

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No.491 of 2024

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian School of Mines), Dhanbad.
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission(UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Prafulla Kumar Behara, son of Late Gajendra Mohan Behara, resident of Flat No.7091, Tower 6, GH7, Crossing Republik, Ghaziabad, P.O. Crossing Republik, P.S. Crossing Republik, District-Ghaziabad, U.P.

..... Respondent

With
L.P.A. No.463 of 2024

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Bhabesh Chandra Sarkar, son of Late Dwija Pada Sarkar, resident of Quarter No.E-6, Teachers' Colony, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

With
L.P.A. No.464 of 2024

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Priya Ranjan Mohanty, son of Late Judhistira Mohanty, resident of Flat No.33, Teachers' Enclave, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

With
L.P.A. No.537 of 2024

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The Director, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Director, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Santosh Kumar Mandal, son of Late Hari Pada Mandal, resident of L-24, Tulsi Das Colony, Banaras Hindu University, Lanka, Varanasi.
..... Respondent

With
L.P.A. No.267 of 2025

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
 3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.
-Appellants.

-Versus-

Subodh Kumar Maiti, son of Late Muralidhar Maiti, resident of Flat No.37, Teachers' Enclave, Indian Institute of Technology (Indian School of Mines), Dhanbad.
..... Respondent

With
L.P.A. No.268 of 2025

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.

- 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 - 7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.
-Appellants.

-Versus-

Virendra Kumar, son of Late Bipin Bihari Lal, resident of Flat No.G+3 B, Savitri Enclave, Manohar Nagar Housing Colony, Dhanbad.

..... Respondent

With
L.P.A. No.269 of 2025

- 1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
 - 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
 - 3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
 - 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
 - 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 - 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 - 7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.
-Appellants.

-Versus-

Alok Kumar Mukhopadhyay, son of Late Amarendranath Mukhopadhyay, E-5, Teachers' Colony, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

With
L.P.A. No.270 of 2025

- 1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
- 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.

3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Dipankar Ray, son of Late Debabrata Ray, resident of D/31, Teachers' Colony, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

With

L.P.A. No.271 of 2025

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

1. Chandan Bhar, son of Late Supravat Bhar, resident of Flat No.6, Teachers' Colony, Indian Institute of Technology (Indian School of Mines), Dhanbad. **(Deceased)**.
- 1(a). Mrs. Suparna Bhar, wife of Late Chandan Bhar, resident of Flat No.2 E, Block-5, MERLIN Uttara, 94/7K, G.T. Road, Hindmotor, Hoogly, West Bengal.

1(b). Mr. Chayan Bhar, son of Late Chandan Bhar, Assistant Professor,
NIT Warangal, Department of Electronics and Communications,
NIT Warangal.

..... Respondent

With
L.P.A. No.272 of 2025

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Kabir Dasgupta, son of Late Shri Mukul Bikash Dasgupta, resident
of Flat No.E/15, Teachers' Colony, IIT (ISM), Dhanbad.

..... Respondent

With
L.P.A. No.273 of 2025

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.

7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.
.....Appellants.

-Versus-

Durga Charan Panigrahi, son of Late Harihar Panigrahi, resident of Q. No. Type VI/I, Near Scolomin House, Indian Institute of Technology (Indian School of Mines), Dhanbad.
..... Respondent

With
L.P.A. No.274 of 2025

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.
.....Appellants.

-Versus-

Akella Satya Venkatesh, son of Late A.S. Murthy, resident of Flat No.28, E-type quarters, Block-II, Teachers' Enclave, Indian Institute of Technology (Indian School of Mines), Dhanbad.
..... Respondent

With
L.P.A. No.275 of 2025

1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.

- 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
 - 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 - 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 - 7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.
-Appellants.

-Versus-

Pramod Pathak, son of Late Lallan Jee Pathak, resident of Radha Nikunja, Kabristan Road, Jorapathak, Dhanbad.

..... Respondent

With
L.P.A. No.276 of 2025

- 1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
 - 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
 - 3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
 - 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
 - 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 - 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
 - 7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.
-Appellants.

-Versus-

Deepanker Asthana, son of Shri D.B. Asthana, Resident of E-3, Teachers' Colony, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

With
L.P.A. No.277 of 2025

- 1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.

- 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
- 3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
- 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
- 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 7. University Grants Commission (UGC), through its secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Phalguni Sen, son of Shri Madan Mohan Sen, resident of 9B, Maple Street Avenue 2, Renaissance Township, Bardhaman, District-
Purba Bardhaman.

..... Respondent

With
L.P.A. No.278 of 2025

- 1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
- 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
- 3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
- 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
- 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Shishir Gupta, son of Late Shyama Charan Gupta, resident of Flat No.25, Teachers' Enclave, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

With

L.P.A. No.279 of 2025

- 1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
- 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
- 3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
- 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
- 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 7. University Grants Commission (UGC), through its secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Narayan Rittappa Mandre, son of Late Rittappa Anandappa Mandre, resident of Flat No.14, Teachers' Enclave, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

With

L.P.A. No.280 of 2025

- 1. The Union of India through the secretary, Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi.
- 2. The JS & FA, Department of Higher Education, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
- 3. The Secretary, Department of Expenditure, Ministry of Finance, Government of India, EV Branch, New Delhi.
- 4. The Chairman, Board of Governors, Indian Institute of Technology (Indian school of mines), Dhanbad
- 5. The Director, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 6. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad.
- 7. University Grants Commission (UGC), through its Secretary, having its office at Bahadur Shah Zafar Marg, New Delhi.

.....Appellants.

-Versus-

Nikkam Suresh, son of Late Nikkam Yeshwanth Rao, resident of Flat No.26, Teachers’ Enclave, Indian Institute of Technology (Indian School of Mines), Dhanbad.

..... Respondent

CORAM : HON’BLE THE CHIEF JUSTICE
HON’BLE MR. JUSTICE RAJESH SHANKAR

For the Appellants : Mr. Prashant Pallav, ASGI
 Ms. Leena Mukherjee, C.G.C
For the Respondents: Mr. Indrajit Sinha, Advocate
 Mr. Bibhash Sinha, Advocate
 Mr. Ankit Vishal, Advocate
 Mr. Kaustav Roy, Advocate
 [LPA 537/2024]

Reserved on 15.09.2026 Pronounced on 29.09.2026
Per: Rajesh Shankar, J.

1. The present batch of Letters Patent Appeals (except L.P.A No. 537 of 2024) have been filed challenging the common judgment/order dated 04.01.2024 passed in a batch of writ petitions led by W.P.(S) No.5777 of 2019 (***Kabir Dasgupta & Others Vs. The Union of India & Others***), whereby the learned Single Judge of this court has allowed the writ petitions filed by the respective writ petitioners/respondents herein setting aside the decision of the Board of Governors (BOG) taken in its 11th meeting held on 04.09.2019 by which the recommendation of the Finance Committee to accept the direction of Ministry of Human Resources Development (MHRD), Government of India regarding implementation of contributory Provident Fund Scheme in respect of the writ petitioners was approved.
2. L.P.A No. 537 of 2024 has been filed against the judgment/order dated 27.02.2024 passed in W.P.(S) No. 2299 of 2023 whereby the learned Single Judge of this Court has disposed of the writ

petition filed by the writ petitioner/respondent herein observing that if the facts/issues involved in the said writ petition are found to be similar to the facts of the case of ***Kabir Dasgupta & Others (Supra)***, then the matter of the writ petitioner will also be guided by the observations and directions made in the judgment rendered in the said case.

Factum of the Case:

3. The Fourth Pay Commission was constituted by the Central Government in the year 1983 and the recommendation of the Commission was implemented by it with respect to its employees with effect from 01.01.1986.
4. The Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners' Welfare, Government of India issued Office Memorandum (O.M) dated 01.05.1987 whereby, as per the recommendation of the Fourth Central Pay Commission, the employees of the Central Government working under the Contributory Provident Fund Scheme (in short, CPF Scheme) were deemed to have shifted to the Pension Scheme unless they specifically opted to continue under CPF Scheme by 30.09.1987.
5. The Ministry of Human Resource Development, Department of Education, Government of India issued letter dated 17.06.1987 regarding implementation of the revised pay scales for the teachers of Central Universities and other institutions maintained by the University Grants Commission with effect from 01.01.1986, along with corresponding benefits including retirement benefits.

6. The erstwhile Indian School of Mines, Dhanbad; now Indian Institute of Technology (Indian School of Mines), Dhanbad (hereinafter to be referred as the 'said Institute') also issued a Circular on 19.12.1987 requesting its employees to send their option if they wished to continue in CPF Scheme, otherwise they would automatically switch over to General Provident Fund Scheme (in short 'GPF Scheme') with effect from 01.01.1986. Subsequently, vide notice dated 03.01.1994, it was made clear that new entrants who had joined after 01.01.1986 would be entitled only to the GPF Scheme.
7. In the 128th meeting of the Executive Board of the said Institute held on 09.09.2005, it was resolved that the employees who had joined after 01.01.1986 were required to be treated as continuing under the GPF-cum-Pension Scheme. However, the Director, MHRD, Government of India declined to concur the said decision of the Executive Board stating that in view of the categorical clarification issued by the Ministry of Finance, Government of India, there was no question of giving any option and those faculty/staff who were under the CPF Scheme, would continue under that scheme. It was further stated that there was no possibility of switching over from CPF to Pension Scheme.
8. The Indian School of Mines University Teachers' Association filed a writ petition, being W.P.(S) No. 2517 of 2009. However, the said writ petition was dismissed vide order dated 28.03.2014, observing *inter alia* that the employees who had consciously exercised their option to remain under the CPF Scheme, could not

subsequently be permitted to switch over to the GPF-cum-Pension Scheme.

9. Aggrieved by the order dated 28.03.2014, the Indian School of Mines University Teachers' Association preferred L.P.A. No. 176 of 2014. During the pendency of the said L.P.A., the Executive Board of the said Institute, in its 172nd Meeting held on 17.05.2016, decided to constitute a Committee to examine the grievances of the retired and serving employees of the said Institute. The Committee, upon consideration of the matter, recommended that the CPF optees should be permitted to exercise a fresh option for switching over to the GPF-cum-Pension Scheme, subject to the approval of the Executive Board/Board of Governors.
10. Pursuant to the recommendations of the Committee, the Board of Governors approved the same vide its decision dated 28.08.2017 and the said Institute issued office order dated 01.09.2017 implementing the recommendation of the Committee by placing the respondents in GPF-cum-Pension Scheme with effect from their respective dates of appointment. GPF account numbers were allotted to them and their contributions were also transferred to their respective GPF accounts.
11. Thereafter, the Indian School of Mines University Teachers' Association withdrew L.P.A. No. 176 of 2014 which was disposed of as not pressed vide order dated 08.09.2017.
12. The Ministry of Human Resources Development, Government of India, raised an objection against the decision of the Board of Governors of the said Institute on the ground that the said decision

had been taken without consultation with the Ministry. Consequently, the said Institute, vide Office Order No. 10800 dated 13.02.2018, kept the Office Order dated 01.09.2017 in abeyance and, thereafter, vide its letter dated 17.04.2018, referred the matter relating to the conversion of its employees from the CPF Scheme to the GPF Scheme to the MHRD, Government of India, for its consideration.

13. The MHRD, Government of India, vide its letter dated 29.07.2019, informed the said Institute that the issue relating to the conversion of its employees from the CPF Scheme to the GPF-cum-Pension Scheme was referred, through the Integrated Finance Division, to the Department of Expenditure, Ministry of Finance and the said Department vide letter dated 17.07.2019 clarified that such conversion, in the case of the employees of autonomous bodies, was not permissible. Accordingly, the said Institute was directed to take necessary action in the matter.
14. Thereafter, the Board of Governors of the said Institute in its 11th meeting held on 04.09.2019, accepted the directions of the Ministry of HRD and decided to shift back the concerned employees from the GPF-cum-Pension Scheme to the Contributory Provident Fund Scheme. Consequently, the Registrar (Additional Charge) of the said Institute issued letter dated 03.10.2019 withdrawing the earlier office order dated 01.09.2017 and the respondents were reverted to the CPF Scheme.
15. Thereafter, the writ petitioners/respondents herein preferred writ petitions challenging the decision dated 04.09.2019 taken by the

Board of Governors shifting them back to the CPF Scheme. All the writ petitions (except W.P.(S) No. 2299 of 2023) were allowed by the learned Single Judge of this Court vide common judgment/order dated 04.01.2024 setting aside the decision dated 04.09.2019 taken by the Board of Governors. It was observed *inter alia* that GPF-cum-Pension Scheme was applicable to the writ petitioners. W.P.(S) No. 2299 of 2023 was also disposed of by the learned Single Judge of this Court vide order dated 27.02.2024 observing that if the case of the writ petitioner was found to be similar to the case of ***Kabir Dasgupta & Others (Supra)***, then the matter of the writ petitioner would also be guided by the observations and directions made in the judgment of the said case.

Submissions on behalf of the Appellants:

16. Mr. Prashant Pallav, learned A.S.G.I. appearing on behalf of the appellants submits that the office memorandum dated 01.05.1987 was issued with respect to the employees of the Central Government and it did not *ipso facto* apply to the employees of an autonomous institution such as the erstwhile ISM (now IIT-ISM), Dhanbad. The said Institute itself treated the adoption as necessary and issued notice dated 19.12.1987 inviting its employees to exercise option of either CPF Scheme or GPF-cum-Pension Scheme which was extended from time to time, lastly till 22.06.1994.
17. It is also submitted that the Hon'ble Supreme Court in the case of ***State of Rajasthan Vs. A.N Mathur and Ors. reported in***

(2014) 13 SCC 531 has held that a university being an autonomous body but funded by the State, cannot unilaterally take a decision to give benefits to its employees under a different scheme without taking the consent of the State government.

18. It is further submitted that the judgment rendered in the case of **A.N. Mathur (Supra.)** was based on the interpretation of Sections 38 and 39 of the Rajasthan Agriculture University Udaipur Act, 2000. Section 38 of the said Act provides that the university shall establish a pension and insurance scheme for the benefit of the teachers, officers, and other employees of the university, whereas, Section 39 of the said Act stipulates that any change in the statute must be approved by the Chancellor, who happens to be the Governor.
19. Learned A.S.G.I. also argues that the statutory provisions of the Institute of Technology Act, 1961 (in short "Act, 1961") are identical to the provisions of the Rajasthan Agriculture University Udaipur Act, 2000 to the extent of the Act, 1961 also requiring the statute to be placed before the Visitor, for his approval. The Visitor in the case of IITs is the Hon'ble President of India. Since the decision of the Appellant Institute to alter the status of the beneficiaries of CPF to GPF was not the part of the amended statute and was also not placed before the Visitor, the same was invalid in the eye of law.
20. According to the learned A.S.G.I., since the financial burden pertaining to shift from CPF to GPF-cum-Pension Scheme of the employees of the said Institute primarily lies on the Union of India,

prior approval ought to have been obtained from MHRD in this regard.

21. It is further submitted that the respondents themselves consciously exercised their option to remain under CPF Scheme and were accordingly treated as CPF beneficiaries for a substantial period. The lists including the list dated 18.07.1994 issued by the said Institute mentioned the names of the respondents amongst the employees covered under CPF Scheme.
22. It is contended that the present case is not one where the respondents were inadvertently continued under CPF Scheme without any conscious choice on their part, rather the contemporaneous records demonstrate that the said Institute had specifically invited options vide notice dated 19.12.1987 from its employees for opting CPF/GPF-cum-Pension Scheme and the respondents consciously opted to remain under the CPF Scheme.
23. It is also urged that the period to exercise such option was extended by the said Institute from time to time which remained open up to 22.06.1994. Thus, the employees were afforded sufficient opportunity to make a conscious choice regarding the retiral regime under which they desired to continue. Pursuant to the aforesaid exercise, the said Institute prepared and circulated lists of employees covered under the CPF Scheme on various dates i.e., 03.01.1994, 16.03.1994 and 18.07.1994. Significantly, in the list dated 18.07.1994, the names of 37 employees including the names of the respondents were mentioned. Thus, their coverage

under CPF Scheme was neither accidental nor merely an internal accounting entry of the said Institute.

24. According to learned A.S.G.I., the present controversy is substantially covered by the judgment dated 28.03.2014 rendered in ***W.P.(S) No. 2517 of 2009 (Indian School of Mines University Teachers' Association Vs. The Union of India & Ors.)*** wherein the very issue of conversion of the employees of the said Institute from CPF to GPF-cum-Pension Scheme was examined and the learned Single Judge specifically noticed that after adoption of O.M. dated 01.05.1987, options had been invited by the said Institute even beyond the cut-off date of 30.09.1987 which had consciously been exercised by the aggrieved employees to remain under the CPF Scheme. The Court held that where an option had consciously been exercised by the concerned employees even after the cut-off date fixed by the said Institute and accepted it, they could not subsequently be allowed to claim the benefit of deeming fiction so as to migrate to the GPF-cum-Pension Scheme at a later stage.
25. In the case of ***Rajasthan Agriculture University, Bikaner v. State of Rajasthan & Others reported in (2013) 12 SCC 610***, as relied upon by the learned A.S.G.I., the employees were given options to opt for a particular scheme which had to be exercised by 03.01.1992. The concerned employee contended that he had not exercised his option by the cut-off date but had chosen to adopt the CPF scheme after the cut-off date, which was accepted by the university. The employee later on contended that,

since he had furnished the option beyond the cut-off date, the same was non-est in the eye of law, and he should be granted the benefit under the GPF scheme.

26. In the said case, the Hon'ble Supreme Court of India negating the contentions raised by the concerned employee held that he was a reasonably literate person and should have acknowledged the consequences of his conscious choice when he had opted for the C.P.F. Scheme even after lapse of the period prescribed in the notification. The learned A.S.G.I. asserts that the facts governing the instant case are identical to the case of ***Rajasthan Agriculture University, Bikaner (Supra)*** as the employees of the said Institute had consciously chosen to adopt the CPF scheme and now they cannot be allowed to switch over to the GPF scheme after more than 30 years.
27. It is submitted that earlier the present issue was raised by the Indian School of Mines University Teachers' Association by filing writ petition being W.P.(S) No.2517 of 2019 and the judgment dated 28.03.2014 passed by the learned single judge of this Court is significant on the question of institutional competence. It was observed in the said case that ISM, Dhanbad was a centrally funded technical institution receiving yearly Grant-in-Aid from MHRD, Government of India and the pensionary expenditure of its retired employees was met from such Grant-in-Aid. It was further observed that though the said Institute might have a claim of being an autonomous organisation, it was dependent upon financial assistance of the Central Government to meet its

expenditure, including payment of pension. Therefore, the decision of the Executive Board dated 09.09.2005 permitting the concerned CPF optees to switch over to GPF-cum-Pension Scheme could not be said to be a final word in the matter.

28. The same principle applies with greater force to the subsequent recommendations and the office orders issued in the year 2017. Merely because the said Institute again resolved to place certain employees under GPF-cum-Pension Scheme, it could not override the policy decision of MHRD and the Department of Expenditure, Government of India, particularly when the financial liability was ultimately to be borne by the Union of India.
29. It is further argued that the learned single Judge has put much reliance on the judgment of the Hon'ble Supreme Court rendered in the case of ***University of Delhi Vs. Shashi Kiran & Ors.*** ***reported in 2022 SCC OnLine SC 594*** while passing the impugned order dated 04.01.2024. However, the learned single Judge has failed to appreciate that the factual matrix of the said case was entirely different from the case in hand. The said case was in relation to the retirement benefits of the employees of the University of Delhi and as such the rights of the employees in that case were required to be examined in the context of the statutory regime peculiar to the University of Delhi. However, in the present case, the erstwhile ISM was an autonomous institution governed by its own Rules, Regulations and administrative decisions, and the question whether Central Government instructions, including the O.M. dated 01.05.1987 was applicable to its employees

depended upon their adoption and implementation by the competent institutional and governmental authorities. Therefore, the broad observation made in the case of ***Shashi Kiran (Supra.)*** that the general rule after 01.01.1986 was pension/GPF and CPF was an exception, cannot be read as laying down an absolute proposition with respect to any autonomous institution that its every employee appointed after 01.01.1986 automatically became beneficiary of GPF-cum-Pension Scheme irrespective of the scheme actually adopted by the institution.

30. It is contended that the respondents were not merely shown as CPF beneficiaries by unilateral action of the employer, rather the record indicated a positive and conscious exercise of option on their part to remain under the CPF Scheme and they continued under the said regime for a substantial period.
31. It is finally argued that the judgement of ***Sakshi Kiran (Supra.)*** is not applicable in the present batch of appeals. In the case of ***Sakshi Kiran (Supra.)***, the concerned employees had not exercised their option to continue under CPF Scheme, whereas in the present appeals, the respondents had consciously exercised the option to continue under CPF Scheme.

Submissions made on behalf of the Respondents:

32. Mr. Indrajit Sinha, learned counsel for the respondents submits that the respondents have been erroneously treated as employees having the option to remain under the CPF Scheme, despite they being appointed in the said Institute after 01.01.1986 and therefore, were to be governed by the GPF-cum-Pension Scheme.

33. It is further submitted that office memorandum dated 01.05.1987 was issued for change over of the Central Government employees from the CPF Scheme to the GPF-cum-Pension Scheme in the light of implementing the recommendations of the Fourth Central Pay Commission and the same was applicable only with respect to those employees who were already in service on 01.01.1986.
34. It is also submitted that the Registrar of the said Institute, vide notice dated 03.01.1994, had categorically recorded that new entrants, after 01.01.1986 would be entitled only for the GPF Scheme.
35. It is further submitted that the Executive Board of the said Institute in its 128th meeting held on 09.09.2005 acknowledged the mistake committed by the said Institute in requiring the employees who had been appointed after 01.01.1986 to exercise an option and resolved that such employees were required to be treated under the GPF-cum-Pension Scheme.
36. It is submitted that the MHRD, Government of India disagreed with the said decision of the Board which was communicated vide its letter dated 16.11.2005 and thereafter the issue was again examined by the said Institute through the committee headed by Prof. D.P. Singh. The Committee submitted its recommendation on 28.08.2017 specifically mentioning that the employees who had joined the said Institute after 01.01.1986 should have been placed under the GPF-cum-Pension Scheme. Pursuant thereto, the Registrar of the said Institute issued office order dated 01.09.2017 whereby the respondents and other similarly situated employees

who were appointed or re-appointed on or after 01.01.1986 but placed under CPF Scheme, were deemed to have been placed in GPF-cum-Pension Scheme with effect from their date of appointment.

37. It is further argued that the position of the respondents was further strengthened by the communication dated 26.02.2018 wherein the said Institute acknowledged that the employees who had joined on or after 01.01.1986 could only be placed under the GPF-cum-Pension Scheme and that their placement under CPF had occurred due to the mistake of the Institute.
38. It is submitted that the issue raised in instant L.P.A. is no more *res integra* as the Hon'ble Supreme Court of India in the case of ***Shashi Kiran (Supra.)*** has already interpreted the office memorandum dated 01.05.1987 holding that the employees joining the service after 01.01.1986 would always be under GPF Scheme.
39. It is also submitted that the learned Division Bench of this Court in the case of ***Kendriya Vidyalaya Sangathan Vs. Sh. Bhriugu Nandan Sharma, W.P.(S) No. 6520 of 2025*** while relying upon the law laid down by the Hon'ble Supreme Court in ***Shashi Kiran (Supra)*** has held that the benefit of switch-over to GPF-cum-Pension Scheme may be granted notwithstanding that the employees had earlier opted to remain under the CPF Scheme. Such switch over cannot be denied merely on the ground of delay and laches. The benefit may be extended even when the employee had not exercised any option at all. It is also permissible where

the employee failed to exercise the option within the prescribed cut-off date. Even an employee who had specifically opted to remain under the CPF Scheme may, in appropriate circumstances, seek subsequent switch-over to the Pension Scheme. The decisive consideration is that the Pension Scheme constitutes a more beneficial outcome for the employees. The original choice exercised by an employee does not, in any circumstance, create an absolute bar against seeking the more beneficial pensionary benefits. Denial of more advantageous pensionary benefits to one class of employees may result in discriminatory treatment. The rationale is founded on the beneficial and welfare- oriented nature of the scheme permitting such switch-over.

40. It is contended that the Hon'ble Supreme Court in the case of ***Krishna Rai Vs. Banaras Hindu University reported in (2022) 8 SCC 713*** has held that the principle of estoppel cannot override the law. The manual duly approved by the Executive Council will prevail over any such principle of estoppel or acquiescence.
41. Mr. Kaustav Roy, learned counsel for the respondent-Santosh Kumar Mandal in one of the appeals being L.P.A No. 537 of 2024, submits that the said respondent was appointed as Technical Assistant in the said Institute vide letter dated 04.07.1987 and joined the service on 24.07.1987. Though, he was not provided any option, yet was erroneously placed under CPF Scheme.
42. It is further submitted that earlier the said Institute was a deemed Central University/autonomous institution and later on came to be

known as IIT (ISM) possessing institutional authority to examine and decide the service-status issue. Moreover, receipt of grants does not, by itself, make every administrative decision of an autonomous institution dependent upon approval of the Central Government. In any event, the funding department of the Government is not supposed to disregard a duly taken decision without any such statutory authority.

43. It is also contended that after implementation of the recommendation of the Fourth Pay Commission, there was no CPF Scheme available at all for the officers/employees who were appointed after the cut-off date 01.01.1986.

Findings of the Court:

44. Heard the learned counsel for the parties and perused the materials available on record.
45. The issue that falls for consideration of this Court is as to whether under the present facts and circumstance of the case, the respondents are entitled to avail the benefits of GPF-cum-pension Scheme?
46. Thrust of the argument of the learned A.S.G.I. appearing for the appellants is that the respondents voluntarily opted for CPF Scheme and once the option was exercised, the same could not be changed.
47. Undisputedly, all the respondents had joined the said Institute after implementation of the recommendation of the Fourth Pay Commission with effect from 01.01.1986. In the case of ***Sakshi Kiran (Supra.)***, the Hon'ble Supreme Court had an occasion to

interpret the notification dated 01.05.1987 issued by the Department of Pension and Pensioners' Welfare, Government of India. In the said case, Their Lordships while interpreting the intent of the notification dated 01.05.1987, held that normally the employees were covered under the GPF Scheme and the CPF Scheme was an exception for those employees who had opted it. It was specifically held that the employees joining service after 01.01.1986 were always covered under the GPF Scheme.

48. The learned A.S.G.I. has endeavoured to distinguish the case of ***Sakshi Kiran (Supra.)*** primarily on the basis of factual context of the present case. He submits that earlier the said Institute was an autonomous body having its own statutory framework and institutional structure. As such, it was thought appropriate to seek option from the respondents who then opted for CPF Scheme. We are not convinced with the said argument of the learned A.S.G.I. in view of the fact that office memorandum dated 01.05.1987 was *in toto* adopted by the said Institute vide circular dated 19.12.1987 by offering the same option to its employees as was mentioned in the office memorandum dated 01.05.1987. Importantly, the said Institute itself accepted that it had committed mistake by seeking options from the respondents who had joined the service after 01.01.1986.
49. We have also perused the judgment of the co-ordinate Bench rendered in the case of ***Kendriya Vidyalaya Sangathan through its Commissioner Vs. Sh. Bhrigu Nandan Sharma (W.P.(S) No. 6520 of 2025)***. In the said case, the learned

Bench held that the decision for switching over to the GPF Scheme from CPF Scheme was a welfare measure and as such the GPF-cum-Pension Scheme being more beneficial, was admissible even to those employees who originally opted to remain in the CPF Scheme, especially because denying the better and/or more lucrative benefit by way of pension to one set of employees would *per se* be discriminatory.

50. There was no question of giving option to the respondents who had joined the said Institute after 01.01.1986. The said Institute was itself at fault in asking options from the respondents. The said mistake was subsequently admitted by the Institute and on 03.01.1994, it issued a letter stating that the new entrants, after 01.01.1986 would be entitled to only GPF scheme. The respondents cannot be made to suffer due to the mistake committed by the said Institute in asking option from the respondents to opt for C.P.F. Scheme.
51. We have perused the judgment of the Hon'ble Supreme Court rendered in the case of ***Krishna Rai (Dead) through Legal Representatives and Others Vs. Banaras Hindu University through Registrar and Others reported in (2022) 8 SCC 713*** as has been relied upon by Mr. Indrajit Sinha. In the said case, Their Lordships have held that the principle of estoppel cannot override the law. Their Lordships have also referred the earlier judgment of the Hon'ble Supreme Court rendered in the case of ***Tata Chemicals Ltd. Vs. Commissioner of Customs (Preventive), Jamnagar reported in (2015) 11 SCC 628***

wherein it was held that if the law requires something to be done in a particular manner, then it must be done in that manner, and if it is not done in that manner, then it would have no existence in the eye of law.

52. Thus, mere on the ground that the respondents had opted for CPF Scheme, they cannot be deprived of the GPF-cum-Pension Scheme as the action of the said Institute asking option from the respondents was itself erroneous.
53. One of the arguments advanced by the learned A.S.G.I. is that, before taking any decision to provide an opportunity to the respondents to switch over from the CPF Scheme to the GPF Scheme, the said Institute was required to obtain the prior approval of the Central Government, as the implementation of such a decision would have entailed a financial burden on the Central Government.
54. The Hon'ble Supreme Court in the case of ***Sakshi Kiran (Supra.)*** held that when the scheme for switching to the GPF Scheme from CPF Scheme was framed and sought to be implemented, the authorities concerned must have considered the entire magnitude such as, the numbers of employees and the likelihood of financial impact on the management after giving pensionary benefits to those employees. It was further held that when the office memorandum dated 01.05.1987 was issued, the authorities were conscious of the possibility that all the employees might come over to GPF Scheme and keeping that eventuality in the backdrop, the fund was constituted arranging all the affairs.

55. Thus, the appellants cannot take a plea of financial burden to reject the claim of the respondents. Moreover, by allowing the respondents to switch over to the GPF-cum-Pension Scheme from CPF Scheme, the said Institute merely corrected its mistake which was apparent and no such prejudice has been caused to the Central Government by the said decision.
56. Even if it is accepted that the prior approval of the Central Government was required to be taken, the same can at best be said to be a procedural irregularity. Even otherwise, as observed hereinabove that the respondents were entitled to avail the GPF-cum-Pension Scheme and were wrongly asked to opt for CPF Scheme, the subsequent decision of the said Institute to allow the respondents to switch over to GPF Scheme from CPF Scheme was completely valid and legal.
57. It is well settled principle of law that a decision otherwise valid cannot be vitiated on the sole ground of procedural irregularity unless that irregularity has caused a fundamental "failure of justice" or material prejudice to the affected party. A procedure is merely the handmaid of justice designed to facilitate fair play, rather than to obstruct or enslave substantive law. The Courts have always prioritized the ultimate correctness and core fairness of a decision over strict hyper technical adherence to administrative formality.
58. The judgment of the Hon'ble Supreme Court rendered in the case of **A.N. Mathur (Supra.)** as has been relied upon by the learned A.S.G.I. is not applicable in the facts and circumstance of the

present case. In the case in hand, by giving option to the respondents to switch over to the GPF Scheme, the said Institute merely corrected its mistake and did not provide any additional benefit to the respondents.

59. Though the appellants have not been able to sufficient to explain the reason behind seeking options for choosing CPF Scheme from the respondents who had joined in service after 01.01.1986, learned A.S.G.I. has tried to justify it by submitting that the said Institute being an autonomous body decided to seek options from the respondents to opt for the CPF Scheme and the respondents consciously opted the said scheme as well as continued under the said scheme for a substantial period of time and, therefore, at this stage they should not be allowed to switch over to the GPF scheme that too when the office memorandum dated 01.05.1987 had specifically mentioned that the option once exercised would be final.
60. We do not find any substance in the said argument of the learned A.S.G.I. in view of the fact that once the initial decision of the said Institute to ask for option from the respondents was itself erroneous, it is immaterial as to for which scheme the respondents opted for and for how long they continued in the opted scheme. There is a well-known principle that once the infrastructure collapses, the superstructure is bound to collapse. One cannot have a building without the plinth.
61. The judgment of the Hon'ble Supreme Court rendered in the case of ***Rajasthan Agriculture University, Bikaner (Supra.)*** as

has been relied upon by the learned A.S.G.I. is also not applicable in the facts and circumstance of the present case. The said judgment was rendered under particular facts and circumstance of that case. In the said case, the respondent/employee had not exercised his option for CPF Scheme within the prescribed period provided in the notification dated 17.08.1991 and he was deemed to have opted for pension scheme as per the deeming fiction incorporated in the said notification. The prescribed period, the respondent/employee opted for CPF Scheme and the appellant-University accepted his request. After the appellant having retired from service, claimed that since he had not exercised his option within the prescribed period, he was entitled to be considered under the Pension Scheme. The matter having travelled to the Hon'ble Supreme Court, Their Lordships held that the employee wanted to take undue advantage of the favour done to him by the appellant-University which could not be permitted. Had the employee not exercised his option at all, he would have surely been treated to have accepted the Pension Scheme, but as he had given his option late, which had been graciously accepted by the appellant-University, it could not be said that respondent/employee should have been treated to have accepted the Pension Scheme.

62. In the case in hand, giving option to the respondents was itself an erroneous decision of the said Institute. It is a settled law that an illegal decision or an order that is *void ab initio* can ordinarily be challenged, ignored, or set aside at any stage, because a true

illegality or lack of fundamental jurisdiction cannot be cured by passage of time.

63. For the reasons as aforesaid, we do not find any infirmity in the impugned orders dated 04.01.2024 and 27.02.2024 passed by the different Single Benches of this Court.

64. The present appeals are disposed of with the following directions:-

- i. The appellants are directed to treat the respondents under the GPF-cum-Pension Scheme.
- ii. The respondents who have retired from service and have still not been paid benefits of CPF Scheme, will get pension and other retiral benefits under GPF-cum-Pension Scheme.
- iii. The respondents who have retired and have already been given benefits of CPF Scheme, will get pension under GPF Scheme only when they refund the government contribution made towards the CPF Scheme in favour of the ISM, Dhanbad.

65. Pending interlocutory application(s), if any, is also disposed of.

(M.S. Sonak, C.J.)

(Rajesh Shankar, J.)

29th September, 2026
A.F.R.
Rohit
Uploaded on 29.09.2026