



2026:CGHC:20292

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 7714 of 2024**

- 1** - Ranjit Banarjee S/o Ravindra Nath Banarjee, Aged About 61 Years R/o C-60, Agyey Nagar, Bilaspur, District-Bilaspur (C.G.)
- 2** - J. Laxmi Shekhar S/o Late J.V. Rao, Aged About 60 Years R/o C/o Shri D. Laxman Rao, Near Govt. Primary School, Nipaniya, Tahsil-Nipaniya, District- Balodabazar-Bhatapara (C.G.)
- 3** - Virendra Kumar Yadav S/o Late Shri Jagdish Prasad Yadav, Aged About 58 Years R/o Kilaward Near Library, Juna Bilaspur, District-Bilaspur (C.G.)
- 4** - Shatruhan Prasad Yadav S/o Late Sadashivram Yadav, Aged About 62 Years R/o Jarhabhata, Om Nagar, Near Jatiya Talab, Bilaspur, District-Bilaspur (C.G.)
- 5** - Babu Lal Tiwari S/o Ramsujaan Tiwari, Aged About 59 Years R/o C-10, Agyey Nagar, Bilaspur, District- Bilaspur (C.G.)
- 6** - Vinit Kumar Devada S/o Late Gyanendra Kumar Devada, Aged About 60 Years R/o Brahaspati Bazar, Chatapara, Prince Mobile Shop, Bilaspur, District- Bilaspur (C.G.)
- 7** - Anil Kumar Dubey S/o Chinta Ram Dubey, Aged About 59 Years R/o Village-Gobripat, P.O. Gobripat, District- Bilaspur (C.G.) 445113.
- 8** - Jageshwar Prasad Kashyap S/o Late Patiram Kashyap, Aged About 59 Years R/o C/o Dr. G. Bose, 9/80, Green Park Colony, Jarhabhata, Bilaspur, District- Bilaspur (C.G.)
- 9** - Harcharan Das Vaishnav S/o Prayag Das Vaishnav, Aged About 60 Years R/o Village-Khaprakhol, P.S.-Hardikala, Tahsil- Bodri, District-Bilaspur (C..G.)

**10** - Goverdhan Prasad Kaushik S/o Late Shri Ramkushal Kaushik, Aged About 60 Years R/o Village-Ghutaku, Tahsil-Sakti, P.S.- Koni, District-Bilaspur (C.G.)

**11** - Smt. Sandhya Chaturvedi W/o Shri K.N. Chaturvedi, Aged About 58 Years O/o Principal, Janpad Primary School, Village-Jalso, Tahsil - Tilda, District-Bilaspur (C.G.)

**12** - Smt. Shachi Dewangan W/o Shri T.R. Dewangan, Aged About 60 Years R/o Ware House Road, Near Atal Shrivastava's Home, Bilaspur, District-Bilaspur (C.G.)

**13** - Ku. Sunita Deshkar D/o Kamal Lal Deshkar, Aged About 59 Years R/o Near Mahadev Hotel, Besides Vinod Ata Chakki, Tilak Nagar, Chatapara, District-Bilaspur (C.G.)

**14** - Smt. Tripti Tiwari W/o Shri J.S. Tiwari, Aged About 60 Years R/o Mahamaya Vihar, Ware House Road, Bilaspur, District-Bilaspur (C.G.)

**15** - Smt. Jyoti Konher W/o Arvind Konher, Aged About 62 Years R/o Shanti Nagar, Behind Shri Mandir, Bilaspur, District-Bilaspur (C.G.)

--- **Petitioners**

**Versus**

**1** - State Of Chhattisgarh Through Its Secretary, School Education Department, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District-Raipur (C.G.)

**2** - Secretary, Department Of General Administration, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

**3** - Director Of Public Instructions, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)

**4** - District Education Officer, Bilaspur, District- Bilaspur (C.G.)

--- **Respondents**

**WPS No. 8475 of 2024**

Avinash Kumar Das S/o Late Shri Shivram Das Aged About 63 Years Retired Lecturer (L.B.) R/o Village Ruwatala Post Dhangaon Block Dongergarh District- Rajnandgaon Chhattisgarh

---Petitioner

**Versus**

- 1 - State Of Chhattisgarh Through Secretary Education Department Mantralaya Mahanadi Bhawan Naya Raipur District - Raipur (C.G.)
- 2 - Secretary Department Of Panchayat Mantralaya Mahanadi Bhawan Naya Raipur District- Raipur (C.G.)
- 3 - Secretary Department Of Finance Mantralaya Mahanadi Bhawan Naya Raipur District- Raipur (C.G.)
- 4 - Director Directorate Public Education Indrawati Bhawan Block - Iii, First Floor Naya Raipur District- Raipur (C.G.)
- 5 - Director Directorate Of Public Instructions Indrawati Bhawan Naya Raipur District - Raipur (C.G.)

--- Respondents

**WPS No. 674 of 2025**

- 1 - Shubha Pandey W/o Rakesh Pandey, Aged About 62 Years R/o 1st Floor, Sunny Niwas, Rajendra Nagar, Bilaspur, District Bilaspur (C.G.)
- 2 - Krishna Kumar Tiwari, S/o Bharat Prashad Tiwari, Aged About 60 Years R/o Ward No.15 Gayatri Nagar Ramhepur Lormi, District Mungeli (C.G.)
- 3 - Lav Kumar Pandey, S/o Makhan Lal Pandey, Aged About 61 Years R/o- Purana Sarkanda District Bilaspur (C.G.)
- 4 - Deepchand Gahwai S/o Late Mohanlal Gahwai, Aged About 61 Years R/o- Village And Post Ratanpur District Bilaspur (C.G.)
- 5 - Basant Dubey S/o Late Makhanlal Dubey, Aged About 61 Years R/o- Nera Saraswati Sishu Mandir Rajkishore Nagar, Bilaspur, District Bilaspur (C.G.)
- 6 - Bhagat Singh Luniya, S/o Janki Prashad Luniya, Aged About 61 Years R/o- Nawrangpur Post Ramhepur Lormi District Mungeli (C.G.)
- 7 - Harendra Kumar Kaushik S/o Late Chedilal, Aged About 61 Years R/o- Village Chatavana Post Harri Mines Tehsil Sakri District Bilaspur (C.G.)

**8** - Shiv Kumar Sahu S/o Shri Anjori Ram Sahu, Aged About 61 Years R/o- Village Nawrangpur, Uraihapara Post Ramhepur Lormi District Mungeli (C.G.)

**9** - Ghanshyam Das Manikpuri, S/o Shri Balwan Das Manikpuri, Aged About 61 Years R/o- Village Pali Bhuru Chakarbhata Police Station Harri Tehsil Sakri District Bilaspur (C.G.)

**10** - Surendra Kumar Sahu S/o Shri Jankram Sahu, Aged About 60 Years R/o- Post Salka Navagaon, Kargi Road Kota, District Bilaspur (C.G.)

**11** - Ranjeet Singh S/o Shri Jagannath Singh, Aged About 59 Years R/o- Village Newari Post Malhar District Bilaspur (C.G.) Amardeep Keshrwani Sahu S/o Shri Anjori Ram Sahu, Aged About 61 Years, R/o- Village Nawrangpur, Uraihapara Post Ramhepur Lormi District Mungeli (C.G.)

**12** - Amardeep Kesharwani Sahu S/o Shri Radhelal Kesharwani, Aged About 61 Years R/o- Village Faujdar Kanpa Post Office Dindori Lormi District Mungeli (C.G.)

**13** - Radhelal Nirnejak S/o Shri Paharuram, Aged About 60 Years R/o- Village Parsadaved Post Office Tikari Teshil Bhasturi District Bilaspur (C.G.)

**14** - Pitambar Prashad Sahu S/o Late Chaituram Sahu, Aged About 59 Years R/o- Village Joki Post Sakri Teshil Sakri District Bilaspur (C.G.)

**15** - Omprakash Jaiswal S/o Ramnarayan Jaiswal Aged About 59 Years R/o- Post Office Dinduari Lormi District Mungeli (C.G.)

**16** - Ramnarayan Kaushik S/o Ramkhilawan Kaushik, Aged About 59 Years R/o- Village Pali Bhuru Police Station Harri Tehsil Sakri District Bilaspur (C.G.)

**---Petitioners**

**Versus**

**1** - State Of Chhattisgarh Through Its Secretary, School Education Department Mahanadi Bhawan, Atal Nagar, Naya Raipur (C.G.)

**2** - Secretary Department Of General Administration, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

**3** - Director Of Public Instructions, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

**4** - District Education Officer, Bilaspur, District Bilaspur (C.G.)

**5** - District Education Officer, Mungeli, District Mungeli (C.G.)

**... Respondents**

(Cause-title taken from Case Information System)

For Petitioner (In WPS No.7714/2024)	: Mr. Rahul Sharma, Advocate on behalf of Mr. A.V. Shridhar, Advocate
For Petitioner (In WPS No.8475/2024)	: Mr. Anmol Sharma, Advocate
For Petitioner (In WPS No.674/2025)	: Ms. Sweksha Sharma, Advocate
For Respondents/State	: Mr. Sabyasachi Choubey, Government Advocate

**Hon'ble Shri Amitendra Kishore Prasad, Judge**

**Order on Board**

**30.04.2026**

1. Heard Mr. Rahul Sharma, learned counsel holding brief of Mr. A.V. Shridhar, learned counsel for the petitioners in WPS No.7714/2024, Mr. Anmol Sharma, learned counsel for the petitioner in WPS No.8475/2024 as well as Ms. Sweksha Sharma, learned counsel for the petitioners in WPS No.674/2025. Also heard Mr. Sabyasachi Choubey, learned Government Advocate, appearing for the State/respondents.
2. Since a common question is involved in all these petitions, they have been clubbed together, heard analogously, and are being decided by this Court by a common order.

- 3.** By filing the present batch of petitions, the petitioners herein call in question the legality, validity and propriety of the order dated 30.06.2018 issued by the Respondent No.1/Secretary, School Education Department, whereby the petitioners, who were working as Teachers under the Panchayat and Municipal Corporations and had completed 8 years of service as on 01.07.2018, were absorbed in the Department of School Education with a stipulation that they would be governed by the New Contributory Pension Scheme, thereby rendering the provisions of the Chhattisgarh Civil Services (Pension) Rules, 1976 (for short, 'Rules of 1976') inapplicable to them (Annexure P/1).
- 4.** The petitioners have further assailed the subsequent order dated 24.06.2024, whereby it has been provided that the services of such absorbed employees shall be reckoned only from the date of absorption and that they shall not be entitled to the benefit of the Rules of 1976 (Annexure P/2).
- 5.** The grievance of the petitioners, as raised in WPS No.7714/2024, WPS No.8475/2024 and WPS No.674/2025, is also directed against, inter alia, Paragraphs 4 and 6 of the policy/order dated 30.06.2018 to the aforesaid extent. It is contended that the impugned stipulations are arbitrary and illegal inasmuch as the past services rendered by the petitioners from their initial date of appointment, in some cases dating back to the year 1998, have been ignored for the purpose of pension and other retiral benefits.

6. Accordingly, the petitioners seek a direction to the respondent authorities to count their entire length of service from the initial date of appointment and to extend to them full pensionary and consequential benefits in accordance with the applicable pension rules, by setting aside the impugned conditions contained in the aforesaid orders.
7. In WPS No.7714/2024, the petitioners have prayed for following relief(s) :-

*“10.1 That, this Hon'ble Court may kindly be pleased to call the entire records pertaining to the case of petitioners.*

*10.2 That, this Hon'ble Court may kindly be pleased to strike down clause 4 and clause 6 of the impugned policy dated 30.06.2018 (Annexure P/1), being arbitrary, illegal, discriminatory and unconstitutional.*

*10.3 That, this Hon'ble Court may kindly be pleased to quash the impugned order dated 24.06.2024 (Annexure P/2).*

*10.4 That, this Hon'ble Court may kindly be pleased to direct the Respondent Authorities to grant continuity in service from the initial date of appointment and in pursuance thereto consider the petitioners eligible for pension under Chhattisgarh Civil Services Pension Rules, 1976.*

*10.5 Any other relief which the Hon'ble Court deems fit in the circumstances of the case may be given.”*

8. In WPS No.8475/2024, the petitioner has prayed for following relief(s) :-

*“10.1. The Hon'ble Court may kindly be pleased to call for the entire record pertaining to the case of the petitioner.*

*10.2. That this Hon'ble Court may kindly be pleased to set-aside/Strike Down Clause 4 and 6 of the impugned policy dated 30.06.2018 issued by Respondent authorities (ANNEXURE P-1).*

*10.3. That this Hon'ble Court may kindly be please to quash the impugned order dated 24.06.2024 (ANNEXURE P-2).*

*10.4. That this Hon'ble Court may kindly be please to direct the respondent authorities to grant continuity in service of the petitioner from the date of the initial appointment i.e. from the year 1998 for all service benefits.*

*10.5. The Hon'ble Court may kindly be pleased to direct the respondent authorities to consider the petitioner eligible for the pension under the Chhattisgarh Civil Services Pension Rules, 1976.*

*10.6. Any other relief, which this Hon'ble Court may deems fit and proper may also be awarded to the petitioner including the cost of the petition.”*

9. In WPS No.674/2025, the petitioners have prayed for following relief(s) :-

*“10.2 That, this Hon'ble Court may kindly be pleased to quash the impugned order dated 24.06.2024 (Annexure P/2).*

*10.3 That, this Hon'ble Court may kindly be pleased to direct the Respondent Authorities to grant continuity in service from the initial date of appointment and in pursuance thereto consider the petitioners eligible for pension under Chhattisgarh Civil Services Pension Rules, 1976.*

*10.4 Any other relief which the Hon'ble Court deems fit in the circumstances of the case may be given.”*

- 10.** The brief facts of the present batch of cases, in a nutshell, are that the petitioners were initially appointed as Shikshakarmi under the Janpad Panchayats in compliance with orders passed by this Court and continued to discharge their duties as such. Their services were subsequently regularized in accordance with the applicable rules. Thereafter, the State of Chhattisgarh, by way of policy decision dated 30.06.2018, resolved to absorb those Shikshakarmis working under various Panchayats and Municipal Corporations who had completed 8 years of service as on 01.07.2018 into the School Education Department in the newly created cadre of Teachers (Local Body).
- 11.** Pursuant thereto, the petitioners came to be absorbed; however, the said policy contained stipulations, inter alia, that the services of the absorbed employees would be counted only from the date of absorption i.e. 01.07.2018 and that they would be governed by

the New Contributory Pension Scheme, thereby excluding the applicability of the Rules of 1976. Being aggrieved, the petitioners, through their unions, submitted representations seeking coverage under the Old Pension Scheme, and similarly situated employees had earlier approached this Court by way of filing WP(S) No.4828/2020, which was disposed of on 17.12.2020 directing consideration of their representations; however, the same came to be rejected vide order dated 05.10.2021.

- 12.** The grievance of the petitioners in the present matters (WPS No.7714/2024, WPS No.8475/2024 and WPS No.674/2025) is that despite long years of service, in some cases from as early as 1998, the respondent authorities are counting their qualifying service only from the date of absorption and are denying them the benefit of the Old Pension Scheme. One of the petitioners has also retired on 31.07.2023 (with extension of service), yet the aforesaid benefits have not been extended. Hence, the petitioners have challenged, inter alia, Clauses 4 and 6 of the order dated 30.06.2018 as well as the subsequent order dated 24.06.2024, seeking a direction to the respondents to count their entire service from the initial date of appointment and to grant them full pensionary and consequential benefits under the applicable pension rules.
- 13.** Learned counsel appearing for the respective petitioners, namely Mr. Rahul Sharma, learned counsel holding brief of Mr. A.V. Shridhar, learned counsel in WPS No.7714/2024, Mr. Anmol

Sharma, learned counsel in WPS No.8475/2024, and Ms. Sweksha Sharma, learned counsel in WPS No.674/2025, would jointly submit that the impugned action of the respondent-State in restricting the reckoning of service of the petitioners only from the date of their absorption i.e. 01.07.2018, and in subjecting them to the New Contributory Pension Scheme, is ex facie arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India. It is contended that the petitioners were initially appointed as Shikshakarmis pursuant to orders passed by the High Court and had continuously discharged their duties under the control and supervision of the State authorities, their services having been duly regularized in accordance with the applicable rules. Thus, the entire length of service rendered by them cannot be artificially truncated by treating the date of absorption as the starting point for all consequential benefits, particularly pension, which is in the nature of deferred wages. It is further submitted that the policy decision dated 30.06.2018, more particularly Clauses 4 and 6 thereof, in so far as they provide that the past services of the petitioners shall not be counted and that they shall be governed by the New Contributory Pension Scheme, is wholly unjustified and suffers from the vice of hostile discrimination.

14. Learned counsel would argue that similarly situated employees, who have rendered long years of service under the State, cannot be denied the benefit of the Old Pension Scheme merely on

account of a change in nomenclature or cadre upon absorption. The impugned stipulations, it is urged, fail to take into account the continuity of service, the nature of duties performed, and the fact that the petitioners were discharging functions identical to those of regular teachers even prior to their absorption, thereby rendering the classification unreasonable and lacking any rational nexus with the object sought to be achieved.

- 15.** Learned counsel would further contend that despite repeated representations made by the petitioners and their unions, the respondent authorities have failed to undertake a fair and meaningful consideration of their grievances. Attention is invited to the earlier round of litigation wherein similarly situated employees had approached this Court in WP(S) No.4828/2020, which was disposed of with a direction to the authorities to consider their representations; however, the same came to be rejected in a mechanical manner vide order dated 05.10.2021 without addressing the core issue of continuity of service and entitlement to pensionary benefits. It is submitted that such an approach defeats the legitimate expectation of the petitioners and reflects non-application of mind on the part of the authorities.
- 16.** It is also submitted that some of the petitioners had earlier approached this Court by filing WPS No.777/2021 and other analogous matters, which came to be disposed of by a Co-ordinate Bench of this Court vide order dated 17.02.2026. Learned counsel would place heavy reliance upon the

observations made therein, particularly paragraphs 43 to 49, to contend that this Court has already recognized the significance of the issue relating to reckonable service for pension and the need for a conscious and reasoned policy decision by the State. It is emphasized that the Co-ordinate Bench has categorically observed that pension is a welfare measure and a form of deferred compensation, and that the long years of service rendered by the employees prior to absorption cannot be ignored. The Court, while refraining from issuing a positive mandamus, directed the State to undertake a comprehensive reconsideration of the issue by taking into account relevant factors such as continuity of service, nature of duties, and constitutional mandates of equality and fairness within a stipulated time frame.

17. Learned counsel would further submit that against the aforesaid order dated 17.02.2026, the State Government preferred an intra-court appeal being WA No.325/2026 before the Hon'ble Division Bench of this Court; however, the said appeal came to be dismissed, thereby affirming the view taken by the learned Single Judge. It is thus contended that the issue has attained a certain degree of finality insofar as the obligation of the State to take a reasoned and constitutionally compliant decision is concerned. In such circumstances, the continued inaction on the part of the respondent authorities, coupled with the enforcement of the impugned clauses and subsequent order dated 24.06.2024, is wholly unsustainable in law.

- 18.** On the strength of the aforesaid submissions, learned counsel for the petitioners would pray that this Court may be pleased to set aside the impugned Clauses 4 and 6 of the order dated 30.06.2018 as well as the order dated 24.06.2024 to the extent they deny the benefit of counting past service and the applicability of the Old Pension Scheme, and further issue appropriate directions to the respondent authorities to reckon the services of the petitioners from their initial date of appointment and to extend all consequential pensionary and retiral benefits in accordance with the applicable rules.
- 19.** Per contra, Mr. Sabyasachi Choubey, learned Government Advocate appearing for the State/respondents, would submit that the present batch of petitions is devoid of merit and deserves to be dismissed. It is contended that the petitioners have been granted the benefit of absorption in the Department of School Education pursuant to a conscious policy decision taken by the State Government vide order dated 30.06.2018, and such policy decision, being within the exclusive domain of the executive, is not amenable to judicial interference unless shown to be manifestly arbitrary or unconstitutional. According to him, the petitioners, having accepted the terms and conditions of absorption without demur, are now estopped from challenging the same at a belated stage.
- 20.** Learned Government Advocate would further submit that the status of Shikshakarmis prior to their absorption was

fundamentally distinct from that of regular government servants. Their appointment, service conditions, source of salary and administrative control were governed by the respective Panchayats and Urban Local Bodies, and not by the State in its capacity as an employer in the School Education Department. It is, therefore, contended that the past service rendered by the petitioners as Shikshakarmis cannot be equated with regular government service so as to claim parity in matters of pension. The decision to reckon service only from the date of absorption i.e. 01.07.2018 is thus a reasonable classification based on intelligible differentia.

- 21.** It is also submitted that the introduction and applicability of the New Contributory Pension Scheme to the absorbed employees is in consonance with the prevailing policy framework of the State, which has, as a matter of financial prudence and administrative uniformity, discontinued the Old Pension Scheme for employees entering government service after a specified cut-off date. The petitioners, having been brought into the regular cadre only upon their absorption in the year 2018, have rightly been placed under the new pension regime. Any direction to extend the benefit of the Old Pension Scheme would have wide-ranging financial implications and would disturb the settled policy of the State.
- 22.** Lastly, it is submitted that the impugned order dated 24.06.2024 merely clarifies the existing position with regard to reckoning of service and applicability of pension rules, and does not introduce

any new condition warranting interference by this Court. However, learned Government Advocate fairly submits that though the State had preferred an intra-court appeal against the order dated 17.02.2026 passed by the learned Single Judge in WPS No.777/2021 and analogous matters, the said writ appeal being WA No.325/2026 has been dismissed by the Hon'ble Division Bench, thereby affirming the directions issued by the learned Single Judge. The action of the respondents being in accordance with the policy decision and applicable rules, no case for judicial review is made out. Accordingly, learned Government Advocate prays for dismissal of the writ petitions.

- 23.** I have heard learned counsel for the parties at considerable length and with their able assistance carefully gone through the pleadings, documents placed on record as well as the impugned orders/policy decisions. I have also duly considered the rival submissions advanced at the Bar, the earlier rounds of litigation between the parties, and the legal position governing the field, including the scope of judicial review in matters involving policy decisions of the State.
- 24.** While deciding the earlier round of litigation culminating in the order dated 17.02.2026 passed in WPS No.777/2021 and analogous matters, the learned Single Judge, after hearing learned counsel for the parties at length and taking into consideration a catena of judicial precedents rendered by the Hon'ble Supreme Court as well as various High Courts, including

the decisions in ***Ram Gopal Sahu v. State of Chhattisgarh (arising out of SLP (C) No.6708/2023)***, ***Dr. Hira Lal v. State of Bihar (Civil Appeal Nos.1677-1678 of 2020)***, ***Vijay Singh v. State of Uttar Pradesh (2013) 11 SCC 673***, ***Partha Das v. State of Tripura, 2025 SCC OnLine SC 1844***, ***A.B. Krishna v. State of Karnataka, (1998) 3 SCC 495***, and other authorities governing the field, came to the considered conclusion that the controversy with regard to counting of past service for pension had not yet crystallised into a definitive policy decision of the State. The learned Single Judge also took note of persuasive precedents from other High Courts, including ***Nagar Palika Parishad v. Kundan Sarla (Writ Appeal No. 3258 of 2024)***, ***Dinesh Kumar Sharma v. State of Madhya Pradesh (Madhya Pradesh High Court in Writ Appeal No. 11734 of 2021)***, ***Pushpa Tiwari v. State of Madhya Pradesh (Writ Petition No. 8083 of 2019)*** and ***Ram Jatan Singh v. State of Madhya Pradesh (W.P. No. 4919 of 2003)***, wherein continuity of service for pensionary purposes was recognized even after absorption. Upon a comprehensive survey of the legal position, the learned Single Judge held that the issue involves a delicate interplay between statutory service rules, executive policy and constitutional guarantees, particularly Articles 14 and 16 of the Constitution.

- 25.** The learned Single Judge, in paragraphs 28 to 49 of the said judgment, lucidly observed in following terms :-

*“28. Having bestowed thoughtful consideration upon the submissions advanced by the learned counsel appearing for the parties and upon a careful examination of the pleadings and record, this Court is of the view that the controversy raised in the present batch of writ petitions primarily emanates from the absence of a clear, final and uniform policy determination by the respondent-State on the determinative date of appointment for the purpose of pensionary entitlement in cases such as that of the petitioners. The petitioners represent a class of employees whose service journey commenced prior to the introduction of the New Pension Scheme and thereafter passed through stages of regularisation and absorption, thereby creating a hybrid service structure which has not been conclusively addressed under the existing executive framework.*

*29. With regard to principle of “approbate and reprobate”, contention made by Mr. Bhaduri, it is pertinent to note that no such plea was specifically averred in the return; the same has been introduced only during the course of oral arguments. In my considered opinion, where the petitioners seek to enforce an inherent statutory right, the doctrine of 'Approbate and Reprobate' finds no application. Since the dispute pertains to pensionary benefits which are a proprietary right attached to the post, the technical plea of estoppel cannot override the*

*law, therefore I am not impressed with the contention made by Mr. Bhaduri.*

*30. It is well settled by a catena of judgments of the Hon'ble Supreme Court that matters relating to formulation of policy, particularly in the realm of service conditions, pension, cut-off dates and recognition of past service, fall squarely within the domain of the executive. Courts exercising jurisdiction under Article 226 of the Constitution do not sit as policy-makers but undertake judicial review only after a policy has been framed and crystallised.*

*31. In **BALCO Employees' Union v. Union of India and others, (2002) 2 SCC 333**, the Supreme Court has categorically held that courts cannot interfere with policy decisions merely because another view may appear more equitable or desirable, unless such policy is shown to be arbitrary, irrational or violative of constitutional provisions, by observing as follows :-*

*““87. ....*

*"232. While protecting the rights of the people from being violated in any manner utmost care has to be taken that the court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The court has come down heavily whenever the executive has sought to impinge upon the court's jurisdiction.*

*233. At the same time, in exercise of its enormous power the court should not be called upon to or undertake governmental duties or functions. The courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under the Constitution casts on it a great obligation as the sentinel to defend the values of the Constitution and the rights of Indians. The courts must, therefore, act within their judicially permissible limitations to uphold the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the court will not interfere. When there is a valid law requiring the Government to act in a particular manner the court ought not to, without striking down the law, give any direction which is not in accordance with law. In other words, the court itself is not above the law.*

*234. In respect of public projects and policies which are initiated by the Government the courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered*

*policy decision has been taken, which is not in conflict with any law or is not mala fide, it will not be in public interest to require the court to go into and investigate those areas which are the function of the executive. For any project which is approved after due deliberation the court should refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may have been considered by the Government, is possible. When two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the court to go into the matter afresh and, in a way, sit in appeal over such a policy decision.”*

**32. Similarly, in *Census Commissioner and others v. R. Krishnamurthy, (2015) 2 SCC 796*, the Supreme Court reiterated that Courts are not equipped to adjudicate upon the merits of policy choices and that judicial review is confined to examining the legality and constitutionality of a decision, and not its wisdom. In the absence of a definitive policy decision on the core question involved herein, any attempt by this Court to adjudicate the issue on merits would result in judicial overreach into executive territory and held as follows :-**

“28. ....

*“229. It is now well settled that the courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the courts are ill-equipped to adjudicate on a policy decision so undertaken. The court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people’s fundamental rights are not transgressed upon except to the extent permissible under the Constitution.”*

33. So far as pensionary matters are concerned, it is beyond cavil that pension is not a bounty but a deferred portion of compensation for past service, as held in **D.S. Nakara and others v. Union of India, (1983) 1 SCC 305**. At the same time, the Supreme Court has consistently held that the State is entitled to frame pension schemes, prescribe eligibility criteria and fix cut-off dates, provided such classification is founded on an intelligible differentia and bears a rational nexus with the object sought to be achieved.

34. In **Government of Andhra Pradesh and others v. N. Subbarayudu and others, (2008) 14 SCC 702**, it was specifically observed by the Hon’ble Supreme Court that fixing of a cut-off date is within the policy domain of the State and Courts cannot lightly interfere with such determination unless it is

*manifestly arbitrary or discriminatory by observing as follows :-*

*“5. In a catena of decisions of this Court it has been held that cut-off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances. This Court is also of the view that fixing cut-off dates is within the domain of the executive authority and the court should not normally interfere with the fixation of cut-off date by the executive authority unless such order appears to be on the face of it blatantly discriminatory and arbitrary. (See State of Punjab v. Amar Nath Goyal, (2005) 6 SCC 754).”*

*35. Further, the Supreme Court has further clarified in **Union of India v. P. N. Menon and others, (1994) 4 SCC 68**, that financial implications and administrative feasibility are legitimate considerations for the State while framing pension policies, and that equality does not mandate extension of benefits to all merely on the ground of perceived hardship. Therefore, while recognition of past service for pensionary purposes may be a desirable policy choice, whether such past service is to be wholly counted, partially recognised, or excluded altogether is a matter to be assessed by the policy-maker after due consideration of financial, administrative and structural implications.*

*36. Applying the aforesaid settled principles to the facts of the present batch of writ petitions, this Court finds that the controversy does not arise from a mere dispute regarding calculation of individual pensionary benefits, but emanates from a structural ambiguity in the State's executive framework governing employees whose service trajectory commenced prior to the introduction of the New Pension Scheme and thereafter passed through stages of regularisation and absorption into regular government service. The petitioners constitute a distinct class whose engagement as Shikshakarmis dates back to the years 1998–1999, followed by long, uninterrupted service under State control, regularisation in terms of prevailing statutory norms, and eventual absorption into the School Education Department under the policy dated 30.06.2018.*

*37. In the present batch of writ petitions, this Court notes that the respondent-State has, as a matter of conscious policy choice, restored the Old Pension Scheme by issuing Gazette Notifications dated 11.05.2022 and 20.01.2023. However, a careful and purposive reading of the aforesaid Notifications reveals that they do not decisively resolve the core and determinative issue arising in the present matters, namely, the exact date which ought to be reckoned as the date of appointment for the purpose of pensionary entitlement.*

38. *The Notifications are conspicuously silent on the treatment of services rendered by the petitioners prior to their regularisation or absorption into regular cadres. They neither expressly recognise such past service nor categorically exclude it, thereby leaving the matter open to divergent interpretations at the departmental level. This normative silence has resulted in a lack of uniformity, administrative uncertainty, and the spawning of avoidable litigation, compelling similarly situated employees to repeatedly approach the courts for redress.*

39. *The restoration of the Old Pension Scheme by the State Government through Gazette Notifications dated 11.05.2022 and 20.01.2023 undoubtedly represents a conscious policy shift. However, a careful reading of the said Notifications reveals that while the contributory nature of the New Pension Scheme has been rolled back for a defined category of employees, the crucial determinative question as to what constitutes the “date of appointment” for pensionary purposes has been left unanswered, particularly in cases such as the present, where employees entered service prior to 01.11.2004, but were regularised and absorbed at a later stage. The Notifications do not expressly clarify whether pension eligibility is to be reckoned from the date of initial engagement, date of regularisation, date of*

*confirmation, or date of absorption into the regular cadre.*

*40. This statutory and executive silence assumes greater significance in the context of the admitted factual position that the petitioners rendered continuous service as Shikshakarmis against sanctioned posts, discharged sovereign educational functions in government schools, were paid out of public funds, and thereafter continued in pensionable establishments under the direct administrative, disciplinary, and financial control of the State Government. Despite this continuity of service, different executive authorities have adopted varying and inconsistent approaches in determining pension eligibility, culminating in the issuance of the impugned order dated 16.02.2021, which itself reflects an absence of a settled policy position.*

*41. The pleadings and submissions placed on record further demonstrate that similarly situated employees have been treated dissimilarly depending on departmental interpretation, resulting in avoidable litigation and erosion of uniformity in service administration. The petitioners, therefore, rightly characterise their grievance as institutional rather than individual, seeking not an immediate adjudication on the quantum or grant of pension, but a clear, reasoned and uniform executive determination which would govern all employees placed in an identical service continuum.*

42. *This Court is mindful of the consistent position of law that policy formulation, particularly in service matters relating to pension, cut-off dates, and recognition of past service, lies primarily within the domain of the executive. Judicial review at the stage of policy vacuum or ambiguity must be exercised with circumspection, lest the Court transgress into the realm of policy-making. As noticed earlier, the Supreme Court in **BALCO Employees' Union** (supra) and **Census Commissioner** (supra) has repeatedly cautioned against courts assuming the role of policy architects in the absence of manifest arbitrariness or constitutional infirmity.*

43. *In the present cases, this Court finds that the issue has not yet crystallised into a challenge against a definitive policy decision of the State. On the contrary, what emerges is an absence of a conscious, categorical and final executive determination on the core issue of reckonable service for pension in respect of employees like the petitioners. In such circumstances, any attempt by this Court to conclusively determine whether the service rendered prior to absorption must or must not be counted for pension would amount to pre-empting executive discretion and venturing into policy formulation.*

44. *At the same time, it cannot be lost sight of that pension is a welfare measure and a form of deferred compensation, and the long years of service rendered by the petitioners prior to*

*absorption cannot be brushed aside as irrelevant. The fact that several petitioners would otherwise be required to complete ten years of service from 01.07.2018, thereby becoming eligible for pension only after 01.07.2028, despite having already rendered more than a decade of service under State control, raises issues of fairness, proportionality and administrative reasonableness, which are matters requiring due consideration at the policy level.*

*45. In the considered view of this Court, the ends of justice would be best served not by issuing a mandamus either granting or denying pensionary benefits, but by requiring the respondent-State to undertake a comprehensive and reasoned reconsideration of the determinative date of appointment for pensionary purposes in respect of employees whose service commenced as Shikshakarmis and later culminated in absorption into regular government service. Such reconsideration must necessarily take into account the continuity of service, nature of duties performed, source of salary, administrative control, and the constitutional mandate of equality under Articles 14 and 16 of the Constitution.*

*46. It is, therefore, clarified in unequivocal terms that this Court does not strike down or modify the existing policy, nor does it direct extension of any specific pensionary benefit. The formulation or amendment of policy*

*remains within the exclusive prerogative of the State Government. However, any policy decision so taken must be clear, unambiguous, uniformly applicable and constitutionally compliant, so as to obviate further litigation and ensure predictability in service administration.*

*47. The State Government is accordingly expected to take a conscious, reasoned and categorical decision on the issue, including the question as to whether and to what extent the service rendered by the petitioners as Shikshakarmis prior to absorption in the School Education Department merits consideration for pensionary purposes, including the requirement of completion of ten years of qualifying service from 01.07.2018. Such decision shall be finalized and communicated via a speaking order within a strict period of 120 days from the date of receipt of this order. It is expected that authorities would consider the observations made herein above.*

*48. Needless to observe that any such decision shall be informed by relevant considerations, shall eschew arbitrariness, and shall conform to the constitutional guarantees of fairness, non-discrimination, and proportionality.*

*49. With the aforesaid observations/directions, all these writ petitions are **disposed of**. There shall be no order as to costs.”*

26. It is also noteworthy that the aforesaid order dated 17.02.2026 was carried in appeal by the State Government by filing WA No.325/2026 before the Hon'ble Division Bench of this Court. The Division Bench, upon due consideration, dismissed the said writ appeal and affirmed the view taken by the learned Single Judge, thereby lending finality, at least at the intra-court level, to the directions requiring the State to take a conscious and reasoned policy decision on the issue, by observing as under :-

*“20. A careful reading of paragraphs 45 to 47 of the impugned order would reveal that the learned Single Judge has consciously refrained from issuing any positive mandamus either granting or denying pensionary benefits to the respondents. The direction issued is neither in the nature of conferring any substantive benefit nor does it unsettle any existing policy. On the contrary, the learned Single Judge has adopted a restrained and balanced approach by requiring the State Government to take a conscious, reasoned, and policy-based decision on the issue.*

*21. It is significant to note that the controversy in the present case arises in a peculiar factual backdrop, where the respondents initially served as Shikshakarmis and were subsequently absorbed into regular government service. The question as to whether, and to what extent, the pre-absorption service ought to be reckoned for pensionary purposes involves consideration of*

*multiple factors, including continuity of service, nature of duties, administrative control, and the constitutional mandate of equality under Articles 14 and 16 of the Constitution of India. These are matters which squarely fall within the domain of executive policy.*

*22. The learned Single Judge, in our considered view, has rightly refrained from adjudicating upon such policy matters and has instead directed the competent authority to undertake an informed decision-making process. The clarification contained in paragraph 46 of the impugned order explicitly preserves the prerogative of the State in matters of policy formulation, thereby ensuring that there is no judicial overreach.*

*23. The contention of the appellants/State that the impugned direction amounts to revival of a stale or concluded issue is also misplaced. The direction issued is not for consideration of an individual or belated representation so as to attract the ratio of **M.K. Sarkar** (supra). Rather, it is a direction to the State to address a broader, systemic issue affecting a class of employees, which has continuing civil consequences and has led to recurring litigation. Such a direction, in our opinion, cannot be equated with the “consideration jurisprudence” deprecated by the Hon’ble Supreme Court. In fact, the requirement of passing a reasoned and speaking order within a stipulated timeframe advances the cause of transparency and accountability in*

*governance, and ensures that the issue is examined at the appropriate level on relevant considerations. No prejudice, much less irreparable prejudice, is caused to the appellants by such a direction.*

*24. As regards the submission pertaining to judicial discipline and binding precedent, we find that the learned Single Judge has not taken any view in derogation of the judgment rendered by the Division Bench of this Court in **Har Narayan Yadav** (supra). The learned Single Judge has neither overruled nor disregarded the said judgment, but has merely directed reconsideration of the issue in light of existing legal and factual parameters. Therefore, the argument founded on alleged breach of judicial discipline is misconceived.*

*25. Similarly, the plea based on delay and laches, as well as the reliance placed upon the affidavit of the Secretary, Department of Finance, are matters which can appropriately be considered by the State Government while undertaking the exercise directed by the learned Single Judge. The impugned order does not foreclose any such contention and leaves it open to the State to take an appropriate decision in accordance with law.*

*26. We also find merit in the submission advanced on behalf of the respondents that the impugned order strikes a balance between judicial restraint and the need to ensure fairness in State action. The learned Single*

*Judge has neither encroached upon the policy domain nor abdicated judicial responsibility, but has facilitated a lawful and structured decision-making process.*

*27. In view of the aforesaid discussion, we are of the considered opinion that the impugned order passed by the learned Single Judge does not suffer from any legal infirmity warranting interference in exercise of appellate jurisdiction.*

*28. For the foregoing reasons, the writ appeal being devoid of merit is liable to be and is hereby dismissed . No order as to costs.”*

- 27.** Having given my thoughtful consideration to the entire conspectus of facts and law, the rival submissions advanced at the Bar, and the material placed on record, this Court finds that the controversy involved in the present batch of writ petitions is no longer res integra insofar as the nature of adjudicatory exercise required to be undertaken by this Court is concerned. The core issue raised herein, namely, the determinative date for reckoning qualifying service for pension in respect of employees who initially served as Shikshakarmis and were subsequently absorbed into regular government service, stands squarely covered by the earlier decision of a Co-ordinate Bench of this Court in WPS No.777/2021 and analogous matters, decided on 17.02.2026.
- 28.** This Court cannot lose sight of the fact that in the aforesaid decision, the Co-ordinate Bench, after an exhaustive

consideration of the statutory framework, constitutional principles, and binding judicial precedents, consciously refrained from issuing any positive mandamus either granting or denying the relief sought therein. Instead, the Court adopted a balanced and constitutionally sound approach by recognizing that the issue pertains to a policy vacuum and requires a conscious, reasoned and categorical determination by the State Government. The said approach has subsequently received the imprimatur of the Hon'ble Division Bench in WA No.325/2026, wherein the appeal preferred by the State Government came to be dismissed, affirming the directions issued by the learned Single Judge and upholding the principle that such matters fall primarily within the domain of executive policy-making.

- 29.** In the considered opinion of this Court, the present batch of writ petitions arises out of the very same structural ambiguity and absence of a definitive policy decision which was noticed and addressed in the earlier round of litigation. The grievance projected by the petitioners herein is not merely individual in nature but reflects a broader systemic issue affecting a class of employees who share a common service trajectory, marked by initial engagement under local bodies, prolonged service under State control, and eventual absorption into regular government service. The absence of a clear, uniform and unambiguous policy on the aspect of reckonable service for pension has led to inconsistent administrative practices and recurring litigation,

thereby necessitating a comprehensive resolution at the policy level.

- 30.** At the same time, this Court is mindful of the settled legal position that while pension is a valuable right and a form of deferred compensation, and while the past service rendered by the petitioners cannot be treated as wholly irrelevant, the determination as to whether such service should be counted, and if so, to what extent, involves complex considerations relating to financial implications, administrative feasibility, and structural coherence of service rules. These are matters which fall squarely within the realm of executive discretion and are not amenable to direct adjudication by this Court in exercise of its writ jurisdiction, in the absence of a crystallized policy decision.
- 31.** In view of the binding precedent of the Co-ordinate Bench in WPS No.777/2021 and analogous matters, as affirmed by the Hon'ble Division Bench in WA No.325/2026, this Court finds no justifiable reason to take a divergent view in the present matters. Judicial discipline and consistency demand that this Court follow the same course of action, particularly when the controversy involved, the factual matrix, and the reliefs sought are substantially identical.
- 32.** Consequently, without expressing any opinion on the merits of the rival claims of the parties, and without adjudicating upon the validity of the impugned Clauses 4 and 6 of the order dated

30.06.2018 or the order dated 24.06.2024, this Court deems it appropriate to dispose of the present batch of writ petitions in terms of the directions issued in WPS No.777/2021.

- 33.** Accordingly, the respondent-State is directed to undertake a comprehensive, conscious and reasoned reconsideration of the entire issue relating to the determinative date of appointment and reckoning of qualifying service for pensionary purposes in respect of employees like the petitioners, whose service commenced as Shikshakarmis and culminated in absorption into regular government service. While undertaking such exercise, the State shall take into account all relevant considerations, including the continuity of service, nature of duties performed, source of salary, administrative and disciplinary control, and the constitutional mandate of equality, fairness and non-discrimination under Articles 14 and 16 of the Constitution of India.
- 34.** The State Government shall also ensure that the decision so taken is clear, categorical, uniformly applicable to all similarly situated employees, and is supported by cogent reasons in the form of a speaking order, so as to obviate further ambiguity and litigation. It is further directed that such decision shall be taken and communicated within a period of 120 days from the date of receipt of a copy of this order.
- 35.** It is made clear that all contentions of the parties on merits, including those relating to entitlement, applicability of pension

rules, delay and laches, estoppel, and financial implications, are left open to be considered by the State Government while undertaking the aforesaid exercise, and, if necessary, in any subsequent proceedings that may arise pursuant to the decision so taken.

- 36.** With the aforesaid observations and directions, all the writ petitions, namely WPS No.7714/2024, WPS No.8475/2024 and WPS No.674/2025, stand **disposed of**.
- 37.** There shall be no order as to costs.

**Sd/-**  
**(Amitendra Kishore Prasad)**  
**Judge**