

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

**TUESDAY, THE TWENTY FOURTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY SIX**

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH  
AND**

**THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

**WRIT PETITION NO: 4555 OF 2026**

**Between:**

1. P. Nageshwar Rao, S/o P. Venkateshwar, Age 73 years, R/o H.No.12-10-394/1, Seethaphal Mandi, Secunderabad 500 061.
2. G. Uppalaiah, S/o G. Sai, Age 73 years, R/o H.No.11-3-357/12, Santhosh Nagar, Parsigutta, Secunderabad 500 061.
3. N. Narasimha, S/o N. Danayya, age 75 years, R/o H.No.6-57, Keesara Daira Rampally, K.V. Mandal, Ranga Reddy District.
4. K. Jaya Raj, S/o K. Lazarus, age 78 years, R/o LIG 300, 1<sup>st</sup> and 2Nd Phase, Road No.3, Kukatpally, Housing Board Colony, Hyderabad 500 072.
5. A. Muthyam Rao, S/o Narasaiah, age 77 years, R/o H.no.12-1-503/38, Laxminagar, Lalapet, Secunderabad 500 017.

**.....PETITIONERS**

**AND**

1. Union of India, rep. by its Secretary, Department of Atomic Energy, C.S.M. Marg, Anushakthi Bhavan, Mumbai 400 001.
2. The Chief Executive, Nuclear Fuel Complex. Department of Atomic Energy, Government of India, E.C.I.L. Post, Hyderabad 500 062.
3. The Secretary, Department of Pension and Pensioners Welfare, M/o. Personnel, Public Grievances AND Pension, Loknayak Bhavan, Khan Market, New Delhi 3.
4. The Administrative Officer III (1), Department of Atomic Energy, Nuclear Fuel Complex, ECIL Post, Hyderabad 500 062.

**.....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 writ order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents setting aside the orders dt 06-02-2025 received by the Petitioner on 23-09-2025 passed by the Hon'ble Central Administrative Tribunal in dismissing the O.A./021/0031/2024 contrary to the facts and law laid by the Apex Court and to declare the action of the 2<sup>nd</sup> and 4<sup>th</sup> respondent in not considering representations on 03-08-2023 and 21-09-2023 for extending the benefits as deemed Pensioners as they did not exercise any option in cut off date and denying their entitlement of pension under C C S. (pension) Rules and not applying the Judgment passed by the Administrative Tribunal Madras Bench passed in Batch of cases dt 31-03-2015 and as confirmed by the Division Bench High Court of Judicature Madras in Batch of Writ Petitioners No.28092 to 28094 of 2015, dt.05-01-2017 and as confirmed by the Supreme Court in SLA (C).No.28825, 28827 of 2015, dt.14-02-2023 and not extending the benefit to Petitioners as arbitrary, illegal, without application of mind and discriminatory.

**Counsel for the Petitioners : Ms. N.SHOBA**

**Counsel for the Respondents : SRI N.BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA**

**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.4555 of 2026**

**DATE:24.02.2026**

**BETWEEN:**

P.Nageshwar Rao and 4 others

**....Petitioners**

**AND**

Union of India and 3 others

**....Respondents**

**ORDER**

Heard Ms.N.Shoba, learned counsel appearing for the petitioners and Mr.N.Bhujanga Rao, learned Deputy Solicitor General of India appearing for the respondents and perused the record.

**2.** The present writ petition is filed with the following prayer:

*".....to issue writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents setting aside the orders dt.06-02-2025 received by the Petitioner on 23-09-2025 passed by the Hon'ble Central Administrative Tribunal in dismissing the O.A./021/0031/2024 contrary to the facts and law laid by the Apex Court and to declare the action of the 2nd and 4th respondent in not considering representations on 03-08-2023 and 21-09-2023 for extending the benefits as deemed Pensioners as they did not exercise any option in cut off date and denying their entitlement of pension under C.C.S. (pension) Rules and not applying the Judgment passed by the Administrative Tribunal Madras Bench passed in Batch of cases dt.31-03-2015 and as confirmed by the Division Bench High Court of*

*Judicature Madras in Batch of Writ Petitioners No.28092 to 28094 of 2015, dt.05-01-2017 and as confirmed by the Supreme Court in SLA (C).No.28825, 28827 of 2015, dt. 14-02-2023 and not extending the benefit to Petitioners as arbitrary, illegal, without application of mind and discriminatory and pass such other order or orders as the Hon'ble Court deems fit and proper in the interest of justice."*

**Factual background (in brief)**

**3.** The petitioners were appointed in the Nuclear Fuel Complex, an establishment under the Department of Atomic Energy (DAE), in Technical Category posts between the years 1970 and 1974. The material particulars relating to their entry into service, promotional progression and superannuation, as borne out by the record placed before the Tribunal are as follows:

| Petitioner No. | Name            | Date of Appointment | Post on Appointment | Date of Retirement | Post on Retirement |
|----------------|-----------------|---------------------|---------------------|--------------------|--------------------|
| 1              | P.Nageshwar Rao | 10.03.1971          | Tradesman-B         | 30.09.2012         | Foreman-D          |
| 2              | G. Uppalaiah    | 09.08.1974          | Tradesman-A         | 30.11.2011         | Tradesman-G        |
| 3              | N. Narasimha    | 16.06.1970          | Helper-B            | 31.01.2007         | Tradesman-G        |
| 4              | K. Jaya Raj     | 09.12.1972          | Tradesman-A         | 31.07.2005         | Foreman-B          |
| 5              | A.Muthyarn Rao  | 22.11.1973          | Tradesman-B         | 31.01.2007         | Tradesman-H        |

**4.** It is not in dispute that at the time of their initial appointment, all the petitioners were governed by the Contributory Provident Fund (CPF) Scheme, which was then applicable to the employees of the DAE.

5. By Office Memorandum No.37/55/63-T.II(A)/TE, dated 17.01.1967, the DAE declared permanent technical posts as pensionable and extended an option to the incumbents, upon confirmation, either to continue under the CPF Scheme or to opt for pensionary benefits in terms of Rule 38 of the Contributory Provident Fund Rules, 1962 (for short, '1962 Rules'). The said Memorandum stipulated that such option was required to be exercised within three months from the date of confirmation, failing which the employee would be deemed to have opted for the pension scheme.

6. The service records indicate that the petitioners exercised their option in the following manner:

- i) Petitioner No.1 exercised option on 23.08.1976 to retain CPF benefits.
- ii) Petitioner No.2 did not exercise any option within the extended period granted under the special option dated 01.09.1991; consequently, as recorded in his service book, he was deemed to have retained CPF benefits.
- iii) Petitioner No.3 exercised option on 04.08.1976 to retain CPF benefits.
- iv) Petitioner No.4 exercised option on 31.08.1976 to retain CPF benefits.
- v) Petitioner No.5 exercised option on 24.10.1980 to retain CPF benefits.

7. The Tribunal has recorded a categorical finding, on the basis of the service books and departmental communications, that the petitioners had consciously and positively elected to remain under the CPF Scheme.

8. Following the recommendations of the Fourth Central Pay Commission, the Government of India issued Office Memorandum No. 4/1/87-PIC-I dated 01.05.1987, providing that CPF beneficiaries in service as on 01.01.1986 would be deemed to have come over to the Pension Scheme unless they specifically opted to continue under CPF. However, paragraph 6.3 of the said Memorandum expressly excluded scientific and technical personnel of the DAE, indicating that separate orders would be issued in their regard. The relevant portion of the Memorandum is extracted hereunder:

*6.3 These orders do not also apply to scientific and Technical personnel of the Department of Atomic Energy, Department of Space, Department of Electronics and Department of Atomic Energy. Separate orders will be issued in their respect in due course.*

9. Subsequently, by Office Memorandum dated 12.10.1992, a separate scheme was formulated for Scientific and Technical personnel, permitting them to exercise a one-time option, within the prescribed period, to switch from CPF to the Pension Scheme. It was further clarified that those who did not exercise any option within the stipulated time would be deemed to have retained the CPF Scheme. The relevant portion of the Memorandum is extracted hereunder:

*3. The new scheme mentioned above will apply to all S&T personnel who Join the Departments of Atomic Energy, Space and Electronics as fresh entrants after 31 July, 1992, As far as those already in service on 01-08-1992 are concerned, their cases will be regulated in the following manner:-*

1. *Those who have completed 20 years qualifying service on 1 August, 1992 and are still on CPF Scheme, will exercise the option referred to in the preceding paragraph within six months of the issue of these orders. The option once exercised shall be final. Those who do not exercise any option will be deemed to have retrained the CPF Scheme.*

10. By Office Memorandum dated 23.07.1996, the Government decided to maintain the *status quo ante* in respect of Scientific and Technical personnel who were in service as on 01.08.1992, thereby continuing the applicability of the earlier departmental orders. The relevant portion of the Memorandum dated 23.07.1996 is extracted hereunder:

*The undersigned is directed to refer to this Department's O.M. dated 12.10.1992 on the subject mentioned above and to say that the Scheme of Pensionary / Technical benefits for Scientific and Technical Personnel, hereinafter referred to as S & T Personnel, working in the Department of Electronics, Department of Atomic Energy and Department of Space has been further reviewed by the Government in consultation with those Departments. As a result of this review, it has been decided to maintain the status quo ante, as prevailing prior to the issue of the above mentioned orders, in respect of the pensionary / terminal benefits admissible to Scientific and Technical Personnel in the 3 Departments who were in service as on 1.8.1992. They will continue to be governed in the matter of their pensionary / terminal benefits by the orders issued by the respective Departments from time to time.*

11. Thereafter, the DAE, by Memorandum dated 12.10.2000, granted a further and final opportunity to eligible technical employees to switch over from CPF to the Pension Scheme within six

months. It is not in dispute that the petitioners did not avail themselves of this opportunity.

**12.** After the petitioners' retirement, and several years thereafter, they submitted representations in the year 2023 seeking to be treated as deemed pensioners, placing reliance upon certain judgments rendered in respect of Administrative and Auxiliary categories. The respondents rejected the said representations by proceedings dated 19.09.2023, stating that the petitioners, being Technical Category personnel, were governed by a distinct set of Office Memoranda and had consciously opted to retain CPF benefits.

**13.** Aggrieved thereby, the petitioners approached the Central Administrative Tribunal (CAT) in O.A.No.617 of 2023. By order dated 06.02.2025, the Tribunal dismissed the Original Application, holding *inter alia* that the petitioners had exercised their option to remain under the CPF Scheme and had failed to avail of subsequent opportunities to switch over, and that the judgments relied upon by them were inapplicable to their category. Aggrieved by the said order of the Tribunal, the petitioners filed the present writ petition.

**Submissions on behalf of the petitioners**

**14.** Learned counsel for the petitioners have made the following submissions:

- i. That the claim of the petitioners is squarely governed by Office Memorandum dated 01.05.1987 issued by the Department of Pension and Pensioners' Welfare. Placing reliance on Clauses 3.1 and 3.2 thereof, it is submitted that all CPF beneficiaries who were in service as on 01.01.1986 stood automatically brought under the Pension Scheme, unless they specifically exercised an option to continue under the CPF Scheme on or before 30.09.1987. As the petitioners did not exercise any such option within the prescribed time, it is urged that they must be treated as 'deemed pensioners' by operation of the legal fiction created under the said Office Memorandum. The relevant portion of of the Memorandum dated 01.05.1987 is extracted hereunder:

*3. All CPF beneficiaries, who were in service on 01-01-1986 and who are still in service on the date of issue of these orders will be deemed to have come over to the Pension Scheme.*

*3.2 The employees of the category mentioned above will, however, have an option to continue under the CPF Scheme, if they so desire. The option will have to be exercised and conveyed to the concerned Head of Office by 30-09-1987 in the form enclosed if the employees wish to continue under the CPF Scheme. If no option is received by the Head of Office by the above date the employees will be deemed to have come over to the Pension Scheme.*

- ii. That the extension of the cut-off date from 30.09.1987 to 30.12.1987 by the DAE *vide* its Office Memorandum dated 23.09.1987, was without the approval of the nodal Ministry and, therefore, without authority of law. That such extension

being *ultra vires*, any option purportedly exercised during the extended period is void and cannot defeat the statutory consequence that accrued in their favour as on 01.10.1987.

iii. That the issue is no longer *res integra*. Reliance is placed upon the orders passed by the CAT, Madras Bench, in O.A.Nos.1766 and 1769 of 2013 and O.A.No.244 of 2014, which were affirmed by the Division Bench of the Madras High Court in ***Union of India and others v. S.Subbiah and others***<sup>1</sup> The Special Leave Petition *vide* SLA(C) No.28825-28827 of 2017 filed thereagainst having been dismissed by the Hon'ble Supreme Court on 14.02.2023, it is contended that the legal position stands settled. Reliance is also placed on the judgment of the Hon'ble Supreme Court in ***Union of India v. S.L. Verma***<sup>2</sup>.

iv. That similarly situated technical employees of Bhabha Atomic Research Centre (BARC) were extended the benefit of pension pursuant to an order dated 08.04.2008. Reference is also made to the case of one Sri N. Surender Nath, who, according to the petitioners, was treated as a deemed pensioner. Denial of similar treatment to the petitioners is alleged to be violative of Articles 14 and 16 of the Constitution of India.

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<sup>1</sup> W.P.Nos.28092 to 28094 of 2015 by judgment dated 05.01.2017

<sup>2</sup> (2006) 12 SCC 53

- v. That pension is a recurring and continuing cause of action, and therefore, the claim cannot be rejected on the ground of laches. That the issue attained finality only upon dismissal of the Special Leave Petition in 2023 and that the petitioners cannot be non-suited on technical grounds when the claim relates to pensionary entitlement.

**Submissions on behalf of the respondents**

15. Learned Deputy Solicitor General of India have supported the order of the Tribunal and has made the following submissions:

- i. That employees of the DAE are classified into four distinct categories, namely, i) Scientific ii) Technical iii) Administrative and iv) Auxiliary, and each category is governed by separate Office Memoranda insofar as CPF and pension benefits are concerned. The petitioners admittedly belong to the technical category and are governed by the Departmental Office Memorandum dated 17.01.1967 and subsequent Office Memoranda dated 12.10.1992, 23.07.1996 and 12.10.2000. The Office Memorandum dated 01.05.1987, on which heavy reliance is placed by the petitioners, is stated to be applicable to Administrative and Auxiliary categories and not to Technical personnel.

- ii. That the petitioners, upon confirmation in service, exercised conscious and positive options to retain the CPF Scheme. The relevant option forms and service book entries form part of the record. Having voluntarily elected to remain under the CPF Scheme and having enjoyed the benefits thereunder throughout their service career, the petitioners are estopped from contending otherwise after retirement.
- iii. That the DAE extended more than one opportunity to eligible employees to switch over from CPF to the Pension Scheme, including the special option under Office Memorandum dated 01.09.1991 and the final special option under Office Memorandum dated 12.10.2000. The petitioners did not avail themselves of any of these opportunities. And the present claim, raised decades later, seeks to unsettle a matter long since concluded. The relevant portion of the Office Memorandum dated 12.10.2000 is extracted hereunder:

*The undersigned is directed to refer to the Department of Pension & Pensioner's Welfare OM No.4/1/97-P&PW (PIC-II) dated 23-07-1996 on the captioned subject and to state that the matter regarding extending one more option to switch over to pension scheme in respect of technical employees of the Department who joined service prior to 01-08-1992 and have not completed 20 years of qualifying service on 23-07-1996 and not exercised option to come over to pension scheme was taken up with the nodal ministry.*

*Accordingly, in consultation with the Department of pension and Pensioner's Welfare, it has ow been decided to extend one more final option to all the Technical Personnel of the Department of Atomic Energy who joined service prior to 01-08-1992 and have not completed 20 years service and are still in CPF to come over to pension as a special case. The option has to be exercised within a period of six months from the date of orders of this office memorandum.*

- iv. That the extension of the cut-off date in 1987, was also duly approved by the competent authority and subsequently ratified. Therefore, extension cannot be termed illegal or without jurisdiction.
- v. That those judgments relied upon by the petitioners pertained to employees governed by the Office Memorandum dated 01.05.1987 containing a deeming provision. In contrast, the petitioners, being 'technical personnel', were governed by a different regulatory framework and had, in fact, exercised positive options in favour of CPF. And that the principle of 'legal fiction' under the 1987 Memorandum has no application to their case.
- vi. That the claim is hopelessly barred by delay and laches. The petitioners' rights, if any, crystallized several decades ago. Having accepted the CPF benefits and having retired, they cannot, after an inordinate lapse of time, seek to reopen settled issues, particularly when such relief would have significant financial and administrative implications.

vii. That the grievance raised in the present writ petition stands squarely covered by a decision of this Court in W.P.No.34062 of 2025 filed by identically placed persons. That this Court had dismissed the said writ petition by order dated 25.11.2025 and rejected a similar claim of the petitioner's therein.

**16.** We have taken note of the respective submissions made including the relevant Office Memoranda governing the service conditions of the petitioners and the judgments relied upon and the material placed on record.

**Consideration by this Court**

**17.** The fulcrum of the petitioners' case rests upon the Office Memorandum dated 01.05.1987 issued by the Department of Pension and Pensioners' Welfare, which introduced a deeming provision in respect of CPF beneficiaries who were in service as on 01.01.1986. However, a plain and careful reading of paragraph 6.3 of the said Memorandum makes it abundantly clear that the orders contained therein were expressly declared to be inapplicable to Scientific and Technical personnel of the Department of Atomic Energy and other specified scientific departments, with a stipulation that separate orders would be issued in their regard.

**18.** The petitioners are admittedly Technical Category employees of the Nuclear Fuel Complex under the Department of Atomic Energy.

In view of the express exclusion contained in paragraph 6.3, the Office Memorandum dated 01.05.1987, including the deeming fiction incorporated therein, cannot be invoked by the petitioners. Therefore, the very foundation of the petitioners claim rests upon an instrument which, by its own terms, does not govern them.

**19.** It is to be noted that the service conditions of the petitioners were regulated by the Office Memorandum dated 17.01.1967 issued by the DAE and the subsequent policy communications dated 12.10.1992, 23.07.1996 and 12.10.2000. Under the Office Memorandum dated 17.01.1967, technical posts were made pensionable and an option was conferred upon the incumbents, upon confirmation, to elect either to continue under the CPF Scheme or to come over to the Pension Scheme.

**20.** The material on record demonstrates that the petitioners exercised positive options to retain the CPF Scheme, or were deemed to have retained the same in accordance with the applicable departmental instructions. The Tribunal has recorded a categorical finding to this effect on the basis of the service records. Thereafter, further opportunities were extended under the Office Memoranda dated 12.10.1992 and 12.10.2000 to enable eligible employees to switch over to the Pension Scheme. It is not in dispute that the petitioners did not avail themselves of these opportunities. Therefore, the record discloses a consistent position spanning several

decades, wherein the petitioners remained governed by the CPF Scheme by virtue of their own election and by reason of their failure to exercise subsequent options.

21. The judgments relied upon by the petitioners, **S.L. Verma** (supra 2), the decision of the CAT, Madras Bench in **S. Subbiah** (supra 1), and the confirming judgment of the Madras High Court, proceed on the premise that the employees concerned were governed by the Office Memorandum dated 01.05.1987 and were entitled to invoke the deeming provision contained therein. The petitioners, however, stand on a materially different footing. The Office Memorandum dated 01.05.1987 did not apply to Technical Category employees of the DAE. Consequently, the legal fiction considered in the aforesaid decisions never arose in the case of the petitioners. Therefore, the ratio of those judgments cannot be mechanically extended to a category of employees expressly excluded from the ambit of the governing Memorandum.

22. Similarly, the decision in **University of Delhi v. Shashi Kiran**<sup>3</sup> turned upon the interpretation of a statutory framework applicable to University employees and is distinguishable both on facts and on the governing regulatory regime.

23. On perusal of the record, it is evident that the petitioners, upon confirmation, exercised an option to continue under the CPF

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<sup>3</sup> (2022) 15 SCC 325

Scheme. Such option was an exercise of informed choice within the framework provided by the employer. Having elected to remain under the CPF Scheme and having derived benefits thereunder throughout their service career, the petitioners cannot, after retirement, resile from that election and claim the benefits of an alternative scheme.

**24.** The principle that a party cannot approbate and reprobate applies with full force. An employee who has consciously chosen one of two available schemes and enjoyed the advantages flowing therefrom cannot subsequently seek to claim rights under the other scheme on the basis of a provision that was, in any event, inapplicable to him.

**25.** It will not be out of the context to note that the petitioners' claim also suffers from inordinate and unexplained delay, which by itself constitutes a substantial ground to decline relief. The options to retain the CPF Scheme were exercised in the 1970s and 1980s; further opportunities to switch over were made available in 1992 and again in 2000. The petitioners retired between 2005 and 2012. However, representations seeking to reopen the issue were submitted only in the year 2023. No satisfactory explanation has been offered for this prolonged inaction. The attempt now made would disturb a position that had attained finality decades earlier. In service jurisprudence, particularly in matters relating to pensionary benefits

which carry substantial financial and administrative consequences, such stale claims cannot be entertained in the absence of compelling and cogent reasons.

**26.** It is relevant to note that the plea of discrimination advanced by the petitioners rests upon a broad assertion that certain employees of BARC and one individual employee were extended pensionary benefits. However, no material has been placed on record to establish that those employees were similarly situated in terms of category, the governing regulatory framework, the nature of options exercised, or other service particulars. In the absence of substantive evidence demonstrating parity, a mere invocation of Articles 14 and 16 of the Constitution cannot be countenanced. The guarantee of equality cannot be pressed into service to claim a benefit *dehors* or in derogation of the applicable statutory scheme.

### **Conclusion**

**27.** For the foregoing reasons, this Court is of the considered view that the petitioners, as Technical Category employees of the DAE, stand expressly excluded from the scope of the Office Memorandum dated 01.05.1987. Petitioners having consciously elected to remain under the CPF Scheme and did not avail the subsequent opportunities to switch over to the Pension Scheme. The claim, raised decades later and long after retirement, is barred by gross delay and is unsupported by any tenable plea of discrimination.

Further, we find no infirmity in the order passed by the Central Administrative Tribunal in OA/021/0617/2023 dated 06.02.2025. The decision of the Central Administrative Tribunal is based on the facts of delay, estoppel, waiver and acquiescence; and is a plausible and legal one. The order of the Central Administrative Tribunal does not suffer from any perversity or error of law warranting interference of this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

**28.** Accordingly, the Writ Petition is dismissed. The order dated 06.02.2025 passed by the Central Administrative Tribunal, Hyderabad Bench, in OA/021/0617/2023 is hereby affirmed.

As a sequel, miscellaneous petitions, pending if any, stand closed. No order as to costs.

**SD/-A.H.S. GOWRI SHANKAR**  
**ASSISTANT REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

To

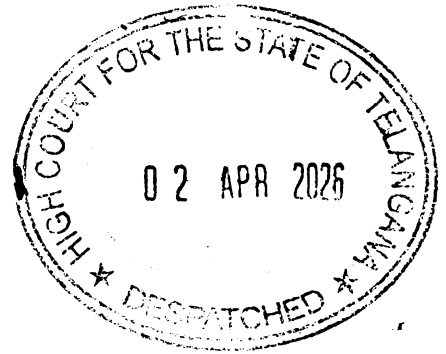
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SA  
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**HIGH COURT**

**DATED:24/02/2026**



**ORDER**

**WP.No.4555 of 2026**

**DISMISSING THE W.P  
WITHOUT COSTS.**

(S)  
06/03/26  
B.K