the stipend structure as notified therein. It is further submitted that the petitioners voluntarily participated in the recruitment process with full knowledge of the terms and conditions mentioned in the advertisement, including Clause 7, which explicitly provides that the period of probation could be extended beyond two years and that the appointment shall be governed by the rules and orders as may be amended from time to time. Therefore, having participated in the process and accepted appointments under the changed rules, the petitioners are barred by the principle of estoppel from challenging the very conditions under which they entered service.
- 20.** Learned Government Advocate contends that the claim of the petitioners for application of the earlier rules or payment of arrears under the subsequently abolished stipend system is wholly untenable, as the policy decision dated 12.09.2023 itself provides that fixation of pay under the revised scheme shall be notional and no arrears shall be payable for the intervening period. The said condition, being part of a policy decision, cannot be interfered with by this Court in the absence of arbitrariness, mala fides, or violation of statutory rights, none of which have been demonstrated in the present case. Lastly, it is argued that the



petitioners, having joined service after the issuance of the circular dated 28.07.2020, are squarely governed by the amended policy, and their contention for extension of the earlier circular or pay protection is devoid of substance. The petitioners are not entitled to any of the reliefs claimed in the writ petitions, which deserve to be dismissed being misconceived, barred by delay and laches, and devoid of merit.

21. I have heard learned counsels appearing for the respective parties at length and have also carefully perused the pleadings, documents, and materials placed on record along with the annexures filed with the writ petitions.
22. In order to decide the issue involved in these cases, it would be apposite to refer and consider Fundamental Rules 22-A and 22-B, which are reproduced hereinbelow for ready reference:

“FR 22-A: "Where a Government servant holding a post in a substantive, temporary, or officiating capacity is promoted or appointed in a substantive, temporary officiating capacity, as the case may be, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, he shall, unless he elects otherwise, draw as initial pay in the time-scale of the new post, the stage of the time-scale which is next above the pay in the time-scale of the lower post which he was



drawing immediately before such promotion or appointment."

FR 22-B (1) : "Notwithstanding anything contained in these rules, a Government servant who is appointed to a post under the Government on or after the 1st day of January, 1973, shall be entitled to draw, as initial pay on such appointment, the same pay as he drew in the previous post held by him on regular basis, provided he holds a lien on the said post." This provision is a specific statutory safeguard that ensures pay protection when a government servant is appointed to a new post under the Government after having rendered service on a previous post."

- 23.** A bare perusal of the aforesaid Fundamental Rules makes it evident that FR 22-A governs cases of promotion or appointment to a post carrying higher duties and responsibilities, whereas FR 22-B provides for pay protection in cases where a Government servant is appointed to another post under the Government after having held a previous post on a regular basis and continues to hold a lien thereon. Thus, while FR 22-A deals primarily with fixation of initial pay on promotion, FR 22-B ensures that an employee does not suffer any reduction in pay upon appointment to a new post, subject to fulfillment of the conditions stipulated therein.



- 24.** In all the aforesaid writ petitions, the petitioners have tender their technical resignation from their previous post in order to join other posts, in which they were appointed, as such, as per Fundamental Rules 22-A (1) their claim for pay protection seems to be rightful claim as according to the said Rules, a lien on a permanent previous post shall be entitled to draw his initial pay which he was drawing at the time of joining of another service and the concerned persons cannot be deprived from last drawn pay scale. The Department of Personnel and Training (DoPT) as well as circulars issued by the State of Chhattisgarh especially mentions that a technical resignation tendered during course of joining of another Government post through proper channel does not break the continuity of service and as such, it entitles the employee to get all service benefits, including pay protection.
- 25.** Now, this Court shall first deal with the issue regarding fixation of pay, as it constitutes the core question arising for adjudication in the present petitions.
- 26.** The controversy essentially revolves around whether the petitioners, who have tendered *technical resignations* from their earlier substantive posts and have thereafter been appointed to higher posts within the same department through proper channel and with due permission of the competent authority, are entitled to *pay protection* under the provisions of Fundamental Rule 22-B(1) and the corresponding Finance Department Instructions issued by



the State Government. The determination of this issue requires examination of the scope and applicability of Fundamental Rules 22-A and 22-B, the concept of *technical resignation* in service jurisprudence, and the effect of various circulars, finance directions, and judicial precedents relied upon by the parties.

- 27.** The principal issue that arises for consideration before this Court is whether the petitioners, who had earlier been serving as Teachers and Assistant Teachers under the Panchayat and subsequently absorbed in the School Education Department, and who later participated in the direct recruitment process for the higher posts of Lecturer and Teacher (School Education Department) after tendering *technical resignation* from their previous posts with due permission from the competent authority, are entitled to *protection of pay* under the provisions of Fundamental Rule 22-B(1) and related Finance Department Instructions.
- 28.** Upon careful consideration of the pleadings, the relevant statutory provisions, and the material placed on record, it is evident that the concept of *pay protection* is a well-recognized principle in service jurisprudence intended to ensure that a Government servant is not placed at a financial disadvantage merely by reason of transition from one post to another, when such transition is effected through proper channel and with prior approval of the competent authority. The object of FR 22-B(1) is to protect the last pay drawn by a



Government servant who holds a lien on a previous substantive post and is appointed to another post under the Government on or after 01.01.1973.

- 29.** In the present bunch of writ petitions, the petitioners have tendered technical resignations from their earlier substantive posts of Teacher and Assistant Teacher (Panchayat) only after obtaining due permission and No Objection Certificates from the authorities concerned, and were thereafter appointed to higher posts within the same department. Their resignations, being technical in nature, did not sever the continuity of service and, therefore, their past services are liable to be counted for all service-related benefits, including fixation of pay, increments, pension, and seniority. The said position is fortified by the Finance Department Instruction No. 41/2018 dated 03.08.2018 as well as Finance Direction No. 33/2023 dated 12.09.2023, both of which expressly provide that employees who have given technical resignation after obtaining departmental permission shall be entitled to pay protection under the Fundamental Rules.
- 30.** It is further borne out from the record that similarly situated employees in various districts, who had also joined new posts after submitting technical resignations, have been granted the benefit of pay protection by the State Government. The denial of such benefit to the present petitioners, therefore, amounts to hostile discrimination and is violative of Article 14 of the Constitution of



India, which guarantees equality before the law and equal protection of laws.

31. The Hon'ble Supreme Court in ***Krishna Kant Tiwari*** (supra) while dealing with the similar issue, has held that the respondents are directed to correct the service record of the appellant protecting his last drawn pay in the Madhya Pradesh service as on 01.08.1989 and thereafter they will give him the consequential service benefits also on that basis and held as under :-

“11. We have considered the rival submissions. The circular/memorandum which is relied upon, states in Para 2 that the issue of pay protection of the candidates recruited through public sector undertakings, etc. has been engaging the attention of the Government for quite some time. Para 3 thereafter states that these orders take effect from the 1st day of the month in which the Office Memorandum is issued i.e. 1-8-1989. Once it is stated that the order takes effect from 1-8-1989, the clause will have to be given its plain meaning as it is drafted. Therefore, the employees who were drawn from public sector undertakings, like the appellant who was in the Madhya Pradesh Government Service earlier, will be entitled to pay protection from that date i.e. 1-8-1989. He will, however, not get the pay protection prior to that date. Interpreted this way, it will



not amount to giving any retrospective effect to the memorandum.

12. In the circumstances, we allow this appeal in part. OA No. 341 of 1999 filed by the appellant will consequently stand partly allowed. The order passed by the High Court will stand interfered to that extent. The respondents are directed to correct the service record of the appellant protecting his last drawn pay in the Madhya Pradesh Service as on 1-8-1989 and thereafter they will give him the consequential service benefits also on that basis. The needful shall be done in three months. In the facts of this case, we pass no order as to costs.”

- 32.** Further, in ***Jitender Kumar*** (supra) the Hon’ble Supreme Court has held that resignation tendered through proper channel for joining another post under Government is to be treated as a technical resignation, and such employees are entitled to continuity of service and pay protection under FR 22-B(1) and DoPT’s Office Memoranda dated 26.07.2005 and 26.12.2013 and held as under :-

“3. I completely agree with the arguments urged on behalf of the petitioner inasmuch as, the relevant Office Memorandums of the Central Government dated 26.7.2005 and 26.12.2013, and which are undoubtedly applicable to the respondent no.1, specifically states that if a person working in a



government organization through proper channel applies for being employed in another government organization, then termination of services with the erstwhile employer will only be by a technical resignation with consequences that the services of the employee with the erstwhile employer will be added to the services of the employee with the new employer. In the present case, new employer is a government organization namely Dedicated Freight Corridor Corporation of India Limited (Ministry of Railway) ie a Govt. of India Enterprises, and therefore the petitioner will be entitled to the benefit of the DoPT Memorandums dated 26.7.2005 and 26.12.2013. Accordingly, it is ordered that from the date of relieving of the petitioner by the respondent no.1, the petitioner's services with the respondent no.1 will be added to the services of the petitioner with Dedicated Freight Corridor Corporation of India Limited (Ministry of Railway), Govt. of India Enterprises by treating the resignation of petitioner with respondent no. 1 as a technical resignation. It is also noted that the respondent no.1 had forwarded the application of the petitioner for employment with DFCCIL i.e it was through a proper channel vide letter dated 19.5.2015, and that even the acceptance of resignation of the petitioner is by the letter dated 24.7.2015 of the respondent no.1 showing that acceptance



is of the technical resignation of the petitioner. Therefore, once resignation of the petitioner with the respondent no.1 is only a technical resignation, all the necessary consequences which are available in law by applying the DoPT Memorandums dated 26.7.2005 and 26.12.2013 will be available in favour of the petitioner.”

- 33.** Applying the aforesaid principles to the facts of the present cases, this Court finds that the petitioners fully satisfy the conditions prescribed under FR 22-B(1), namely—
- (i) holding of lien on the previous regular post,
 - (ii) appointment to another post under the Government after due permission and through proper channel, and
 - (iii) absence of any break in service.
- 34.** Therefore, the respondents were not justified in fixing the initial pay of the petitioners at a lower level or in granting only 70%, 80%, and 90% of the advertised pay scale during the probationary period. Such fixation is contrary to the statutory mandate of FR 22-B(1) and the binding finance instructions issued by the State Government.
- 35.** Accordingly, this Court holds that the petitioners are entitled to full pay protection on their new appointments as Lecturers and Teachers, and that their initial pay shall not be less than the last pay drawn by them on their previous substantive posts. The respondents are directed to re-fix the pay of the petitioners in



accordance with FR 22-B(1) by granting them the benefit of their last drawn pay and all consequential service benefits including increments, arrears, and revision of pensionary benefits.

- 36.** The impugned action of the respondents denying such pay protection is held to be arbitrary, discriminatory, and unsustainable in law. As such, the issue relating to fixation of pay is answered in favour of the petitioners.
- 37.** Now, this Court proceeds to deal with the issue relating to the applicability and retrospective operation of the circular dated 28.07.2020, which introduced the system of payment of stipend at 70%, 80% and 90% of the basic pay during the first, second and third year of service respectively, and the subsequent Finance Direction dated 12.09.2023, which abolished the said stipend system but granted the benefit of 100% basic pay only notionally from the date of appointment and actually from the date of the circular.
- 38.** The undisputed sequence of events reveals that the advertisement for recruitment to the posts of Assistant Teacher / Teacher / Lecturer was issued on 09.03.2019. The circular dated 28.07.2020 introducing the stipend system came more than a year later, at a time when the recruitment process pursuant to the 09.03.2019 advertisement had already been initiated, and the petitioners had participated in the process under the terms then prevailing. The Finance Direction dated 12.09.2023 later abolished the stipend



system and restored the grant of 100% basic pay, but restricted the financial benefit prospectively from the date of the circular, granting only notional fixation from the date of appointment. This chronology makes it evident that at the time when the petitioners applied and were selected, there was no rule, circular, or instruction in force that permitted payment of less than the full basic pay during the period of probation.

39. It is a settled proposition of service jurisprudence that executive instructions and circulars operate prospectively unless the language used therein clearly indicates an intention for retrospective application. The Hon'ble Supreme Court has repeatedly held that conditions of service are governed by the rules existing at the time of initiation of recruitment, and subsequent executive or policy changes cannot be retrospectively applied to disadvantage the employee unless the rule-making authority expressly provides so.
40. In the matter of ***P. Tulsi Das and others v. Govt. of A.P. and others, (2003) 1 SCC 364***, the Hon'ble Supreme Court has held that the rules and circulars cannot be enforced retrospectively, it is always prospectively and held as follows :-

“11. In State of Gujarat and Anr. v. Raman Lal Keshav Lal Soni and Ors., [1983] 2 SCC 33 a Constitution Bench of this Court had an occasion to deal with the situation arising out of a retrospective legislation by the Gujarat



State enacting Gujarat Panchayats (Third Amendment) Act, 1978 depriving the Secretaries, officers and servants of old village Panchayats the status as members of the State service. It was observed therein, while sustaining the challenge to the constitutionality of the Act on the ground of unjust deprivation of vested or acquired rights as follows: (SCC pp. 59-63, paras 48 & 51-52)

"48. From the summary of the provisions of the Amending Act that has been set out above it requires no perception to recognise the principal target of the amending legislation as the category of 'ex-municipal employees', who are, so to say, pushed out of the panchayat service and are to be denied the status of government servants and the consequential benefits. The ex-municipal employees are virtually the "poor relations", the castle, the panchayat service, is not for them nor the attendant advantages, privileges and perquisites, which are all for the "pedigree descendants" only. For them, only the outhouses. As a result of the amendments they cease to be government servants with retrospective effect. Their earlier allocation to the panchayat service is cancelled with retrospective effect. They become servants of Gram and Nagar Panchayats with retrospective effect. They are treated



differently from those working in Taluqa and District Panchayats as well as from the Talatis and Kotwals working in Gram and Nagar Panchayats. Their conditions of service are to be prescribed by Panchayats, by resolution, whereas the conditions of service of other are to be prescribed by the Government. Their promotional prospects are completely wiped out and all advantages which they would derive as a result of the judgments of the courts are taken away.

51. Now, in 1978 before the Amending Act was passed, thanks to the provisions of the principal Act of 1961, the ex-municipal employees who had been allocated to the Pachayats service as Secretaries, Officers and servants of Gram and Nagar Panchayats, had achieved the status of government servants. Their status as government servants could not be extinguished, so long as the posts were not abolished and their services were not terminated in accordance with the provisions of Article 311 of the Constitution. Nor was it permissible to single them out for differential treatment. That would offend Article 14 of the Constitution. An attempt was made to justify the purported differentiation on the basis of history and ancestry, as it were. It was said that Talatis and Kotwals who became Secretaries,



Officers and servants of Gram and Nagar Panchayats were government servants, even to start with, while municipal employees who became such Secretaries, Officers and servants of Gram and Nagar Panchayats were not. Each carried the mark or the 'brand' of his origin and a classification on the basis of the source from which they came into the service, it was claimed, was permissible. We are clear that it is not. Once they had joined the common stream of service to perform the same duties, it is clearly not permissible to make any classification on the basis of their origin. Such a classification would be unreasonable and entirely irrelevant to the object sought to be achieved. It is to navigate around these two obstacles of Article 311 and Article 14 that the Amending Act is sought to be made retrospective, to bring about an artificial situation as if the erstwhile municipal employees never became members of a service under the State. Can a law be made to destroy today's accrued constitutional rights by artificially reverting to a situation which existed 17 years ago? No.

52. The legislation is pure and simple, self-deceptive, if we may use such an expression with reference to a legislature-made law. The legislature is undoubtedly



competent to legislate with retrospective effect to take away or impair any vested right acquired under existing laws but since the laws are made under a written Constitution, and have to conform to the dos and don'ts of the Constitution, neither prospective nor retrospective laws can be made so as to contravene fundamental rights. The law must satisfy the requirements of the Constitution today taking into account the accrued or acquired rights of the parties today. The law cannot say, 20 years ago the parties had no rights, therefore, the requirements of the constitution will be satisfied if the law is dated back by 20 years. We are concerned with today's rights and not yesterday's. A legislature cannot legislate today with reference to a situation that obtained 20 years ago and ignore the march of events and the constitutional rights accrued in the course of the 20 years. That would be most arbitrary, unreasonable and a negation of history. It was pointed out by a Constitution Bench of this Court in B.S. Yadav v. State of Haryana, Chandrachud, CJ, speaking for the Court held: (SCC Headnote)

Since the Governor exercises the legislative power under the proviso to Article 309 of the Constitution, it is open to him to give retrospective operation to the rules made under that provision. But



the date from which the rules are made to operate must be shown to bear either from the face of the rules or by extrinsic evidence, reasonable nexus with the provisions contained in the rules, especially when the retrospective effect extends over a long period as in this case.

Today's equals cannot be made unequal by saying that they were unequal 20 years ago and we will restore that position by making a law today and making it retrospective. Constitutional rights, constitutional obligations and constitutional consequences cannot be tampered with that way. A law which if made today would be plainly invalid as offending constitutional provisions in the context of the existing situation cannot become valid by being made retrospective, Past virtue (constitutional) cannot be made to wipe out present vice (constitutional) by making retrospective laws. We are, therefore, firmly of the view that the Gujarat Panchayats (Third Amendment) Act, 1978 is unconstitutional, as it offends Articles 311 and 14 and is arbitrary and unreasonable. We have considered the question whether any provision of the Gujarat Panchayats (Third Amendment) Act, 1978 might be salvaged. We are afraid that the provisions are so intertwined with one another that it is



well nigh impossible to consider any life-saving surgery. The whole of the Third Amendment Act must go....."

12. In Ex-Capt. K.C. Arora and Anr, v. State of Haryana and Ors., [1984] 3 SCC 281 the principles laid down by the above Constitution Bench were followed, while striking down an amendment to the Punjab Government National Emergency (Concession) Rules taking away acquired or accrued fundamental rights with retrospective effect, as offending Article 14 and 16 of the Constitution of India. The retrospective amendment of the Rules in the said case had the effect of depriving the benefit of military service beyond a particular date with retrospective effect thereby taking away the vested rights which accrued to the petitioner and this was declared to be ultra vires the Constitution and struck down.

13. In Chairman, Railway Board and Ors. v. C.R. Rangadhamaiah and Ors., [1997] 6 SCC 623 yet another Constitution Bench of this Court had an occasion to deal with the validity of a retrospective amendment to the service rules adversely affecting the pension of the employees who already stood retired on the date of the notification issued by way of an amendment, on the view that the pension admissible was under the Rules in force at the time of retirement, and that reduction of the pension as admissible with retrospective effect was held to be arbitrary



and unreasonable, after an exhaustive review of case law of the subject.

14. On a careful consideration of the principles laid down in the above decisions in the light of the fact situation in these appeals we are of the view that they squarely apply on all fours to the cases on hand in favour of the appellants. The submissions on behalf of the respondent-State that the rights derived and claimed by the appellants must be under any statutory enactment or rules made under Article 309 of the Constitution of India and that in other respects there could not be any acquisition of rights validly, so as to disentitle the State to enact the law of the nature under challenge to set right serious anomalies which crept in and deserved to be undone, does not merit our acceptance. It is by now well settled that in the absence of Rules under Article 309 of the Constitution in respect of a particular area, aspect or subject, it was permissible for the State to make provisions in exercise of its executive powers under Article 162 which is co-extensive with its Legislative powers laying conditions of service and rights accrued to or acquired by a citizen would be as much rights acquired under law and protected to that extent. The orders passed by the Government, from time to time beginning from February 1967 till 1985 and at any rate upto the passing of the Act, to meet the administrative exigencies



and cater to the needs of public interest really and effectively provided sufficient legal basis for the acquisition of rights during the period when they were in full force and effect. The orders of the High Court as well as the Tribunal also recognised and upheld such rights and those orders attained finality without being further challenged by the Government, in the manner known to law. Such rights, benefits and perquisites acquired by the Teachers concerned cannot be said to be rights acquired otherwise than in accordance with law or brushed aside and trampled at the sweet will and pleasure of the Government, with impunity. Consequently we are unable to agree that the Legislature could have validly denied those rights acquired by the appellants retrospectively, not only depriving them of such rights but also enact a provision to repay and restore the amounts paid to them to State. The provisions of the Act, though can be valid in its operation 'in future' can not be held valid in so far as it purports to restore status quo ante for the past period taking away the benefits already available, accrued and acquired by them. For all the reasons stated above the reasons assigned by the majority opinion of the Tribunal could not be approved in our hands. The provisions of Section 2 and 3(a) insofar as they purport to take away the rights from 10-2-1967 and obligates those who had them to repay or restore it back to the State is



hereby struck down as arbitrary, unreasonable and expropriatory and as such is violative of Articles 14 and 16 of the Constitution of India. No exception could be taken, in our view, to the prospective exercise of powers thereunder without infringing the rights already acquired by the appellants and the category of the persons similarly situated whether approached courts or not seeking relief individually. The provisions contained in Section 2 have to be read down so as to make it only prospective, to save the same from the unconstitutionality arising out of its retrospective application.”

- 41.** Further, in the matter of Mithilesh Kumar (supra), the Hon'ble Supreme Court has held as under :-

“19. Both the learned Single Judge as also the Division Bench rightly held that the change in the norms of recruitment could be applied prospectively and could not affect those who had been selected for being recommended for appointment after following the norms as were in place at the time when the selection process was commenced. The respondent had been selected for recommendation to be appointed as Assistant Instructor in accordance with the existing norms. Before he could be appointed or even considered for appointment, the norms of recruitment were altered to the prejudice of the respondent. The question is



whether those altered norms will apply to the respondent.

20. The decisions which have been cited on behalf of the respondent have clearly explained the law with regard to the applicability of the rules which are amended and/or altered during the selection process. They all say in one voice that the norms or rules as existing on the date when the process of selection begins will control such selection and any alteration to such norms would not affect the continuing process, unless specifically the same were given retrospective effect.”

42. Also, in the matter of ***Director of Income Tax, Circle 26(1), New Delhi v. S.R.M.B. Dairy Farming Private Limited, (2018) 13 SCC 239***, while dealing with the similar issue, the Hon’ble Supreme Court has held as follows :-

“11. The Division Bench also pointed out the anomaly in the working of the Circular, were it to apply only prospectively, in the following words: (Ranka & Ranka case, SCC OnLine Kar para 37)

"37. Yet another anomaly which requires to be noticed is, if a tribunal where the number of cases which are pending are more, decides the appeal, subsequent to these latest circulars and the amount involved is less than Rs 10 lakhs, the assessee in such cases get the benefit of



the latest circular. However, if the tribunal has decided a case expeditiously or in tribunals where the pendency is less and if the subject-matter of the appeal preferred by the Revenue in such cases is more than Rs 4 lakhs and less than Rs 10 lakhs, the assessee in those appeals are denied the benefit of the latest circular. In other words, where there is huge pendency of cases in the tribunal or court, an appeal filed earlier is disposed of after the circular, the benefit accrues to the assessee. However, in tribunals and the courts where the pendency of cases is less, an appeal filed recently is decided before the circular or where the assessee cooperates with the Court in speed disposal of the appeal and the appeal is disposed of before the date of circular, he is denied the benefit of the circular. Therefore, the benefit to which the assessee is entitled should not be dependent on the date of the decision, over which neither the assessee nor the Revenue has no control. In this context, the circular would be discriminatory, if it is held to be prospective only. It could be saved from such vice of discrimination by holding it as retrospective. Though Circular/Instruction No. 3 of 2011 is issued by the Department in pursuance of the power conferred under the statutory provisions while issuing such circular/instruction, the Department has not



kept in mind the object with which such circulars/instructions are issued from time to time. The object sought to be achieved by such circulars/instructions and also the law declared by the Apex Court, the National Litigation Policy, 2011, as well as the various schemes introduced by the Department granting relief to persons who have not even filed returns and paid taxes, are kept in mind, to bring the circular/instruction in harmony with the National Litigation Policy, it would be appropriate to hold that the benefit of such circular/instruction also applies to the pending cases in appeal in various courts and tribunals on the date of the circular/instruction."

22. We may also take note of the judgment of this Court in Suchitra Components Lid. v. CCE13 on the general principle of application of circulars. Reliance was placed on the view expressed in CCE v. Mysore Electricals Industries Ltd. 12 opining that a beneficial circular has to be applied retrospectively while an oppressive circular has to be applied prospectively."

43. Reverting to the facts of the present cases in the light of the judgments rendered by the Hon'ble Supreme Court, it is clear that



neither the circular dated 28.07.2020 nor the Finance Direction dated 12.09.2023 contains any language indicating retrospective operation. The 2023 Finance Direction, on its own terms, is prospective. Consequently, the respondents cannot apply the circular dated 28.07.2020 retrospectively to employees whose recruitment process commenced under the earlier policy regime, nor can they deny arrears by placing reliance upon the 12.09.2023 circular which itself restricts its operation to future dates.

- 44.** The petitioners participated in the recruitment process and accepted appointments on the basis of the terms prevailing under the advertisement dated 09.03.2019, which expressly provided for a regular pay scale and full basic pay even during probation. Once the petitioners were selected and appointed in accordance with such terms, they acquired a vested right and legitimate expectation to draw full basic pay. The subsequent circular dated 28.07.2020 introduced a stipend system reducing monetary benefits. Applying such circular to the petitioners, whose recruitment was set in motion prior to its issuance, would amount to depriving them of vested rights and would be violative of Article 14 of the Constitution.
- 45.** The Finance Direction dated 12.09.2023, whereby the State abolished the 70%–80%–90% stipend system, itself recognizes that the earlier policy suffered from infirmities. However, clause 3.1 of the said direction, which restricts actual monetary benefits



prospectively while granting only notional fixation for the earlier period, defeats the very purpose of restoring full pay and perpetuates the earlier inequity. When the State has acknowledged that the stipend system was erroneous, withholding arrears for the period during which the petitioners rendered full service is wholly irrational and discriminatory. This is fortified by the fact that similarly situated employees in various districts have already been granted pay protection and full salary. Therefore, clause 3.1 of the Finance Direction dated 12.09.2023, insofar as it denies arrears to the present petitioners, is arbitrary and violative of Article 14, and cannot stand judicial scrutiny.

46. Accordingly, this Court holds that:

- (i) The circular dated 28.07.2020 introducing the stipend system cannot be applied retrospectively to the petitioners whose recruitment commenced under advertisement dated 09.03.2019.
- (ii) The Finance Direction dated 12.09.2023, to the extent that it denies arrears and restricts financial benefits prospectively, is arbitrary and violative of Article 14, and is accordingly quashed qua the petitioners.
- (iii) The petitioners are entitled to full basic pay from the dates of their respective appointments, as per the prevailing rules and pay scales, along with arrears for the intervening



period up to the date of the circular dated 12.09.2023, with all consequential benefits.

- (iv) The respondents are directed to re-fix the pay of the petitioners from the dates of their respective appointments, compute the arrears, and disburse the same.

- 47.** In view of the aforesaid discussion, the circular dated 28.07.2020 and the Finance Direction dated 12.09.2023 cannot be retrospectively applied to the petitioners. The petitioners' rights crystallized under the rules prevailing on the date of advertisement i.e., 09.03.2019, and any subsequent circular curtailing such rights would amount to arbitrary and impermissible retrospective deprivation.
- 48.** Accordingly, the issue is answered in favour of the petitioners. The petitioners are held entitled to full basic pay from the date of their respective appointments along with arrears and consequential benefits, strictly in accordance with their regular pay scales, without being subjected to the stipend system introduced by the circular dated 28.07.2020.
- 49.** The decision rendered in ***W.P.(S) No. 2530/2021 (Vijayendra Mahilane and Others v. State of Chhattisgarh)*** and other connected matters, relied upon by the learned State counsel, is distinguishable. In the said matters, either the employees joined after issuance of the relevant circulars, or the circulars provided for



retrospective operation, or the employees did not hold lien on a previous substantive post. None of these circumstances obtain in the present case.

- 50.** In the present petitions, the recruitment process was initiated by the advertisement dated 09.03.2019, much prior to the circular dated 28.07.2020. The petitioners held lien on their earlier posts and tendered technical resignations, duly preserving continuity of service. The Finance Direction dated 12.09.2023 also does not expressly operate retrospectively so as to deprive them of financial benefits already accrued. Therefore, reliance on the aforesaid judgment by the State is wholly misplaced.
- 51.** The principles governing technical resignation, pay protection under Fundamental Rule 22-B(1), and continuity of service, as affirmed by the Hon'ble Supreme Court in ***Krishna Kant Tiwari*** (supra) and ***Jitender Kumar*** (supra), squarely apply to the facts of the present petitions. In ***Krishna Kant Tiwari*** (supra), the Supreme Court categorically held that once an employee transitions from one post to another under the Government through proper channel, the benefit of last drawn pay protection must be extended from the date on which the Government's policy took effect, and that such pay protection is a statutory entitlement, not a matter of discretion. The Court emphasized that service rendered on the earlier post cannot be ignored and that the employer is duty-bound to preserve the employee's financial



position while ensuring continuity of service for all consequential benefits.

- 52.** Similarly, in ***Jitender Kumar*** (supra), the Supreme Court reaffirmed that when an employee applies for a new Government post through proper channel and tenders resignation only for the purpose of joining such post, the resignation has to be treated as a technical resignation, which by its very nature does not sever continuity of service. The Court further held that in such cases, the employee retains a lien on the earlier post and is entitled to carry forward his past service for the purposes of seniority, pay fixation, pay protection, increments, pensionary benefits, and all other service advantages. The Court expressly applied the DoPT Office Memoranda governing technical resignation and held that all benefits flowing from FR 22-B(1) must be extended without exception.
- 53.** Applying these authoritative pronouncements to the present matter, it is evident that the petitioners, who tendered technical resignations after obtaining due permission from the competent authority and who were appointed to higher posts within the same department, continue to hold lien over their earlier substantive posts and are legally entitled to full continuity of service. Consequently, their last drawn pay, accrued benefits, and increments are mandatorily required to be protected under FR 22-B(1).



54. The petitioners' entitlement to pay protection, proper pay fixation, full salary from the date of appointment, and consequential benefits is therefore not only consistent with established service jurisprudence but is fully justified and supported by the binding principles laid down in ***Krishna Kant Tiwari*** (supra) and ***Jitender Kumar*** (supra).
55. In view of the above, after hearing the learned counsel for the parties and considering the pleadings, documents, and submissions on record, the writ petitions bearing WPS Nos.6436/2021, 1175/2022, 1682/2022, 957/2022, 1878/2022, 2471/2022, and 2656/2022 are **allowed**.
56. The petitioners are, therefore, held entitled to full basic pay from the dates of their respective appointments, along with all consequential benefits flowing therefrom, including arrears, pay protection and continuity of service. The respondents are directed to re-fix the pay of the petitioners, compute and disburse the arrears, and carry out necessary corrections in the service records so as to reflect the protected pay and uninterrupted continuity of service.
57. There shall be no order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge



The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
18.09.2025	19.11.2025	-----	19.11.2025



Head Note

A subsequent circular or administrative instruction, issued at a later point in time, cannot be given retrospective operation so as to affect or take away rights that had already accrued to a person under the earlier prevailing rules or circulars. Any such circular must operate prospectively unless it expressly provides otherwise and is legally permissible. Administrative authorities are, therefore, not justified in applying a later circular to past transactions or completed events to the detriment of the affected party.