



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.7809 of 2022 a/w
CWP Nos.12, 15, 18 and
19 of 2023
Reserved on: 17.04.2026
Decided on: 06.05.2026

1. CWP No.7809 of 2022

Sant Ram Chauhan and another
...Petitioners
Versus
Union of India and others
...Respondents

2. CWP No.12 of 2023

Om Parkash Rahi
...Petitioner
Versus
National Institute of Technology, Hamirpur and another
...Respondents

3. CWP No.15 of 2023

Gargi Khanna
...Petitioner
Versus
National Institute of Technology, Hamirpur and another
...Respondents

4. CWP No.18 of 2023

Ashwani Kumar
...Petitioner
Versus
National Institute of Technology, Hamirpur and another
...Respondents

5. CWP No.19 of 2023

Bharat Bhushan Sharma

...Petitioner

Versus

National Institute of Technology, Hamirpur and another

...Respondents

*Coram***Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge***Whether approved for reporting?*¹

For the petitioner(s):

Mr. Adarsh K. Vashista, Advocate,
for petitioner(s) in CWP Nos.7809
of 2022.Mr. Shrawan Dogra, Senior
Advocate with Mr. Tejasvi Dogra,
Advocate, for the petitioner(s) in
CWP Nos.12, 15, 18 and 19 of
2023.

For the respondents:

Mr. Balram Sharma, Dy. SGI with
Mr. Rajeev Sharma, Advocate, for
the respondent-UOI.Mr. K.D. Shreedhar, Senior
Advocate with Ms. Shreya
Chauhan, Advocate, for the
respondent-NIT.**Jiya Lal Bhardwaj, Judge**

Since common questions of law and facts are involved in all these petitions, they have been taken up for disposal together and the facts of CWP No.12 of 2023 are considered in this common judgment.

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

2. The facts as emerge from pleadings are that the petitioner was appointed as Lecturer with respondent No.1-Institute on 25.07.2000. All India Council for Technical Education (in short AICTE) had framed Revised Career Advancement Scheme for Teachers of Degree Level Technical Education, 2004 to govern the promotions etc. for teachers of all National Institute of Technologies (hereinafter referred as 'NITs'). Respondent No.1 under this Career Advancement Scheme (hereinafter referred as 'CAS') had designated the petitioner as Lecturer (Senior Scale) and placed him in the Senior Scale of ₹10,000-15,200, w.e.f. 25.07.2005, but financial benefit was given from 01.07.2006. The petitioner was awarded Ph.D. degree on 14.08.2013.

3. It has been averred that the Government of India vide communication dated 31.12.2008, issued a scheme of revision of pay of teachers of Central Universities on the basis of recommendations of 6th Central Pay Commission, effective from 01.01.2006, and as per this, there were to be only three designations of teachers in universities and colleges, namely, Assistant Professor, Associate Professor and Professor. The pay scale of the post of Assistant

Professor was fixed of ₹15600-39100 + AGP of ₹6000/-, ₹15600-39100 + AGP of ₹7000/- and ₹15600-39100 + AGP of ₹8000/-, Associate Professor was of ₹37400-67000+ AGP of ₹9000 and Professor was of ₹37400-67000+ AGP of ₹10000. The petitioner was placed as Lecturer (Senior Scale) on 25.07.2005, though he was entitled to be designated as Assistant Professor in the pay band of ₹15600-39100 + AGP of ₹7000/-, as per the communication dated 31.12.2008, which provided that Assistant Professor with complete service of four years possessing the degree of Ph.D. in the relevant discipline shall be eligible, for moving up to AGP of ₹7000/-. The petitioner was granted fitment as per the above communication dated 31.12.2008 on 03.11.2009 from 01.07.2007. However, he was still shown as Lecturer (Senior Scale), whereas his designation was to be shown as Assistant Professor. As per the CAS benefit, the teachers, on completion of requisite number of years as Assistant Professor, were entitled to be considered for promotion as Assistant Professor in AGP of ₹8000/- and since there was no timely consideration under CAS for promotion, the petitioner continuously worked on the lower post without any benefit of the promotion as provided under

CAS.

4. Respondent No.2, issued communication dated 14.03.2012 clarifying therein that the benefit of CAS will not be automatically given to teachers unless there are guidelines issued in this regard by Ministry of Human Resource and Development (hereinafter referred as 'MHRD'). Thereafter, respondent No.1 issued communication dated 18.03.2013, where under one time exemption for applying CAS was given to all the NITs with the stipulation that entire exercise was to be completed before 30.04.2013, after which there would be switching over to 4-Tire Flexible Faculty Structure. The meeting of Selection Committee, which included visitor's nominee, MHRD nominee, subject experts etc., was fixed at IIT Delhi on 5-6th June 2013 and the Selection Committee, conducted the interview and made recommendations, which recommendations were further approved by the Board of Governors (hereinafter referred as 'BoG') on 19.10.2013. Consequent thereto an office order dated 12.11.2013 was issued by respondent No.1 indicating the designation of petitioner, on promotion, as Lecturer (Selection Grade) corresponding to Assistant Professor in the pay band of

₹15600-39100 with AGP of ₹8000 w.e.f. 01.07.2011 (counting 5 years from 01.07.2006 when AGP of ₹7000 was granted). The petitioner had acquired Ph.D. degree on 14.08.2013, whereas he had completed five years as Lecturer (Senior Scale) on 01.07.2011. As per the petitioner, the grant of pay band, AGP and re-designation as Associate Professor being routine matter was not required to be placed before BoG as the same was being granted in implementation of the Rules and provisions in this regard. However, officiating Director of respondent No.1 vide order dated 15.06.2016, constituted a committee to look into the issues relating to anomalies in promotion/ placement/upgradation/movement/ pay fixation and MACPs etc. The committee so constituted submitted its report on 06.12.2016 and on the basis of the said report, the BoG in its meeting held on 13.12.2016, held that erroneous recommendations were made to grant promotion and financial benefits and thus the same are liable to be quashed and set aside.

5. Against the said decision, the petitioner made a representation to respondent No.1 on 19.06.2017, pointing out his apprehension for withdrawing the benefits given to

him. Respondent No.1 had issued a show cause notice to the petitioner asking for his comments on the findings of report and respondent No.1 issued communication dated 12.02.2018, whereby the CAS promotions given to the petitioner and other six similar situate persons were declared to be not in order and directed to be set aside. Further directions were to make recovery and the matter was decided to be placed before the next meeting of BoG for appropriate decision.

6. Feeling aggrieved by the said decision, the petitioner preferred an appeal on 26.02.2018, to Additional Secretary (Technical Education), Government of India, MHRD, New Delhi for intervention and reviewing the decision communicated vide letter dated 12.02.2018. It has been averred that the petitioner, who otherwise was Associate Professor in AGP of ₹9000/- was entitled to be considered for next promotional post of Professor and respondent No.1 had issued advertisement No.6/2017, whereunder the eligible persons were required to submit applications on prescribed format before 22.01.2018, which date was subsequently extended up to 22.02.2018 and the petitioner being eligible had also applied for promotion.

When no action was taken, the petitioner being aggrieved by the communication dated 12.02.2018 and other communications, had approached this Court by way of writ petition which was registered as CWP No.413 of 2018, titled, ***Om Parkash Rahi vs. Union of India and Ors.,*** and this Court had been pleased to allow the said petition on 31.07.2018, along with connected petitions, holding that once the constitution of the committee at the instance of the Director is held to be illegal, then obviously all consequential actions taken thereafter would also be illegal as it is more than settled that once the infrastructure collapses, the superstructure, on which the edifice is built, is bound to collapse and hence, various orders passed by the various authorities thereafter have to pave the path of extinction. Therefore, report submitted by such illegally constituted committee on 06.12.2016 was also held to be illegal and consequently, no reliance upon it could be placed even by respondent No.2. Thus, declared all consequential communications dated 24.05.2017, 07.07.2017 and 12.02.2018, wherein respondent No.1 had declared the CAS promotion given to the petitioner as bad.

7. Respondent No.1 feeling aggrieved by the

common judgment dated 31.07.2018 passed by this Court had assailed the same before the Hon'ble Supreme Court of India on the ground that the Director of NIT, on its own on mere completion of three years in the AGP of ₹8000/- without undergoing the process of selection or the recommendations, being made with the approval of the BoG could not have granted benefit of AGP of ₹9000/- with re-designation as Associate Professor to all the petitioners, since it was not approved by MHRD and the same being in contravention to the guidelines dated 14.03.2012 and 18.03.2013. Further the guidelines dated 31.12.2008 on which the High Court heavily relied upon are not applicable to the NITs. To the contrary after the enactment of the National Institute of Technology Act, 2007 which came into force, the first statute in exercise of its power under Section 26(1) of the Act was notified on 23.04.2009 which did not contain any provision for Career Advancement Scheme and it was introduced by the MHRD to deal with the genuine stagnation and hardship faced by the teachers and to meet exigency, higher pay grade or re-designation will be on 'in-situ' basis and, therefore, the work allocation remains the same and that is the reason for which the petitioner was

appointed in the AGP of ₹8000/- vide an order dated 25.06.2013.

8. The Hon'ble Supreme Court after considering the entire gamut of the matter had allowed the Civil Appeals preferred by respondent No.1 on 30.03.2022 holding that the Director was not even the authority competent under the provisions of the Act, 2007 straightaway, on its own discretion, without following the procedure prescribed by law, passed orders in favour of the petitioners on mere completion of three years' service in the AGP of ₹8000/- and placed them in the higher pay band of ₹37400-67000 with AGP ₹9000 and for re-designation of Associate Professor. It was further held that the Division Bench had committed an error in recording a finding that the eligibility conditions for appointment have been introduced by notification dated 21.07.2017 is prospective in character and earlier appointments made thereto have to be in terms of the guidelines issued by MHRD dated 31.12.2008, are not applicable so far as the NITs are concerned and this fact was clarified by the MHRD in its later guidelines dated 18.08.2009 followed by 14.03.2012 and this fact has been completely overlooked by the Division Bench while placing

reliance on the guidelines dated 31.12.2008. It was specifically observed that the guidelines issued by the MHRD from time to time for revision of pay structure and re-designation of the teachers in NITs are in the form of accelerated promotions, remain co-terminus with the persons and are not related to post based promotions under the relevant recruitment rules. It was specifically observed that since the petitioners are working in the AGP of ₹9000, pursuant to the orders may not be legally sustainable, but it is not the case of the respondents that they are not eligible for AGP of ₹9000 and for re-designation as Associate Professor and thus directed that the petitioners may continue for the time being. However, the respondents may initiate the process to consider the teachers for pay band of ₹37400-67000 with AGP of ₹9000 and for re-designation as Associate Professor in terms of the guidelines dated 14.03.2012 and 18.03.2013. The exercise was ordered to be undertaken by the respondents within a period of four months and further course of action may be taken in terms of the recommendations of the Selection Committee and if they are found suitable, benefits be granted from the date of their suitability being adjudged and any of the

petitioners, if aggrieved by the recommendations made by the Selection Committee/approval of BoG, will be at liberty to avail such remedy, which the law permits. The relevant para of the judgment reads as under:-

"31. Before parting with the judgment, we would like to observe that since the respondent teachers are working in the AGP Rs.9000 pursuant to the orders though may not be legally sustainable but it is not the case of the appellants that they are not eligible for AGP Rs.9000 and for re-designation as Associate Professor. In the given facts and circumstances, we consider it appropriate to observe that let the respondent teachers may continue for the time being and the appellants may initiate the process to consider the respondent teachers for pay band of Rs. 37400-67000 with AGP Rs.9000 and for re-designation as Associate Professor in terms of the guidelines dated 14th March, 2012 and 18th March 2013. Such exercise may be undertaken within a period of four months and further course of action may be taken in terms of the recommendations of the selection committee and if they are found suitable, benefits be granted from the date of their suitability being adjudged and any of the respondent teachers, if aggrieved by the recommendations made by the selection committee/approval by the BOG, will be at liberty to avail such remedy which the law permits."

9. The respondents after the directions being given by the Hon'ble Supreme Court had issued the office memorandum dated 25.07.2022, wherein it was recorded that the petitioners are not eligible for AGP of ₹9000, since they have less than the required experience of three years before the cut off date i.e. 30.04.2013 mentioned in the letter dated 18.03.2013. It was recorded that the petitioner

was granted the AGP of Rs.8000/-Lecturer (Selection Grade) w.e.f. 01.07.2011.

10. The petitioner feeling aggrieved by the said decision of respondent No.1 has filed a petition challenging the same on various grounds inter-alia that as per the directions given by the Hon'ble Apex Court in paragraph 31, it was specifically recorded that the petitioner and other similarly situated persons were eligible for AGP of ₹9000 and for re-designation as Associate Professor and, therefore, respondent No.1 cannot declare them ineligible since they had not required experience of three years before 30.04.2013. The said cut off date was a time limit for NITs to complete CAS promotion as after that NITs were to switch over to new system. The action to hold that the petitioner is not found fit to be called for personal interview before the Selection Committee is in direct violation of the directions. The Hon'ble Supreme Court had held that the petitioner and other persons are entitled for the AGP of ₹9000 and for their re-designation as Associate Professor, which fact was not even disputed by the respondents and the only thing which was to be seen was that from which date, the petitioner is entitled to the said AGP. A perusal of the letter dated

18.03.2013, no doubt says that no permission shall be granted for conducting selection under CAS in any institution w.e.f. 30.04.2013, but once the Hon'ble Supreme Court had specifically observed that the petitioner is eligible which fact was not disputed by the respondents, it cannot be construed that the eligibility has to be seen before the cut off date as on 30.04.2013. If it was so, then the Hon'ble Supreme Court could have denied the benefit to the petitioner and other persons and there was no reason to remand the matter before this Court. Furthermore, the cut off date fixed was to conduct selection under CAS and thereafter, the NITs had to adopt implementation of 4-tire faculty cadre structure. However, the 4-tire faculty cadre structure was never put in place even as on date. Therefore, the period fixed as 30.04.2013, to complete the selection process is to be read as the limit and not the eligibility of the criteria and thus, the decision taken by respondent No.1 is in conflict with the directions given by the Hon'ble Supreme Court. The petitioner after placement and re-designation as Associate Professor from due date would be entitled to AGP of ₹9500/- on mapping, as AGP of ₹9000/- is not available after restructuring by way of amendment in

the statutes in the year 2017. Whosoever was in AGP of ₹9000/- was put by mapping in AGP of ₹9500/- by respondent No.1 and since the petitioner has put in service of more than 22 years as teacher with respondent No.1, he is entitled to be considered for next promotional post of Professor from the present post of Associate Professor.

11. The respondents filed reply to the petition and supported its decision. It has been averred that the petitioner has no locus standi as the respondent-Institute acted in the matter without any biasness and sincerely made compliance with the directions contained in the judgment. The process was initiated in terms of the guidelines dated 14.03.2012 and 18.03.2013, so as to consider them for the pay band of ₹37400-67000 with AGP of ₹9000/- and for re-designation as Associate Professor. The application submitted by the petitioner was placed firstly before the Screening Committee and then before another committee called as Advisory Committee on Faculty Recruitment (for short 'AcoFAR'), which is a legitimate committee as per notified rules of the Government of India. Both the committees in their findings not just once but twice found the petitioner ineligible for the aforesaid post

and pay band in accordance with the guidelines and the matter was communicated to the petitioner by way of speaking order on 25.07.2022. It has further been averred that the petitioner has not come with clean hands before the Court. As per the provisions of the NIT Act, which have come into force w.e.f. 15.08.2007, there is a provision of alternative dispute redressal forum in the form of Tribunal of Arbitration consisting of one member appointed by the institute. Since the petitioner had rendered minimum three years' service as Lecturer (Selection Grade) or Assistant Professor in the pay band of ₹15600-39100 with AGP ₹8000 on 01.07.2014 i.e. after prescribed cut off date i.e. 30.04.2013, as per one time relaxation given under CAS guidelines, his claim has rightly been rejected since as per the conditions of letter dated 18.03.2013, he had not rendered minimum three years' service as Assistant Professor in the pay band of ₹15600-39100 with AGP of ₹8000.

12. I have heard learned counsel for the petitioners in all petitions as well as learned counsel for the respondents and also perused the record carefully.

13. As per the pleadings in the writ petition, as well

as the judgment passed by the Hon'ble Supreme Court, one thing is very clear that the petitioner was rightly granted the AGP of ₹8000/- on completion of requisite number of years. In para 36 of the reply, the respondents have admitted that the petitioner was granted the pay band of Rs.15600-39100 with AGP of Rs.8000 w.e.f. 01.07.2011 after taking into consideration his five years' service as Lecturer (Senior Scale) corresponding to AGP of Rs.7000 as per prescribed norms. The dispute is only with respect to grant of AGP of ₹9000/-, which was later on found to be given to the petitioner before completion of the requisite number of years as per the notifications dated 14.03.2012 and 18.03.2013. The Hon'ble Supreme Court had been pleased to direct the respondents to consider the claim strictly as per the guidelines dated 14.03.2012 and thus, these guidelines are reproduced hereunder:-

*No.F. 33-7/2011-TS.III
Government of India
Ministry of Human Resource Development
Department of Higher Education*

*Shastri Bhawan, New Delhi,
Dated, the 14th March 2012*

*To
The Directors
of all the National Institutes of Technology (NITs)*

Subject: Promotion of faculty members of NITs under the Career Advancement Scheme (CAS)- issue of necessary guidelines thereof-regarding.

Sir/Madam,

I am directed to refer to the various communications issued by this Ministry on the rules and regulations for promotion under Career Advancement Scheme (CAS) for faculty members of the National Institutes of Technology (NITs). The Ministry has received a number of representations from the faculty members of the NITs on the implementation of CAS. The issue had also been discussed in meetings of the Board of Governors (BoGs) of NITs, wherein concerns have been expressed.

2. In order to resolve the issue, a Committee (under the Chairmanship of Prof. Sunil Kr. Sarangi. Director, NIT-Rourkela) was constituted for removal of pay anomalies. The report submitted by this Committee was examined in the Ministry. It was felt that the instant issue was intricately linked with the Recruitment Rules for faculty posts

3. In order to approach the instant issue from a holistic perspective and in the back-drop of a need for Recruitment Rules, it was considered necessary to examine these two issues afresh. Accordingly, a Special Committee was set up under the Chairmanship of Prof. Sarangi, Director, NIT - Rourkela vide this Ministry's order F.No.24-1/2010-TS.III dated 27.07.2011 and 23.08.2011. The Sarangi Committee after detailed examination of the aforesaid issues submitted its report to Standing Committee of the Council of NITs in its meeting held on 15.11.2011 under the Chairmanship of Dr. R.A. Mashelkar. The Council of NITs in its 3rd meeting held on 18.11.2011 resolved to accept the recommendations of the Sarangi Committee for implementation of CAS & Recruitment Rules of faculty in NITs, as modified by the Standing Committee.

4. Subsequent to the resolution of the NIT Council, representations have been received in the Ministry from several NITs regarding the decisions taken for removal of anomalies, faculty promotions, condition of service, etc.

These representations have since been examined in the Ministry in consultation with certain Chairpersons of the BoGs and Directors of NITs. After due deliberations, the following general and specific guidelines are prescribed:

- a. *Career Advancement Scheme (CAS) is an integral part of a rigid staff structure where the number of posts at any given level is limited. Such a scheme provides an avenue through which a qualified employee climbs to the higher rung of the career ladder, even if there is no vacancy. It, however, will not be treated as mere formality as the purpose of the scheme was for development of merit and not eligibility based promotions.*
- b. *For a faculty member to gain advancement under CAS, he or she must satisfy the approved criteria under three broad heads: (i) a critical number of years in the lower level or designation and/or AGP, (ii) cumulative academic and research output as well as sharing institutional responsibility, and (iii) proficiency and knowledge in one's chosen field of research and teaching. Superior record in all these fronts qualifies a faculty member for advancement to a higher level.*
- c. *CAS has been in operation in Institutions under guidelines provided by AICTE and UGC. It is clarified that those norms and procedures are not applicable to NITS. CAS in NITs will be governed by guidelines and regulations defined by the Ministry of HRD and the Council of NITs.*
- d. *The Directors will be assisted by an in-house Advisory Committee on Faculty Recruitment (ACoFAR), Necessary details of this Committee are provided in the Recruitment Rules for faculty positions.*
- e. *Any distinction between faculty recruited against vacant positions and those promoted under CAS will be abolished completely. It is clarified emphatically that unlike the UGC system, there is no distinction in qualification or achievement*

between internal and external candidates while assessing their suitability for higher post as in the practice prevalent in the IIT system,

- f. All recommendations of the Selection Committee shall take effect only from the date of approval of the recommendations by the Board or any later date as decided by the Board. There shall be no retrospective implementation of recommendations in any case (either financial or notional).*
- g. The constitution of the Selection Committee, the procedure and criteria of selection shall be same for internal and external candidates. There shall not be a separate or special interview for CAS selection; interviews should be conducted along with candidates for direct recruitment against vacancies, if any.*
- h. All Professors irrespective of the mode of selection should start at the basic pay of Rs.43,000/- and AGP of Rs. 10,000/- on or after 01.01.2006.*
- i. When a vacancy occurs in the higher posts and there are serving faculty members with corresponding designation under CAS, they must be adjusted as per the respective seniority list before fresh advertisements are published. For a faculty member, there should be no distinction drawn between a CAS post or an direct selection post. Reservation principles for categories specified (viz. SC/ST/OBC) should be honoured.*
- j. Under special circumstances, if an Institute is looking for new faculty at Professor or Associate Professor level with expertise not available within the Institute, the Board of Governors (on recommendations of the ACoFAR) can earmark a vacant position exclusively for external recruitment.*
- k. Any promotion or enhancement of Pay Band or Grade Pay, already implemented by the*

Institute should be got reviewed/examined by the Board by a duly constituted Selection Committee immediately. Any increment paid over the beginning of the scale of Associate Professor to those Assistant Professors who did not complete 3 years, is to be recovered from future pay.

- l. The orders issued by the Ministry following the 6th Central Pay Commission provides minimum number of years of service to go to a higher AGP or a higher designation, e.g. 3 years from AGP Rs.6,000/- to Rs.7,000/- or from AGP Rs. 7,000/- to AGP Rs.8,000/- etc. These are to be implemented only through the formal selection process. A formal Selection Committee (as per the NIT Act, 2007 and the Statutes of NITs) must examine the candidature and ensure that an enhancement is recommended on the strength of academic contribution expected of a faculty member of an Institution of National Importance*
- m. The minimum duration prescribed by the Pay Commission for eligibility to move to higher AGPs are applicable only to performing faculty delivering quality academic output. A faculty member, apart from satisfying the minimum duration requirement, must meet academic and related standards set out in Recruitment Rules before being considered by the Selection Committee. Actual selection will depend on academic (research, teaching, writing and academic administration) performance*
- n. The eligibility criteria (number of years in lower AGP) should be seen as necessary but not sufficient condition for upgradation of AGP or change of designation. Any upgradation can be done only on recommendation of a duly constituted Selection Committee after formal interview. The process for AGP upgradation should be as serious and dignified as that for change of designation. A candidate must convince the Selection Committee that he or she engaged in scholastic pursuits (teaching, research and management) to deserve an*

upgradation after his / her last advancement.

- o. Existing faculty members without Ph.D. degree must direct (at least 50% of their time during semester days) and during vacations and holidays towards completing their Ph.D. A faculty member without Ph.D. will not earn any enhancement of AGP, unless he acquires a Ph.D. degree. The Directors of NITs may ensure that such faculty members are reasonably free from non academic duties to ensure that their Ph.D. gets completed before they are considered for enhanced AGP. A concerted effort must be made to make all faculty members of all NITs obtain Ph.D. degrees.*
- p. In case of upgradation of AGP of Professors to HAG scale, personal interview shall be dispensed with. The Selection Committees constituted as per the Statutes for the selection of Faculty, shall make their recommendations on the strength of published work, patents, sponsored projects, consultancy, continuing and distance education, Ph.D. guidance and contribution to the administration of the Institute, including service in other comparable institutions if on sanctioned leave, etc. as submitted by the candidates.*
- q. All Institutes shall strive to conduct annual selection processes regularly. In case of Institutes that have not conducted CAS interviews for 3 years or more, Selection Committees may, as a onetime measure, examine scholastic contribution of internal candidates made after the last interview and recommend a salary and AGP they would have earned now, had the Selection Committee met at the appropriate time.*
- r. A copy of the RRs (including the relevant performance criteria for different posts and AGPs) shall be made available to the members of the Selection Committees. Ministry of HRD shall, through an appropriate communication, brief the Visitor's nominees (in the Selection*

Committee) to guide the Selection Committees to adopt norms that are prevalent in other Institutes of National Importance.

s. All NITs will be required to adopt the 4-tier flexible faculty structure (presently operating in IITs, IIMs, IISERs and NITIE) within a time frame to be determined by Council of NITs.

6. In view of the above, it is requested that the above guidelines may be adopted by the respective BoGs so as to undertake promotion under CAS while adhering to the basic principles of Government rules & regulations and relevant instructions. In case, any further difficulties are noticed within one year of the issue of these guidelines, the same may be placed before the Special Committee constituted by MHRD (vide order F.No.33-7/2011-TS.III dated 14th March, 2012) for a decision thereupon.

7. This issues with the approval of the competent authority.

Yours faithfully,

-Sd-

*(Rajesh Singh)
Deputy Secretary (NITs)*

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14.

A perusal of these guidelines clearly reveals that in order to resolve the issue, a committee (under the Chairmanship of Prof. Sunil Kr. Sarangi, Director, NIT-Rourkela) was constituted for removal of pay anomalies and after receipt of the report, the same was examined and thereafter the general and specific guidelines were prescribed. As per these guidelines, the CAS has been in

operation in institutions under guidelines provided by AICTE and UGC. It was clarified that those norms and procedure are not applicable to NITs. CAS in NITs will be governed by the guidelines and regulations defined by the Ministry of HRD and the council of NITs. All recommendations of the Selection Committee shall take effect only from the date of approval of the recommendations. Any promotion or enhancement of pay band of grade pay already implemented by the institute should be reviewed/examined by the Board by a duly constituted Selection Committee immediately. Any increment paid over the beginning of the scale of Associate Professor to those Assistant Professors who did not complete 3 years, is to be recovered from future pay. The orders issued by the Ministry following the 6th Central Pay Commission provides minimum number of years of service to go to a higher AGP or a higher designation, i.e. three years from AGP ₹6000/- to ₹7000/- or from AGP ₹7000/- to AGP ₹8000/- etc.

15. It is not in dispute that as per these guidelines issued by the MHRD, the petitioner was granted higher AGP of ₹8000/- after completion of requisite number of years w.e.f. 01.07.2011. The dispute was only with respect to

grant of AGP of ₹9000/- that too by not following the proper procedure which was later on held to be bad by this Court vide judgment dated 31.07.2018. However, the said decision dated 31.07.2018 was set aside by the Hon'ble Supreme Court on 30.03.2022.

16. The Hon'ble Supreme Court while setting aside the decision passed by the Division Bench of this Court had categorically observed that it is not even disputed by the respondents that the petitioner is not eligible for AGP of ₹9000/-, but the only controversy raised was that he was wrongly granted the said benefit without following the due process of law. The Hon'ble Supreme Court had given the specific directions to consider the claim of the petitioner in terms of the guidelines dated 14.03.2012 and 18.03.2013. The respondents had come to the conclusion that since the petitioner was not having required 3 years before cut off date i.e. 30.04.2013, he is not entitled to the said benefit. Before proceeding further, it would be relevant to quote the guidelines dated 18.03.2013 issued by the MHRD which reads as under:-

*F. No. 33-71/2011-TS-III
Government of India
Ministry of Human Resource Development
Department of Higher Education*

Shastri Bhawan, New Delhi
Dated, the 18th March 2013.

To
The Directors
All NITs

Subject: Removal of anomalies arising out of the implementation of Sarangi Committee recommendations- regarding.

Sir,

This Ministry had received several representations from the faculty/Teacher's Welfare Associations and others consequent upon the implementation of various recommendations of Sarangi Committee on pay anomalies and Career Advancement Scheme. These representations along with the recommendations of Sarangi Committee on various issues relating to guidelines on CAS, Model Recruitment Rules etc. were discussed in the meetings of Special Committee headed by Special Secretary (TE), MHRD held on 10.01.2012 and AS (TE) on 2.1.2013, After detailed deliberations following decisions have been taken:-

i) Career Advancement Scheme (CAS) was in operation in institutions under guidelines provided by AICTE & UGC. However it was made clear that those norms and procedures are not applicable to NITs. As a special case, institutes that have not considered CAS for 3 years or longer were allowed to do so as a one-time measure.

ii) The Ministry reiterates the decision of the NIT Council [3rd meeting, item No.3.17] to adopt Flexible 4-tier faculty cadre structure by way of resolution by the respective Board of Governors of all NITs with a compliance report to be sent by them to the Ministry by 30th April, 2013 As directed vide Ministry's order No. F. No.23-1/2008-TS.II dated 18.08.2009, the Ministry will put up the selection norms for various positions under the 4-tier flexible faculty cadre structure by 30th April, 2013.

iii) The Council of NITs had permitted CAS only as a one-time measure. No permission shall be granted for conducting selection under CAS in any Institute w.e.f.

30.4.2013 as the institutes have to adopt implementation of 4-tier faculty cadre structure by this date after having received one time exemption for CAS

iv) Since Ph. D. has become the basic qualification for entering into the "regular" faculty cadre in any grade, there shall be no Ph. D. increment [for those who are already holding regular faculty positions with lower qualifications) as already decided by the Council [3rd Meeting item No. 3.18]. There shall, however, be no roll back nor recovery of payments already made. The earlier orders from the Ministry dated 09.03.2010 stands modified and is annexed.

v) As provided in the Clause 14(i) of Statutes. "the BoGs have the power to fix on the recommendation of the Selection Committee the initial pay of an incumbent at a stage higher than the minimum of the scale in respect of posts to which the appointment can be made by the Board under the provision of the Act". The Directors who are integral to all Selection Committees, would ensure that initial salaries granted to all new recruits, and to existing faculty entering higher positions, are commensurate with the candidates' experience and performance record and that no new anomaly are created by the recommendations of additional increments made by the Selection Committees. There has to be an effort to eliminate anomalies at the BoG level after exercising the powers as per statute.

vi) When selection committees are called upon to consider HAG scale for senior Professors, only eminent people already in HAG or comparable scale of pay, or fellows of national academics, be appointed to Selection Committees.

vii) Since selection of staff both administrative, technical and academic (except Director NITs) is done by the Selection Committee of NITs with the approval of BoG, the anomalies related to the selection under CAS or otherwise may be dealt at their level of the Board.

2. Directors of all NITs are requested to kindly adhere to these decisions strictly so that anomalies of the employees with regard to pay, recruitment, selection of faculties, HAG scales etc are minimized. Action taken in

this regard may kindly be communicated to this Ministry at the earliest.

Thanking you,

Yours faithfully,
-Sd-
(Rajesh Singh)
Director (T)
Telefax No.23073687

17. A perusal of these guidelines clearly provides that the CAS was in operation in institutions under guidelines provided by the AICTE and UGC, however, the said norms and procedures were not applicable to NITs. The Ministry had adopted flexible 4-tire faculty cadre structure by way of resolution by the respective Board of Governors of all NITs with a compliance report to be sent by them to the Ministry by 30.04.2013. As directed vide Ministry's order dated 18.08.2009, the Ministry will put up the selection norms for various positions under the 4-tire flexible faculty cadre structure by 30.04.2013. The Council of NITs had permitted CAS only as a one time measure. No permission shall be granted for conducting selection under CAS in any institute w.e.f. 30.04.2013 as the institutes have to adopt implementation of 4-tier faculty cadre structure by this date after having received one time exemption for CAS. From the perusal of the aforesaid conditions, it is crystal clear that no

permission shall be granted for conducting selection under CAS in any institution w.e.f. 30.04.2013. It had nowhere observed that the eligibility has to be seen for grant of benefit of CAS before 30.04.2013. If it was so, then, the respondents could have pointed out before the Hon'ble Supreme Court that the petitioner was not eligible. However, the respondents did not dispute the eligibility and had only disputed the procedure adopted by the Director of the respondent No.1 to confer the benefits upon the petitioner. Furthermore, the benefit of CAS was not applicable after 30.04.2013, since the Ministry had taken decision to put up the selection norms for various decisions under the 4-tire faculty cadre structure by 30.04.2013, which has not been put in place even as of now and thus, the petitioner cannot be denied the benefit taking the eligibility before 30.04.2013.

18. Learned senior counsel for the respondents have not disputed the fact that 4-tire faculty cadre structure is not in place. The senior counsel of NITs had argued that the benefit of CAS was only a one-time measure and no permission was held to be granted for conducting selection under CAS in any institute w.e.f. 30.04.2013. However, in

the present case, respondent No.1 has rejected the claim of the petitioner taking the eligibility before 30.04.2013, which is totally wrong, since the guidelines do not prescribe that the eligibility has to be seen before 30.04.2013. No doubt, the guidelines dated 18.03.2013 prescribe that no permission shall be granted for conducting the selection under CAS, but once the Hon'ble Supreme Court has given the direction, it cannot be said that the guidelines will not be made applicable after 30.04.2013. Furthermore, the 4-tire flexible faculty cadre structure has not been put in place by the ministry and thus, also the benefit of CAS cannot be denied to the petitioner once the Hon'ble Supreme Court had given the directions to consider the claim of all the petitioners as per the guidelines dated 14.03.2012 and 18.03.2013.

19. The respondents had not disputed regarding the grant of CAS benefit to the petitioner before the Hon'ble Supreme Court and it was the manner and further before the completion of requisite years. No doubt the Hon'ble Supreme Court while allowing the appeals gave specific directions to consider the claims of the petitioner and other petitioners in the connected petitions in terms of the

guidelines dated 14.03.2012 and 18.03.2013, but it has not been said that in case the petitioner had not completed three years before 30.04.2013, he would not be held entitled to the benefit of AGP of Rs.9000 and thus, the action on the part of the respondents while considering the eligibility/experience before 30.04.2013 is illegal, arbitrary, discriminatory and unconstitutional. Once the respondents have themselves not denied the fact that as per the guidelines dated 18.03.2013 issued by the MHRD, the 4-tire flexible faculty cadre structure has not been implemented/constituted, the petitioner cannot be denied the benefit of AGP of ₹9000/- after three years taking the date of grant as 01.07.2011 and other consequential benefits after completion of the requisite number of years.

20. Mr. Shrawan Dogra, learned senior counsel duly assisted by Mr. Tejasvi Dogra, learned counsel, for the petitioner placed reliance upon the various judgments of the Hon'ble Supreme Court in ***Union of India and others vs. M. Bhaskar and others***, (1996) 4 SCC 416, ***P.S. Sathappan (dead) by LRs vs. Andhra Bank Ltd. and others***, (2004) 11 SCC 672, ***Union of India and another vs. Major Bahadur Singh***, (2006) 1 SCC 368, ***Goan Real***

Estate and Construction Limited and another vs. Union of India Through Secretary, Ministry of Environment and others, (2010) 5 SCC 388 and ***Deepak Bhandari vs. Himachal Pradesh State Industrial Development Corporation Limited***, (2015) 5 SCC 518, to contend that the respondents cannot approbate and reprobate. Once the respondents had admitted before the Hon'ble Supreme Court that the petitioner is eligible for grant of benefit of CAS and the only dispute was with respect to the date of grant of same, it cannot be now claimed that the petitioner was not eligible since he had no requisite experience before cut off date 30.04.2013.

21. As already noticed above, the Hon'ble Supreme Court while quashing the judgment passed by the Division Bench of this Court had specifically observed while parting with the judgment that the respondents have not disputed that the petitioner is not eligible for AGP of ₹9000/- and for re-designation as Associate Professor, therefore, the plea now been taken by the respondents while rejecting the claim of the petitioner that he is not possessing the required experience of three years for moving to AGP of ₹9000/- in terms of the instructions dated 18.03.2013 as on

30.04.2013, is totally illegal, arbitrary, discriminatory and unconstitutional.

22. On the other hand, Mr. Balram Sharma, learned Deputy Solicitor General of India with Mr. Rajeev Sharma, learned counsel for Union of India and Mr. K.D. Shreedhar, learned Senior counsel with Ms. Shreya Chauhan, learned counsel for NIT, had vehemently argued that so far the observations made by the Hon'ble Supreme Court in para No. 31 are concerned, it cannot be read in isolation with other directions issued by the Hon'ble Supreme Court, wherein it was specifically held that the petitioner cannot be said to be granted the benefit of AGP of ₹9000/-, as per the procedure prescribed for CAS in terms of the guidelines dated 14.03.2012 and 18.03.2013, since the same was not granted on the recommendations of the Selection Committee and with the approval of the BoGs, especially when the same procedure was adopted while granting him the benefit of revision of AGP of ₹8000/-. Since the petitioner has not completed three years' service before 30.04.2013, no illegality can be found with the decision taken by the respondents while rejecting the claim of the petitioner. They have placed reliance upon the judgments

of the Hon'ble Apex Court in ***R.N. Gosain vs. Yashpal Dhir***, (1992) 4 SCC 683, ***Joint Action Committee of Air Line Pilots' Association of India (ALPAI) and others vs. Director General of Civil Aviation and others***, (2011) 5 SCC 435, ***State of Punjab and others vs. Dhanjit Singh Sandhu***, (2014) 15 SCC 144 and ***Union of India and others vs. N. Murugesan and others***, (2022) 2 SCC 25, to contend that the judgment as a whole has to be read. There is no dispute regarding the proposition that the judgment as a whole have to be read and the Court cannot pick one line from the sentence to draw an inference.

23. A perusal of the judgments passed by the Hon'ble Supreme Court cited at the bar by the learned counsel for the parties only culled out the circumstances that the parties cannot approbate and reprobate and the judgment as a whole has to be read. In the present case, the Hon'ble Supreme Court before parting with the judgment had specifically noticed that it is not even the case of the respondents that all the petitioners in the petitions are not eligible for AGP of Rs.9000 and for re-designation as Associate Professor, and, therefore, the plea

that the experience had to be seen before 30.04.2013 to grant the benefit of CAS is wrong and untenable in law. If it was so, the respondents could have pointed out this fact before the Hon'ble Supreme Court and the relief could have been denied to the petitioner and other persons in the connected petitions. As already pointed above, even the 4-tire flexible faculty cadre structure has not been put in place. Therefore, keeping in view the above facts, coupled with the admission of the respondents before the Hon'ble Supreme Court that the petitioner and other teachers were eligible to the grant of AGP of ₹9000/-, the action on the part of the respondents to declare them ineligible, since they were not having the required experience of three years before 30.04.2013 is illegal, arbitrary and unconstitutional. Not only this, the Hon'ble Supreme Court had given directions to the respondents to initiate the process to consider the claim of the petitioners by the Selection Committee, however, in the present case, a perusal of the office order dated 25.07.2022, reflects that the entire exercise was taken by the Screening Committee as well as by AcoFAR and the matter was never placed before the Selection Committee, though the recommendations have

been accepted by the BoG, being appointing authority, but the said exercise was to be done by the Selection Committee before referring the matter to the BoG. This is one more flaw having been committed by the respondents while rejecting the claim of the petitioners.

24. Mr. K.D. Shreedhar, learned senior counsel for respondent-NIT supported the decision that even in the past when the petitioner was granted the AGP of ₹8000, the same procedure was adopted and the Screening Committee as well as ACoFAR had examined the eligibility of the petitioners in the petitions and only thereafter the same was approved by the BoG of respondent No.1 and once the same procedure has been adopted while considering the claim of the petitioner, no illegality can be found with the same. No doubt, in the past, the same procedure was followed, however, once the Hon'ble Supreme Court had given the specific directions to consider the claim of the petitioners by the respondents, it has to be done by the Selection Committee only and not by the Screening Committee as well as AcoFAR.

25. Consequently, the present petitions are allowed and the impugned order(s) dated 25.07.2022 in all petitions

are quashed and set aside, with a direction to the respondents to comply with the judgment passed by the Hon'ble Supreme Court in letter and spirit, thereby, not considering the claims before the cut off date fixed as 30.04.2013 for determining the eligibility. The said exercise be undertaken by the respondents within three months from the date of receipt of copy of this judgment and grant the benefits to the petitioners from due date with all consequential benefits. However, there shall be no orders as to cost. Pending application(s), if any, also stand disposed of.

6th May, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**