

**Reserved**

**Neutral Citation No. - 2024:AHC-LKO:6230-DB**

**A.F.R.**

**Court No. - 1**

**Case :-** WRIT - A No. - 5813 of 2022

**Petitioner :-** Indu Bhushan Pandey

**Respondent :-** State Of Up Thru Prin Secy Deppt Of Energy And 2 Others

**Counsel for Petitioner :-** Chandra Bhushan Pandey,Asim Kumar Singh

**Counsel for Respondent :-** C.S.C.,Sanjay Singh

**along with**

**Case :-** WRIT - A No. - 6486 of 2022

**Petitioner :-** Kaushal Kishore Sharma

**Respondent :-** State Of U.P. Thru. Addl. Chief. Secy. Deptt. Of Energy Govt. Of U.P. Civil Sectr. Lko. And Others

**Counsel for Petitioner :-** Paavan Awasthi,Apoorva Tewari

**Counsel for Respondent :-** C.S.C.,Sanjay Singh

**along with**

**Case :-** WRIT - A No. - 6487 of 2022

**Petitioner :-** Suresh Kumar Agarwal

**Respondent :-** State Of U.P. Thru. Its Addl.Chief Secy. Deptt. Of Energy Govt. Of U.P. Civil Sectr.Lko. And Others

**Counsel for Petitioner :-** Paavan Awasthi,Apoorva Tewari

**Counsel for Respondent :-** C.S.C.,Sanjay Singh

**Hon'ble Attau Rahman Masoodi,J.**

**Hon'ble Om Prakash Shukla,J.**

**[Per A. R. Masoodi, J.]**

(1) Herad Sri Chandra Bhushan Pandey, Sri Paavan Awasthi and Sri Apoorva Tewari, learned Counsel appearing for the petitioners in the respective petitions, learned Sri V. P. Nag, learned Additional Chief Standing Counsel for the State-respondents and Sri Sanjay Singh, learned Counsel appearing for the Commission.

(2) In the aforesaid three writ petitions, mainly challenge to Rule 15 of The Uttar Pradesh Electricity Regulatory Commission

(Appointment and Condition of Service of the Chairperson and Members) Rules, 2008 [in brief, it has been referred to as '*Rules, 2008*'] has been made. Thus, they have been clubbed together and decided by a common order.

(3) Apart from above, in Writ-A No. 5813 of 2022, Indu Bhushan Pandey v. State of U.P. and two others, following ancillary prayers have also been made:-

“(i) to issue a writ, order or direction of or in the nature of certiorari to quashing the order, dated 31.07.2020, whereby respondent no.3 illegally and arbitrarily cancelled the petitioner’s pension, provided under Rule 15 of The Uttar Pradesh Electricity Regulatory Commission (Appointment and Condition of Service of the Chairperson and Members) Rules, 2008, as contained in Annexure No.2 to this writ petition;

(ii) to issue a writ, order or direction of or in the nature of certiorari to quashing the order, dated 02.06.2020, thereby, State Government/ Respondent No.1 illegally and arbitrarily did not sanction further pension to the petitioner, as contained in Annexure No.3 to this writ petition;

(iii) to issue a writ, order or direction of or in the nature of mandamus commanding the respondents to provide pension including all the perks, allowances and benefits as admissible with un-amended Rule 15 of The Uttar Pradesh Electricity Regulatory Commission (Appointment and Condition of Service of the Chairperson and Members) Rules, 2008 revisable from time to time in favour of the petitioner, commensurate with that admissible to a retired Hon’ble Judge of the High Court with all the consequential benefits;

(iv) to issue a writ, order or direction of or in the nature of mandamus commanding the respondents to release the withholding amount of pension including 12% interest, since, August 2021 to till date.

(v) to issue a writ, order or direction of or in the nature of mandamus commanding the respondent to not to recover Rs.22,65,528/- (Rupees Twenty Two Lakhs Sixty Five Thousand Five Hundred Twenty Eight only) from the petitioner;

(vi) to issue any other order or direction which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case;

(vii) to allow this writ petition with exemplary costs.”

(4) The events leading to the filing of this petition are recapitulated in brief as under:

In the year 2003, the Parliament enacted the Electricity Act, 2003 [here-in-after referred to as 'Act'] to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and for establishment of Regulatory Commission and Appellate Tribunal. After receipt of assent from the President on 26.05.2003, it was published in the Gazette of India on 02.06.2002.

(5) Section 82 of the Act provides for the constitution of a Commission for the State Electricity Regulatory Commission whereas Section 82 (2) of the Act provides that the State Commission shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall, by the said name, sue or be sued.

(6) Section 82 (4) of the Act postulates that the State Commission shall consist of not more than three Members, including the Chairperson. Section 82 (5) of the Act, 2003 provides that the Chairperson and Members of the State Commission shall be appointed by the State Government on the recommendation of a Selection Committee referred to in Section 85.

(7) Section 89 of the Act provides for the term of office and conditions of service of Members which reads as under:-

**“89. Term of office and conditions of service of Members. – (1) The Chairperson or other Member shall**

hold office for a term of five years from the date he enters upon his office:

Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such:

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.

(2) The salary, allowances and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the Appropriate Government:

Provided that the salary, allowances and other terms and conditions of service of the Members, **shall not be varied to their disadvantage after appointment.**

(3) Every Member shall, before entering upon his office, make and subscribe to an oath of office and secrecy in such form and in such manner and before such authority as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1), a Member may –

(a) Relinquish his office by giving in writing to the Appropriate Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of Section 90.

(5) Any member ceasing to hold office as such shall –

(a) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and

(b) not represent any person before the Central Commission or any State Commission in any manner.

Explanation – For the purpose of this sub-section “commercial employment” means employment in any capacity in any organization which has been a party to the proceedings before the Appropriate Commission or employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in electricity industry and includes a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an advisor or a consultant.”

(8) In pursuance of the Act, the State Government vide Notification dated 06.02.2004 had promulgated Uttar Pradesh Electricity Regulatory Commission, Lucknow, Regulations 2004 [in short, it is referred to as ‘Regulations’] whereby the Uttar Pradesh Electricity Regulatory Commission was established in the State of U.P.

(9) Section 180 (2)(d) of the Act specifies the power of the State Government to frame Rules regarding the salary, allowances and other terms and conditions of service of the Chairperson and Members of the State Commission under 89 (2) of the Act. For ready reference, relevant provisions of the Rule are being reproduced as under:-

“Section 180. (Powers of State Governments to make rules):-

(1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely:-

....

(d) the salary, allowances and other terms and conditions of service of the Chairperson and Members of the State Commission under sub-section (2) of Section 89;”

(10) In exercise of powers conferred under Section 180 (2)(d) of the Act, 2003 and Regulations, the State Government notified the Rules, 2008 which came into force on 01.01.2009. Rule 15 of Rules, 2008

which provides for payment of pension to the Chairperson and the Members of the Commission is reproduced hereunder:-

**“Rule 15.** The Chairperson and the members shall be entitled to pension provided that no such pension shall be payable

(i) if he has put in less than two years of service; or

(ii) if he has been removed from an office in the Commission as per the provisions of the Act.

Provided further that the aggregate amount of the pension payable to any person under this rule together with amount of any pension (including commuted portion of pension), if any, admissible to him in respect of the service rendered by him prior to his appointment in the Commission as a Judge of the High Court or a Government Servant shall not exceed the maximum amount of pension admissible to a Judge of the High Court or a Secretary to the Government of India, whichever is more.”

(11) By virtue of the aforesaid Rule, the persons appointed on the post of Chairman or Member of the Commission is entitled for payment of pension under the Rules, 2008.

(12) Pursuant to the notification dated 24.09.2013, the petitioner/Indu Bhushan Pandey had assumed the post of Member to the Commission on 28.09.2013. It is pertinent to mention here that the petitioner’s service under the National Thermal Power Corporation Limited was non-pensionable service.

(13) In view of above, the petitioner/Indu Bhushan Pandey became entitled to all perks, facilities and allowances admissible to a High Court Judge in light of various statutory provisions and notifications issued from time to time.

(14) It is pertinent to mention here that at the time of his retirement from the Commission, the petitioner/Indu Bhushan Pandey was

granted pension vide order dated 19.08.2016 issued by the Commission.

(15) In the meantime, the State Government vide letter dated 02.06.2020 directed the Commission to take necessary action on three points pertaining to the pension of the Chairman/Members of the Commission which are being reproduced as under:-

“(1) केन्द्रीय विद्युत नियामक आयोग एवं अन्य राज्यों के विद्युत नियामक आयोगों में से किसी में भी अध्यक्ष को चुनाव आयुक्त के समकक्ष पेंशन की अनुमान्यता नहीं है अपितु कई आयोगों-केन्द्रीय विद्युत नियामक आयोग, दिल्ली विद्युत नियामक आयोग, मध्य प्रदेश, तमिललनाडु, गुजरात, राजस्थान तथा महाराष्ट्र राज्यों के विद्युत नियामक आयोगों के अध्यक्षों को उनके द्वारा आयोग में की गयी सेवा हेतु पेंशन अनुमान्य ही नहीं है ।

(2) दिनांक 01.04.2005 से पुरानी पेंशन योजना राज्य सरकार द्वारा समाप्त कर उसके स्थान पर नयी परिभाषित अंशदान पेंशन योजना ;राष्ट्रीय पेंशन प्रणालीद्ध लागू की गयी है । दिनांक 01.04.2005 के उपरान्त नियामक आयोग में नियुक्त होने वाले अध्यक्ष एवं सदस्यगण की आयोग की सेवायें राष्ट्रीय पेंशन प्रणाली ;एन0पी0एस0द्ध से आच्छादित होगी ।

(3) उ0प्र0 राज्य विद्युत नियामक आयोग नियमावली, 2008 के सुसंगत अनुच्छेद में दिनांक 01.04.2005 को अथवा उसके उपरान्त नियुक्त अध्यक्ष/सदस्य एवं अन्य कार्मिकों को राष्ट्रीय पेंशन प्रणाली से आच्छादित किये जाने हेतु संगत सेवा नियमों में संशोधन का प्रस्ताव उपलब्ध कराने का कष्ट करें ।

(16) In pursuance of the letter dated 02.06.2020, the Secretary to the Commission has clarified vide letter dated 29.06.2020 as under:-

(1) In respect of point No.1, it is stated that every State Government is independent to regulate its own system pertaining to provide pension to the Chairperson and Members of the Commission, therefore, it is not appropriate to take any decision in context of other States.

(2) In respect of point No.2, the respondent No.2 has clarified that as per the proviso of Section 89 (2) of the Act, 2003, **the salary and allowances and other terms and conditions of service of the Members shall not be varied to their disadvantage after appointment. Significantly, Rules, 2008 were enacted w.e.f. 01.01.2009 after enforcement of the**

**NPS on 01.04.2005 and moreover, any amendment in Section 15 of the Rules 2008 cannot be given retrospective effect in view of the proviso of Section 89 (2) of the Act, 2003.**

(3) However, the respondent No.2 in response to the point No.3 sent a proposed amendment with respect of Rule 15 of the Rules, 2008 which is being reproduced as under:-

Column – I	Column - II
<p><b>Pension 15</b> The Chairperson and the members shall be entitled to pension provided that no such pension shall payable.</p> <p>(i) if he has put in less than two years of service; or</p> <p>(ii) if he has been removed from an office in the Commission as per the provisions of the Act:</p> <p>Provided further that the aggregate amount of the pension payable to any person under this rule together with amount of any pension (including commuted portion of pension), if any, admissible to him in respect of the service rendered by him prior admissible to him in respect of the service rendered by him prior to his appointment in the Commission as a Judge of the High Court or a Government Servant shall not exceed the maximum amount of pension admissible to a Judge of the High Court or a Secretary to the Government of India, whichever is more.</p>	<p><b>Pension 15.</b></p> <p><b>The Chairman and Members appointed on or after 1<sup>st</sup> April, 2005 shall be covered under the National Pension Scheme (N.P.S.)</b></p>

(17) Thereafter, vide order dated 31.07.2020, the respondent No.3/Secretary of the Commission has cancelled the pension of the petitioner/Indu Bhushan Pandey on the ground that vide order dated 02.06.2020, the State Government did not approve further pension to the petitioner, in view of the applicability of the National Pension Scheme, 2005.

(18) Learned Counsel for the petitioner has submitted that the pension of the petitioner was revised according to the amendment made in the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2016 and consequently, arrears on the pension was released on 16.01.2019. However, without informing the petitioner, respondent No.2/the Commission has not only stopped the pension with effect from July, 2020 but also started recovery of Rs.22,65,528/- from the servant allowance of the petitioner.

(19) The next submission of the learned Counsel for the petitioner is that the amendment to Rule 15 of Rules, 2008 was made, known as Uttar Pradesh Electricity Regulatory Commission (Appointment and Conditions of Service of the Chairperson and Members) (First Amendment) Rules, 2021 vide notification dated 25.10.2021 whereby the Chairperson and Members appointed on or after 1<sup>st</sup> April, 2005 shall be covered under the National Pension Scheme, 2005.

(20) Further submission of the learned Counsel for the petitioner is that due to pandemic of COVID – 19, everything was kept in abeyance. Thereafter, in response to the letter dated 03.06.2022 sent by the respondent No.3, the State Government vide letter dated 21.06.2022 informed that after amendment and incorporation in Rule 15 of Rules, 2008, no review to the aforesaid amendment could be considered.

(21) Further submission of the learned Counsel for the petitioner is that the aforesaid amendment was in violation to the provisions of Section 182 of the Act which prescribes that every Rule made by the State Government and every Regulation made by the State Commission shall be laid before the State Legislature. In the present case, no such procedure has been followed by the respondents.

(22) In support of the aforesaid submissions, learned counsel for the petitioner has relied on a dictum of Hon'ble Supreme Court rendered in the case of ***Bank of Baroda and another v. G. Palani and others [(2002) 5 SCC 612]***, wherein the aforesaid aspect has been taken care of. In the said case, it was categorically held that the pension is not a bounty but a right and cannot be arbitrarily dealt with and accrued rights of pension cannot be taken away with retrospective effect. In fact, no government order, notification or circular can substitute or amend statutory rules or regulations framed under any authority of law with retrospective effect to take away accrued rights of pension.

(23) Next he has submitted that since the amendment in the Rules cannot be made with retrospective effect, it is beyond comprehension as to how this amendment was enacted despite the provision of the Act being absolutely contrary to it. According to him, the impugned amendment is without jurisdiction and is wholly unsustainable.

(24) It is next submitted that after providing the pension to the petitioner for such a long time, the vested right that had accrued to him cannot be taken away retrospectively, particularly in view of the mandate of Section 89 (2) of the Act.

(25) Relying upon the citation of ***State of Punjab v. Kailash Nath [(1989) 1 SCC 321]***, learned counsel for the petitioner has submitted that pension falls within the purview of the terms and conditions of service.

(26) A rule which is in conflict with a provision of the Statute is ultra vires as has been held by the Apex Court in the case of ***Laghu Udyog Bharti v. Union of India [(1999) 6 SCC 418]***.

(27) In support of the submission that an amendment of the rules which have the effect of taking away the benefits already availed by the employee under the existing rules would divest an employee of an accrued right and would violate Articles 14 and 21 of the Constitution

of India, learned Counsel for the petitioner has relied upon the judgment of Apex Court in '*Punjab State Cooperative Agriculture Development Bank v. Registrar Co-operative Societies [(2022) 4 SCC 363]*'.

(28) Thus, there is no justification for fixing a retrospective date for providing pension. Therefore, the impugned amendment in Rule 15 of Rules, 2008 is illegal, invalid and arbitrary, therefore, it deserves to be declared as such.

(29) On the other hand, precise submission made by the learned counsel for the opposite parties is that in view of the abolition of pension scheme to the personnel working in the government offices on or after 01.04.2005 after obtaining approval from the Council of Ministers, Rule – 15 of Rules, 2008 was amended on 25.10.2021. Accordingly, vide order dated 11.11.2021, the Commission paid the contributory amount to the petitioner under National Pension Scheme.

(30) They have further submitted that after due consideration at the Government level, the Secretary of the Commission was informed vide letter dated 21.06.2022 that the system of National Pension Scheme has been implemented in the State by notification No. 3-379/10-2005-301(9)-2003 dated 28.03.2003 read with notification No.0-16/ 2019/ Sa-3-322/ 10-2019-301(8)/ 2015 dated 16.04.2019. Lastly, their further submission is that all the employees entering into the service in the State on or after 01.04.2005 will compulsorily be covered by the National Pension Scheme and the amendment made in the Rules, 2008 is not in violation of any Rule.

(31) We have considered the submissions made by the learned Counsel for the respective parties and perused the material available on the aforesaid writ petitions.

(32) **The question involved in the aforesaid three writ petition is, as to whether the amendment made to Rule 15 of Rules, 2008 in the year 2021 is applicable to the petitioners or not?**

(33) Before giving answer to the aforesaid question, it is necessary to look into the necessary provisions of the Act and Rules.

(34) Legislation cannot be implemented retrospectively to affect pre-existing rights unless expressly stated otherwise or by necessary implication. Whether a law is applied in the future or in the past depends entirely on the legislative intent. If the terms of the statute are unambiguous and it is obvious that the legislature intended for it to apply retrospectively, then it must without a doubt be interpreted as written. However, if the terms of a statute do not by themselves make the intention clear or certain, the statute will be presumed to operate prospectively, where it is in derogation of a common law right or where it would interfere with an existing contract, destroy a vested right, create a new liability in connection with a past transaction, or invalidate a defense that was valid at the time the statute was passed.

(35) While considering the question of the statute's retrospective application, the nature of the affected right must be considered first. In cases where a vested right exists, an amendment will be viewed as prospective in order to protect the vested right. Normally, there is no vested right if the right is only procedural.

(36) In *Arjan Singh and another v. The State of Punjab and others* [1970 AIR 703], it has been observed that it is a well-established rule of construction that no provision in a statute should be given retrospective effect unless the Legislature has made it retrospective by express terms or by necessary implication, and that where a provision has been made retrospective, care should be taken not to extend its retrospective effect beyond what was intended.

(37) All the petitioners were appointed in light of Rules, 2008 and as per Section 89 of the Act, the Chairman or Members shall hold office for a term of five years from the date he/she enters upon his/her office or till he/she attains the age of sixty years whichever is earlier. Further, as per Rule 15 of Rules, 2008, the Chairman and the Members of the Commission shall be entitled for pension on putting two years of service. Method of drawing pension has also been provided in the proviso to Rule 15 (ii) of the Rules, 2008.

(38) Admittedly, Indu Bhushan Pandey/petitioner of Writ-A No. 5813 of 2022 had assumed the post of Member on 28.09.2013, whereas Suresh Kumar Agarwal/petitioner of Writ-A No.6487 of 2022 had taken charge on the post of Member of the Commission on 09.12.2015 and both these petitioners retired on attaining the age of 65 years and were drawing pension before amendment of Rule 15 of the Rules, 2008. In Writ-A No. 6486 of 2022, the petitioner/Kaushal Kishore Sharma took oath as Member of the Commission on 02.04.2018 and superannuated on 05.10.2022.

(39) In view of above, all the petitioners on attaining the age of six five years retired from the post of Member of the Commission and as per Rules, they were granted pension and the same has been paid to them till amendment in Rule 15 of the Rules, 2008 has been carried out in the year 2021. In the meantime, pension of the petitioner of Writ-A No. 5813 of 2022 has also been revised in consonance with the provisions of High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2016 and consequently, arrears on the pension was also released on 16.01.2019.

(40) Drawing attention of the Court to the proviso appended to subsection (2) of Section 89 of the Act, learned counsel for the petitioner has argued that salary/allowances and other terms and conditions of service of Members of the Commission shall not be varied to their disadvantage after appointment.

(41) It has been stated by the learned Counsel for the petitioners that the petitioners were appointed prior to 2020 and at that time unamended Rule 15 of Rules, 2008 were in vogue. However, by means of bringing the First Amendment by a Notification dated 25.10.2021, Rule 15 has been amended to the detriment and disadvantage of the petitioners, which is impermissible in view of the provisions contained in the proviso appended to sub-section (2) of Section 89. Since First Amendment Rules, 2021 have been applied retrospectively, hence the same is *ultra vires* to the provisions contained in the proviso appended to Section 89 (2) of the Act.

(42) Even when the State Government directed the Commission to take action on three points, the Commission clarified that as per proviso to Section 89 (2) of the Act, the salary, allowances and other terms and conditions of service of the Chairman and Members, shall not be varied to their disadvantage after appointment. Further, it has been clarified that significantly, Rules, 2008 were enacted on 01.01.2009, i.e., after enforcement of the National Pension Scheme (NPS) on 01.04.2005 and moreover, amendment made in Rule 15 of Rules 2008 cannot be given retrospective effect in view of the proviso to Section 89 (2) of the Act.

(43) Rule 2 of Rules, 2021, existing Rule of 15 of the Rules, 2008 has been substituted which postulates that the Chairman and Members of the Commission appointed on and after 01.04.2005 shall be covered under the National Pension Scheme (NPS). Therefore, the aforesaid amendment to Rule 15 made vide Rules, 2021 has retrospectively taken away the entitlement of the former/retired Members and Chairman of the Commission to draw pension in most arbitrary and illegal manner. Further, the retrospective application of the amended Rule 15 clearly varies the terms and conditions of service of the Members to their disadvantage after their appointment which is in clear violation and contradiction to the specific mandate of

Section 89 (2) of the Act. Thus, the amendment to Rule 15 made vide Rules, 2021 is *ultra vires* to Section 89 (2) of the Act as it evidently varies the terms and conditions of service of the Members to their disadvantage after appointment.

(44) The denial of payment of pension to the petitioner as per the un-amended Rules, 2008 and application of National Pension Scheme to the petitioners on account of the retrospective application of Rule 15 of the Rules, 2008 as amended vide Rules, 2021 is absolutely arbitrary and also in violation of Articles 14 and 16 of the Constitution of India as well as in violation of Section 89 (2) of the Act.

(45) As per Rules, 2008, on the date of appointment of petitioners as Chairman/Member of the Commission, they were entitled for payment of pension.

(46) In the case of *State of Punjab and others v. Rafiq Masih (White Washer) and others [(2015) 4 SCC 334]*, the Apex Court has held that while it is not possible to postulate all situations of hardship where payments have mistakenly been made by an employer, in the following situations, a recovery by the employer would be impermissible in law:

"(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) **Recovery from retired employees**, or employees who are due to retire within one year, **of the order of recovery.**

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

(47) In the case of *Punjab State Co-operative Agriculture Development Bank (supra)*, the Apex Court has held that the exposition of the legal principles culled out is that **an amendment having retrospective operation which has the effect of taking away the benefit already available to the employee under the existing rule indeed would divest the employee from his vested rights** and that being so it would be held to be violative of the rights guaranteed under Article s 14 and 16 of the constitution.

(48) In view of what has been stated above, all the three writ petitions are **allowed** with the following directions:-

- Ignoring the First Amendment made in 2021, only the petitioners of aforesaid three petitions are entitled for pension from the date of their retirement of 65 years.
- For the above purpose, the impugned order dated 11.11.2021 passed in Writ-A No. 6486 of 2022 and the impugned order dated 04.04.2022 passed in Writ-A No. 6487 of 2022 are quashed.
- Since the pension has been stopped to the petitioners, the respondents are directed to pay pension as also other allowances, as was drawing before the amendment in Rule 15 of Rules, 2021. In this regard, the order of cancellation of pension issued by the respondents is quashed.
- Recovery, if any, issued in the case of the petitioners has also been quashed and the respondents are directed to pay the

recovered amount within a period of two months from the date of receipt of a certified copy of this order.

➤ It is made clear that in the peculiar facts and circumstances of the case, this order is applicable to the petitioners of the aforesaid three petitions and shall not be treated as a precedent.

(49) No order as to costs.

**[Om Prakash Shukla, J.] [Attau Rahman Masoodi, J.]**

**Order Date :- 23.01.2024**  
lakshman/