

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**THURSDAY, THE ELEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT PETITION NO: 20601 OF 2024

Between:

Dr. Gyanmudra, W/o: Sri Somesh Kumar, Aged about 64 years, Occ. Retired Professor and Head, NIRDPR, Resident of Villa No.17, Sunrise Valley Homes, Near PVR Pillar No.179, Attapur, Hyderabad-500048.

...PETITIONER

AND

1. The Union of India, Ministry of Rural Development, Rep.by its Joint Secretary, Room No.249, II Floor, Krishi Bhavan, New Delhi-110 114.
2. The Union of India, Rep.by its Under Secretary, Department of Pension and Pension Welfare, Lok Nayak Bhavan, Khan Market, New Delhi -110003.
3. National Institute of Rural Development and Panchayati Raj, Rajendra Nagar, Hyderabad-500 030, Rep. by its Registrar.
4. The Director General of National Institute of Rural Development and Panchayati Raj, RajendraNagar,Hyderabad-500030.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or a direction, one more in the nature of a Writ of Certiorari. a. Calling for records pertaining to OA No.0635 of 2018, and set aside the same to extent that it holds that the petitioner is not entitled to the benefits under OM No.03.03.2023 read with OM No.20.10.2023, and OM No.07.11.2023 and consequently, that b. Set aside the proceedings of the 3rd Respondent dated 27.08.2024 by holding them to be illegal and arbitrary and consequently direct the Respondents to consider the option exercised by the Petitioner vide her representation dated 23.11.2023 c. Direction the respondents to allow the

Petitioner to opt for the old-pension scheme, under OM No.03.03.2023 read with OM No.20.10.2023, and OM No.07.11.2023 applicable to the Petitioner, d.

(Prayer is amended as per court order dated 11.12.2025 vide I.A.No.4 of 2024 in W.P. No.20601 of 2024)

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased in the interests of justice suspend the orders of the Honorable Tribunal dated 15.04.2024 in OA/012/0635 of 2018, and consequently consider my representation dated 23.11.2023 and pass appropriate orders.

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of proceedings dated 27-08-2024 in E.File No.15410 issued by the 3rd respondent, pending disposal of W.P.No. 20601 and pass appropriate orders.

**Counsel for the Petitioner: SRI SIVARAJU SRINIVAS, REPRESENTING
MS. K. SINDUJA SHANKAR**

**Counsel for the Respondent Nos.1 and 2: SRI N. BHUJANGA RAO,
DEPUTY SOLICITOR GENERAL OF INDIA**

Counsel for the Respondent Nos.3 and 4: SRI N. B. SUDARSHAN

The Court made the following: ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.20601 of 2024

DATED: 11.12.2025

Between:

Dr. Gyanmudra

... Petitioner

AND

The Union of India, Ministry of Rural Development,
Rep. By its Joint Secretary, Room No.249, II Floor,
Krishi Bhavan, New Delhi-110 114 & 3 others

... Respondents

ORDER:

Heard Mr. Sivaraju Srinivas, learned Senior Counsel representing Ms. K.Sinduja Shankar, learned counsel for the petitioner, Mr. N.Bhujanga Rao, learned Deputy Solicitor General of India appearing for respondent Nos.1 and 2 and Mr. N.B.Sudarshan, learned counsel appearing for respondent Nos.3 and 4.

2. The impugned order dated 15.04.2024, passed in OA/021/0635/2018 rejected the prayer of the petitioner to be considered for GPF and Old Pension Scheme. The applicant was appointed on contract basis as Associate Professor on 03.05.2002 under Employment Notification dated 07.05.2000. Her contractual engagement was extended till 2012. Under a Regularisation Scheme framed under National Institute of Rural Development and Panchayati Raj (NIRD) Rules, 2011 for regular appointment of the academic staff (appointed on contract basis), her services were regularised with effect from 04.05.2012. Her representation, thereafter, to grant the benefit of Old Pension Scheme stood rejected by the respondent Institute which led to the filing of the instant OA in 2018. The Central Administrative Tribunal, Hyderabad Bench (hereinafter referred to as 'the learned Tribunal') after considering the case of the parties and the decision rendered in Civil Appeal No.542 of 2023 refused to accept the contention made by the applicant by holding as under:

“16. It is to be noted that once the applicants who have intervened before the Hon'ble Supreme Court and considering the submissions made by both parties, according to the

respondents, there are 20 academic staff who will benefit if the orders of this Tribunal and the Hon'ble High Court are upheld. According to the employees (the applicants before us), six staff members will be benefitted and almost four persons were there before the Hon'ble Supreme Court. It is not open to us that we can intervene with the observation of the Hon'ble Supreme Court and pass our orders as contended by the applicants in view of the subsequent OM issued by the DOPT on 03.03.2023 in the matter of serving employees and 20.10.2023 in the matter of retired employees. It is to be noted that there is no ambiguity at all for the one who has been appointed prior to 2004, though the notification has been issued prior to 01.01.2004 notifying the vacancies arose prior to 01.01.2004 for regular appointments. However, they have been given an appointment after 01.01.2004. It is to be noted that in the matter in hand, these applicants were appointed on contractual basis prior to 01.01.2004 wherein they themselves accepted certain conditions and there was an agreement between the employee and employer. It is also to be noted that, as a one-time measure, when the department has decided to regularize their services and issued orders with conditions, the applicants have accepted the said conditions and they have not challenged nor protested against the said condition. Therefore, it is not open to the applicants to raise the dispute at this length of time and the said OM, issued by the DOPT, will not support the applicants' claim. It is to be noted that once the issue has attained finality before the Hon'ble Supreme Court, though another matter has been sub judice before the Hon'ble Supreme Court, the order which is available would prevail upon us. Hence, we are not accepting the contentions made by the learned counsel for the applicants.

17. In view of the above, the O.As. are dismissed. No order as to costs."

3. Assailing the impugned order, the applicant is before us in writ jurisdiction.

4. We have heard learned counsel for the parties.

5. The contentions of the parties are hereunder dealt with one after the other.

6. The Hon'ble Supreme Court in its judgment rendered in Civil Appeal No.542 of 2023 dated 28.02.2023 dealing with the case of a similarly situated person holding the post of Associate Professor, appointed in August, 2002 under the same Recruitment Employment Notification had held that the respondents would not get the benefit of regularisation of service from the initial date of engagement on contractual basis but would be covered under the New Pension Scheme. The reasons are reflected at paragraph Nos.13 to 16 of the judgment, which are quoted hereunder:

"13. Bye-laws 48 and 49 provide for Pension-cum-Gratuity-cum-Family Pension Scheme (old scheme) and General Provident Fund Scheme respectively. Sub-clause (a)(1) of

clause 52 clearly provides that a person appointed on a contract in accordance with Bye-law 2(2)(a) shall be eligible only to CPF which is provided in Bye-law 50. Clause (a) (2) of Bye-law 32 provides that a person who was initially appointed on a contract basis as provided in the Bye-laws to a post (of academic staff) referred to in Bye-law 3(a) shall be eligible to be governed by CPF scheme for the period he holds office. Clause (a)(4) of Bye-law 52 deals with a situation where a person appointed on a contract basis is appointed on a regular basis. Only in such a case, an option is available to opt for the either old pension scheme and GPF scheme or CPF scheme. There is a difference between appointing a contract employee on a regular basis and regularising the services of the contract employees. Moreover, when the Bye-laws were framed, the Regularisation Rules were not in existence. In this case, we are dealing with the regularisation of the service of the contract employee in terms of the Regularisation Rules and not an appointment on a regular basis. Respondent no.1 has been regularised under Regularisation Rules. Therefore, Clause (a) (4) of Bye-law 52 will not apply to respondent no.1 whose employment has been regularised under the Regularisation Rules.

14. As noted earlier, Rule 6 clearly lays down that those who are regularised under the said Rules will not be entitled to benefit of any scheme other than the new pension scheme. Even when the exception carved out to Rule 6 is applicable, it enables the regularised employee to continue with either CPF or the old pension scheme as per the option already exercised by him. The Regularisation Rules under which the employment of respondent no.1 was regularised do not permit the regularised employee to change his or her option from CPF to the old pension scheme. Clause 52 of the Bye-laws cannot

override subsequent statutory Rules in the form of the Recruitment Rules. The Recruitment Rules are made for giving effect to the Resolution of the General Executive Council made on 18th February 2009 for the regularisation of the academic staff appointed on a contract basis. After having taken benefits of the Regularisation Rules, the entitlement of respondent no.1 will be governed by Rule 6 and not by Clause (a) (4) of Bye-law 52 of the Bye-laws.

15. The Tribunal, as well as the High Court, have proceeded on an erroneous basis that after regularisation, respondent no.1 was entitled to change his option from CPF to the old pension scheme in terms of Bye-law 52. The High Court erroneously observed that regularization would relate back to the date of initial appointment made in the year 2002 when the order of regularisation dated 4th May 2012 expressly states that the regularisation will operate from the date of the said order. The High Court came to the conclusion that in view of the second proviso to sub-clause (a) (4) of Bye-law 52 of the Bye-laws, on the failure to communicate the option in the prescribed manner it shall be deemed that the employee has opted for the old pension scheme and GPF. Sub-clause (a) (4) of Bye-law 52, as observed earlier, will not apply to an employee whose service has been regularised under the Regularisation Rules. In the present case, in view of the provisions of the Regularisation Rules, there was no question of making available such an option.

16. In the circumstances, we find it difficult to sustain the impugned judgments. It appears that respondent no. I has returned the benefits received by him under the CPF scheme. As a consequence of setting aside the impugned order, we direct the appellant to pay the amount to which respondent no. I was entitled to under CPF. The amount shall be paid

within a period of two months from today failing which the same will carry interest at the rate of 8% p.a. from the date on which the amount was returned to the appellant by respondent no.1.”

7. After this judgment was delivered, the Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners' Welfare, Government of India issued an Office Memorandum (OM) dated 03.03.2023 on the following subject. The relevant decision of the Government of India at paragraph No.4 of the OM is also extracted hereunder:

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

8. The case of the applicant has been now pleaded on the basis of the OM dated 03.03.2023. It is contended that since the petitioner also was regularised post 01.01.2004, her option to be brought under the Old Pension Scheme should have been allowed. At this stage, it is relevant to refer to another round of litigation pursued by the same applicant/respondent in Civil Appeal No.542 of 2023 through original application before learned Tribunal bearing No.OA/020/0033/2024 which went up to the Hon'ble Supreme Court. The learned Tribunal *vide* the order dated 15.04.2024 rejected the prayer of the said applicant raised after coming of the effect of the OM dated 03.03.2023 by holding that it is not open for him to take the shelter of the said OM since it is not applicable in the case of the applicant. The applicant was appointed prior to the cut-off date 01.01.2004 whereas the OM dated 03.03.2023 dealt with the case of those who were appointed after 01.01.2004 due to delay in the recruitment process. The matter travelled to this Court in W.P.No.31762 of 2024. A Coordinate Bench of this Court *vide* order dated 13.11.2024 approved the decision of the learned Tribunal and went on to hold as under:

“6. Learned Deputy Solicitor General of India appearing for the respondents had contended that the petitioner was appointed in pursuance of the notification issued on 02.07.2001, but he was appointed on 22.07.2002. Therefore, the Office Memorandum dated 03.03.2023 is not applicable to the case of the petitioner and the Office Memorandum dated 03.03.2024 is applicable to such of those persons who were appointed in pursuance to the notification which was issued prior to 22.12.2023 but appointed after 01.01.2004. Therefore, the Tribunal has rightly dismissed the OA. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

7. Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that no doubt, the petitioner was appointed in pursuance of the notification dated 02.06.2001 as Associate Professor. Therefore, the Office Memorandums dated 03.03.2023 and 20.10.2023 have no application to the case of the petitioner and the Tribunal was justified in dismissing the OA. Merely on the ground that the services of the petitioner were regularized on 04.05.2012 that does not mean that his case is covered by Office Memorandums referred to supra. Therefore, this Court is not inclined to interfere with the order passed by the Tribunal.

8. Accordingly, the Writ Petition is dismissed. No costs.”

9. The Apex Court dismissed the special leave petition preferred by the said applicant bearing Special Leave Petition (Civil) Diary No.29575 of 2025 by order dated 03.07.2025

with the only observation that the petitioner will be entitled to the New Pension Scheme which must be finalised and released as expeditiously as possible. The case of the applicant Dr. Shyam Sunder Prasad Sharma is identical on facts to the case of the present petitioner.

10. In this background, learned counsel for the petitioner has submitted that the provisions of the Regularisation Scheme which deemed her regularisation to have taken effect from the date of her initial appointment on contractual basis has not been considered in the judgments rendered in the second round of litigation by Dr. Shyam Sunder Prasad Sharma.

11. However, it is difficult to agree with the aforesaid proposition since the issue of relating back of the regularisation to the effective date of initial appointment on contractual basis was squarely dealt with in the case of the same Dr. Shyam Sunder Prasad Sharma and other in the previous round of challenge by the Apex Court in Civil Appeal No.542 of 2023 wherein it was categorically held that those who are regularised under the said Rules will not be entitled

to the benefit of any scheme other than the benefit of New Pension Scheme. Issue is, therefore, no longer *res integra*.

12. In view of the aforesaid facts and circumstances and the reasons recorded, we do not find any reason to take a different view of the matter as the same issue has attained finality in the case of an identically situated employee in the aforesaid cases decided up to the Supreme Court. Therefore, we do not find any error in the impugned order.

13. The instant Writ Petition is, accordingly, dismissed. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

**SD/-M. OSMAN ALI BAIG
ASSISTANT REGISTRAR**

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SECTION OFFICER

To,

1. One CC to Sri K. Sinduja Shankar, Advocate [OPUC]
2. One CC to Sri N. Bhujanga Rao, Deputy Solicitor General of India [OPUC]
3. One CC to Sri N.B. Sudarshan , Advocate[OPUC]
4. Two CD Copies

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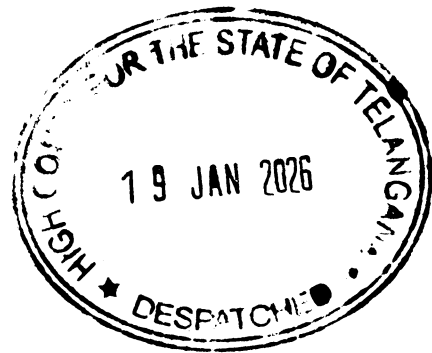
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HIGH COURT

DATED:11/12/2025

ORDER

WP.No.20601 of 2024



**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

*Geopied
K:
5/1/25*