



2026:AHC:31074

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15762 of 2025

Major Dr. Sanjay Srivastava

.....Petitioner(s)

Versus

Union Of India And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anil Kumar Yadav
Counsel for Respondent(s)	:	Dinesh Varun, A.S.G.I., C.S.C.

Along with :

1. Writ - A No. 15881 of 2025: (Connected C1 Writ Petition)

Col. Vivek Misra (Retd.)

Versus

Union of India and 4 others

with

2. Writ - A No. 17575 of 2024: (Connected C2 Writ Petition)

Atulya Dayal and 9 others

Versus

Union of India and 4 others

with

3. Writ - A No. 20514 of 2024: (Connected C3 Writ Petition)

Capt. (in) Ak Sharma (Retd.)

Versus

Union of India and 4 others

with

4. Writ - A No. 3448 of 2025: (Connected C4 Writ Petition)

Cdr. Naveen Katiyar

Versus

Union of India and 4 others

with

5. Writ - A No. 6166 of 2025: (Connected C5 Writ Petition)

Col. Om Prakash Mishra (Retd.) and 4 others

Versus

Union of India and 3 others

with

6. Writ - A No. 6773 of 2025: (Connected C6 Writ Petition)

Col Kapil Katyal

Versus

Union of India and 3 others

with

7. Writ - A No. 491 of 2026: (Connected C7 Writ Petition)

Vijay Ahlawat

Versus

Union of India and 4 others

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Shri Anil Kumar Yadav along with Shri Mukteswar Mishra, Shri Alok Mishra, Shri Gaurav Sriavatava, Shri P.K. Awasthi, learned counsel for the writ petitioner(s) in the leading and connected writ petitions, Shri S.K. Pal, learned Addl. Chief Standing Counsel who appears for the respondents-State and Shri Dinesh Varun, Shri Ved Mani Tiwari and Shri Jitendra Prakash Yadav, learned counsel(s) who appears for the respondents.

2. Since common question of facts and law are involved in the bunch of writ petitions, thus, with the consent of the parties the writ petitions are being consolidated and decided by a composite order.

3. The counsel for the rival parties have made a joint statement that they do not propose to file any further affidavits thus with the consent of the parties, writ petitions are being decided at the fresh stage.

4. The brief facts of the case as set out in the writ petitions are that the writ petitioner(s) happened to be Zila Sainik Kalyan Evam, Punarvas Adhikari, Bulandshahr appointed on various dates who post completion of 60 years of services, are seeking extension to work till attainment of 65

years of age. The chart showing the appointments/ engagement of the writ petitioner(s) as tabulated hereinunder:

Writ Petitions	Date of Engagement
Leading Writ Petition	20.10.2009
Connected C1 Writ Petition	06.07.2022
Connected C2 Writ Petition	19.03.2021, 06.07.2022, 25.02.2023, 07.02.2020
Connected C3 Writ Petition	01.04.2021
Connected C4 Writ Petition	07.02.2020
Connected C5 Writ Petition	19.03.2021, 06.07.2022, 02.08.2022
Connected C6 Writ Petition	07.03.2020
Connected C7 Writ Petition	05.04.2021

5. According to the writ petitioner(s), on 06.08.2009 guidelines came to be issued by the Government of India, Ministry of Defence providing for employment on tenure basis of the Zila Sainik Kalyan Evam, Punarvas Adhikari, for a period upto 60 years and thereafter on 26.12.2023 in supersession of the earlier guidelines dated 06.08.2009, the services of the appointed Zila Sainik Kalyan Evam, Punarvas Adhikari were to continue upto 60 years of age subject to satisfactory performance of the concerned officers and the tenure of the Director, Sainik Welfare-cum-Secretary, Rajya Sainik Board would be for a period of five years and thereafter on 13.08.2024 in supersession of the earlier guidelines, the tenure of Director, Sainik Welfare-cum-Secretary, Rajya Sainik Board/ Zila Sainik Welfare Officers (Z.S.W.A.) was extended till 65 years. Thus, the writ petitioner(s) who were though appointed prior to the issuance of the guidelines dated 13.08.2024 are entitled to continue till completion of 65 years. In order to substantiate their claim, the writ petitioner(s) seek to

rely upon the Appendix-B Module Agreement Form-II so as to contend that clause-11 of the said Module Agreement which even in fact is statutory in nature gives a protection to the writ petitioner(s) who are working as Zila Sainik Kalyan Evam, Punarvas Adhikari for improvement in the condition of services which may occasion in future.

6. Submission is that once by virtue of the guidelines dated 13.08.2024, the term of the Zila Sainik Kalyan Evam, Punarvas Adhikari stood enhanced from 60 years to 65 years, then the writ petitioner(s) are entitled to continue to writ petitioner upto 65 years, particularly, the guidelines dated 06.08.2009 and 26.12.2013 stood superseded by virtue of the guidelines dated 13.08.2024. Reliance has also been placed upon the judgement of the Hon'ble Apex Court in ***B. Prabhakar Rao and others v. State of Andhra Pradesh and others etc.; 1985 Supp1 SCC 432, Manish Gupta and Another v. President, Jan Bhagidari Samiti & Others; 2022 (15) SCC 540 and Shashthi Dutt Shashtri and others v. State of U.P. and others; 2012 (8) ADJ 156.***

7. Countering the submissions so made by the learned counsel for the writ petitioner(s), the counsel for the respondents have submitted that none of the contentions so raised by the counsel for the writ petitioner(s) has any legs to stand, for the simple reason that the enhancement of the age from 60 to 65 years is by virtue of the guidelines dated 13.08.2024 and the said guidelines provide that the tenure of the Director, Sainik Welfare-cum-Secretary, Rajya Sainik Board/ Zila Sainik Welfare Officers (Z.S.W.A.) shall be for a period of 5 years or 65 years, whichever is earlier, meaning thereby that in case the Zila Sainik Kalyan Evam, Punarvas Adhikari has worked more than five years then he/ she cannot be allowed to continue beyond 65 years, as the condition precedent is that the term would be for a period 5 years or 65 years, whichever is earlier.

8. In nutshell, submission is that though the writ petitioner(s) came to be appointed by virtue of the guidelines dated 06.08.2009 or 26.12.2013 but they are not entitled to get the benefit of extension of the age from 60 to 65 years by virtue of the guidelines dated 13.08.2024.

9. I have heard learned counsel for the parties and gone through the records carefully.

10. Before embarking any inquiry upon the tenability of the arguments of the rival parties, it would be apposite to have a close survey of the guidelines. The relevant extract of the subject guidelines is as under:

"GUIDELINES FOR APPOINTMENT OF OFFICIALS: RAJYA SAINIK BOARD/ZILLA SAINIK BOARD DEPARTMENT SAINIK WELFARE/ DEPARTMENT OF DISTRICT SAINIK WELFARE DATED - 06.08.2009

3. Eligibility Criteria:

All employees will be employed on tenure basis initially for two extendable by two years at a time subject of satisfactory performances but in no case extendible beyond a total of years or 60 years of age whichever is earlier for Group 'C' & 'D' and six years or 60 years of age whichever is earlier for Group 'A' & 'B' posts.

d. The age of the Ex-servicemen shall not be more than 57 years at the time of selection."

SUBJECT: GUIDELINES ON APPOINTMENT OF DIRECTOR, SAINIK WELFARE-CUM-SECRETARY, RAJYA SAINIK BOARD AND ADDITIONAL DIRECTOR. SAINIK WELFARE -CUM- ZILA SAINIK WELFARE OFFICERS IN THE STATES/UTs. DATED - 26.12.2013

3. Eligibility Criteria:

The eligibility criteria for employment of Director, Sainik Welfare-cum-Secretary, Rajya Sainik Boards and Additional Director, Sainik Welfare-cum-Zila Sainik Welfare Officers will be as follows:-

(a) The candidates shall be Ex-servicemen retired/discharged from the Indian Armed Forces or widows/dependents of Ex-servicemen. All officers who are allowed to register themselves with the placement agencies of the three Services and DGR for the purpose of re-employment, in terms of DoPT definition of ESM, shall be considered for inclusion in the panel.

(b) The candidates shall have had a clean record of service and good character.

(c) The age of the Ex-servicemen shall not be more than 57 years for Zila Sainik Welfare Officers (ZSWOs) on the crucial date and not more than 60 years for the post of Director Sainik Welfare-cum-Secretary, RSB.

(d) Services of appointed ZSWOs may continue upto 60 years of age, subject to the satisfactory performance of the concerned officer. The tenure of Director, Sainik welfare-cum-Secretary, RSB will be from a period of 5 years.

(e) 1st January of any vacancy year will be the crucial date for reckoning the eligibility of the applicants for all the posts covered under these guidelines.

SUBJECT - GUIDELINES ON APPOINTMENT OF DIRECTOR, SAINIK WELFARE CUM SECRETARY, RAJYA SAINIK BOARDS

AND ADDITIONAL DIRECTOR, SAINIK WELFARE CUM ZILA SAINIK WELFARE OFFICERS (ZSWOs) IN STATE/UTs DATED - 13.08.2024

3. Eligibility Criteria.

The eligibility criteria for selection and employment of Director, Sainik Welfare-cum-Secretary, Rajya Sainik Boards and Additional Director, Sainik Welfare-cum-Zila Sainik Welfare Officers will be as follows: -

(a) The candidates shall be an Ex-servicemen officer retired/ discharged from the Indian Armed Forces or widows/dependents of Ex-servicemen. All eligible ESM officers (in terms of DoPT definition of ESM), who are allowed to register themselves with the Placement agencies of the three Services and DGR or applied in response to advertisement by States/UTs for the purpose of re-settlement, shall be considered for inclusion in the panel of candidates. The candidates of following ranks shall be considered for the above posts: -

(i) **For Post of Director, DSW/ Secy RSB.** An ESM officer of the rank of Brigadier or of equivalent ranks from Navy or Air Force be selected as Director of Deptt of Sainik Welfare. In case suitable officers of the rank of Brigadier or equivalent are not available, officers of the rank of Colonel or equivalent of Navy and Air Force may be selected.

(ii) **For Post of Addl Director. DSW/ZSWO.** An ESM officer of the rank of Colonel/ Lieutenant Colonel or of equivalent ranks from Navy or Air Force be selected as Additional Director/Zila Sainik Welfare Officer. In case suitable officers of the rank of Colonel/ Lieutenant Colonel or equivalent are not available, officers of the rank of Major or equivalent in Navy and Air Force may be selected.

(iii) In the event of non-availability of suitable officer as per sub-sub Para (i) & (ii) above, dispensation shall be sought from Deptt. of ESM Welfare, MoD through KSB.

(b) The candidates should have had a clean record of previous service and good character.

(c) The age of the candidate shall not be more than 59 years on the crucial date for the post of Zila Sainik Welfare Officer (ZSWOs) and not more than 60 years on the crucial date for the post of Director, Sainik Welfare-cum-Secretary Rajya Sainik Board.

(d) The tenure of Director, Sainik Welfare-cum-Secretary

Rajya Sainik Board/ ZSWO will be for a period of five years or 65 years of age whichever is earlier, subject to the satisfactory performance of the concerned Officer.

(e) 1st January of any vacancy year will be the crucial date for reckoning the eligibility of the applicants for all the posts covered under these guidelines.

(f) The candidates should not have availed any other ESM resettlement or employment benefit from DGR or ECHS or RSB/ZSB or any other Govt employment (under ESM quota). An Undertaking to this effect is to be submitted by the candidates (format placed at Appendix A).

(g) A widow/ dependent of ESM may be considered for these posts in case of non-availability of an ESM officer. They should however meet the following additional criteria to be eligible for the posts: -

(i) For post of Director. DSW/RSB.

(aa) **Age.** Minimum 55 years as on crucial date.

(ab) **Educational Qualification.** Post-graduate from a University recognized by Central State Govt.

(ac) **Experience.** Should have undertaken duties in a post of not less than Director/ equivalent in a Central/ State Govt Organisation/PSU and last drawn pay should have been equivalent to at least Pay Level 13 of 7th Central Pay Commission (CPC).

(ii) For post of ZSWQ.

(aa) **Age.** Minimum 50 years as on crucial date.

(ab) **Educational Qualification.** Graduate from a University recognised by Central/State Govt.

(ac) **Experience.** Should have undertaken duties in a post of not less than Joint Director/ equivalent in a Central State Govt Organisation/ PSUs and last drawn pay should have been equivalent to at least Pay Level 12 as per 7th CPC.

(iii) Preference may be given to widows/ dependents who have experience in Defence organisations.”

11. The relevant extract of the appointment order of the writ petitioner in the leading writ petition is as under:

"उत्तर प्रदेश शासन

सैनिक कल्याण अनुभाग

संख्या-1127/48-2009-12 (17)/99 टी.सी. ॥

लखनऊ: दिनांक: 20 अक्टूबर, 2009,

कार्यालय-ज्ञाप

श्री राज्यपाल महोदय निम्नलिखित अधिकारियों को कार्यभार ग्रहण करने की तिथि से एक वर्ष की संविदा पर जिला सैनिक कल्याण एव पुनर्वास अधिकारी, वेतनमान रु० 15600-39100 (ग्रेड पे-5400) के पद पर स्तम्भ-3 में अंकित जनपद में तैनात करने के आदेश प्रदान करते हैं:-

क्रम सं०	अधिकारी का नाम	तैनाती का जनपद
1	2	3
1.	ले० कर्नल दिलीप कुमार दास	मेरठ
2.	मेजर बीरेन्द्र सिंह तोमर	रायबरेली
3.	कर्नद इन्दु प्रभाकर सिंह	उपनिदेशक, निदेशालय
4.	मेजर राम मोहन पाण्डेय	गोरखपुर
5.	कमाण्डर राजेन्द्र कुमार	हाथरस
6.	कर्नल कन्हैया लाल पाठक	इलाहाबाद
7.	मेजर विजय पाल सिंह	मथुरा
8.	मेजर संजय श्रीवास्तव	मुजफ्फर नगर
9.	मेजर विनोद कुमार सिंह	बिजनौर
10.	विंग कमाण्डर महेश चन्द्र पाण्डेय	रामपुर
11.	ले० कर्नल अरविन्द कुमार	अलीगढ़

12.	कर्नल अनिल कुमार	मुरादाबाद
13.	मेजर शिव विजय सिंह	कानपुर देहात
14.	मेजर रामेश्वर यादव	देवरिया

2-श्री राज्यपाल महोदय उक्त अधिकारियों की सेवा शर्तें कार्यभार ग्रहण करने की तिथि से निम्न प्रकार निर्धारित करते हैं:-

(1) उक्त पुनर्नियुक्ति कार्यभार ग्रहण करने की तिथि से एक वर्ष की संविदा पर होगी, बशर्तें श्री राज्यपाल महोदय द्वारा एक माह की नोटिस अथवा उसके स्थान पर एक माह का वेतन देकर या अधिकारी द्वारा एक माह की नोटिस देने पर उसके पूर्व समाप्त न कर दी जाय।

(2) उक्त अवधि के बाद इनकी संविदा न बढ़ाये जाने की दशा में उक्त संविदा स्वतः समाप्त समझी जायेगी।

(3) पुनर्नियुक्ति की अवधि में उक्त अधिकारियों का वेतन स्वीकृत पदों के वेतनमान के आधार पर स्वीकृत नहीं किया जायेगा, बल्कि नियुक्ति की अवधि ने अधिकारियों को उनके द्वारा सेना से सेवानिवृत्ति के समय प्राप्त वेतन की धनराशि में से उनकी शुद्ध पेंशन (राशिकरण के पूर्व) घटाकर प्राप्त शेष में उपेक्षित पेंशन को जोड़कर निर्धारित नियत वेतन अनुमन्य होगा। इन अधिकारियों की शुद्ध पेंशन के बारे में जानकारी महालेखाकार, उत्तर प्रदेश द्वारा सीधे कंट्रोलर आफ डिफेन्स एकाउन्ट्स पेंशन, इलाहाबाद से प्राप्त की जायेगी। इन अधिकारियों की पेंशन भी सेना से प्राप्त होती रहेगी। इनको पुनर्नियोजित पद पर अनुमन्य शुद्ध वेतन तथा शुद्ध पेंशन के योग पर भत्ते निम्न प्रतिबन्धों के साथ देय होंगे:-

(क) वेतन निर्धारण में सैनिक पेंशन की उपेक्षित धनराशि पर कोई भी भत्ता अनुमन्य नहीं होगा।

(ख) यदि शुद्ध वेतन वन शुद्ध पेंशन का योग पुनर्नियोजित पद के वेतनमान के अधिकतम से अधिक या अन्तिम आहरित वेतन से अधिक हो जाता है, तो मंहगाई एवं अन्य भत्ते वेतनमान के अधिकतम या अन्तिम आहरित वेतन, जो भी कम हो, पर देय होंगे।

(4) उक्त सभी अधिकारी प्रथम श्रेणी के राजपत्रित अधिकारी होंगे। उक्त पद पर कार्यभार ग्रहण करने के पश्चात् राजकीय कार्यों से संबंधित यात्राओं के लिए उन्हें राज्य सरकार के कर्मचारियों पर लागू नियमों के अनुसार यात्रा भत्ता देय होगा, परन्तु पद ग्रहण तथा नियुक्ति की समाप्ति के समय उन्हें कोई यात्रा भत्ता देय नहीं होगा।

(5) वित्तीय हस्त पुस्तिका खण्ड-2, भाग-2-4 के सहायक नियम-157 (ए) के अधीन तथा तदविषयक समय-समय पर निर्गत सामान्य आदेशों के अनुसार उन्हें अस्थायी कर्मचारियों के अनुसार अवकाश देय होगा।

(6) संविदा पर नियुक्त इन अधिकारियों का स्टेट्स अस्थायी राज्य कर्मचारियों की तरह होगा।

(7) अन्य मामलो में भी उन्हें अस्थायी कर्मचारियों की भांति माना जायेगा।

(8) उपर्युक्त शर्तों के अधीन अधिकारी को वित्तीय हस्त पुस्तिका खण्ड-2 भाग-2-4 के परिशिष्ट-बी में दिये गये अनुबन्ध पत्र का निष्पादन कार्यभार ग्रहण करने के 06 माह के अन्दर कर लिया जायेगा।

(9) नियुक्त किये गये अधिकारी को यदि उपर्युक्त शर्तें स्वीकार हो तो

(

प्रेम नारायण)
प्रमुख सचिव"

Appendix 'B'

Model Agreement Form No. II

"Clause-11. Notwithstanding anything hereinbefore contained the party of the first part shall unless otherwise decided by the Government be entitled to receive in whole or in part as may be authorised by the Government the benefits of any Improvement that may be sanctioned by the Government subsequent to the date of these presents in the terms and conditions of service of members of the branch of the public service to which he may for the time being belong and the decision of the Government in respect of such improvement in the terms and conditions of service of the party of the first part shall operate so as to modify to that extent the provisions of these presents."

12. Facts are not an issue, it is not in dispute that the writ petitioner(s) herein were engaged as Zila Sainik Kalyan Evam, Punarvas Adhikari on various dates, the tenure was initially for two extendable period of two years subject to satisfactory performance, though at the time when they were engaged as Zila Sainik Kalyan Evam, Punarvas Adhikari, the guidelines dated 06.08.2009 provided employment on tenure basis initially for two extendable periods of two years at a time subject to satisfactory performance, but in no case is beyond 60 years. The said guidelines dated 06.08.2009 came to be superseded by virtue of the guidelines dated 26.12.2013, according to which, the services of the appointed Zila Sainik Kalyan Evam, Punarvas Adhikari were to continue upto 60 years subject to satisfactory performance by the concerned officers in that regard. However, by virtue of the guidelines dated 13.08.2024, the earlier guidelines dated 06.08.2009 on 26.12.2013 came to be superseded and now the term of the Zila Sainik Kalyan Evam, Punarvas Adhikari was to be for a period of 5 years or 65 years of age, whichever is earlier, subject to satisfactory performance of the concerned officers.

13. Though the writ petitioner(s) claimed that the writ petitioner(s) were entitled to get the benefit of the extension of the term as provided in the guidelines dated 13.08.2024 but the respondents dispute the same. The petitioner(s) claimed that in view of clause-11 of the Appendix-B Module Agreement Form-II, the petitioner(s) are entitled to any improvement in the service condition which may occasion from time to time.

14. In order to address the said issue, what would be relevant, would be the language employed in the guidelines dated 13.08.2024. Plainly and

simply, the guidelines dated 13.08.2024 supersede the earlier guidelines and Clause 3(d) which deals with the eligibility criteria pertaining to the tenure, it is provided that the tenure of the Zila Sainik Kalyan Evam Punarvas Adhikari would be for five years or 65 years, whichever is earlier. Meaning thereby that it is not automatic that a Zila Sainik Kalyan Evam Punarvas Adhikari who is already working post completion of 60 years is to be automatically allowed to continue till the attainment of the 65 years, however, rather to the contrary, the position is converse that the tenure should not be more than five years.

15. Importantly, in the present case, the writ petitioner(s) were already working as Zila Sainik Kalyan Evam Punarvas Adhikari from the respective dates of their appointment and they had worked for more than 5 years, thus they are entitled to continue beyond 60 years, particularly, when they have completed more than 5 years which denudes their claim to continue till 65 years in view of the language employed therein.

16. In a recent decision, the Hon'ble Apex Court in ***Prakasan M.P. and others v. State of Kerala and another; AIR 2023 SC 4059*** had the occasion to consider the right of an employee seeking enhancement of the age of superannuated and it was observed as under:

"12. In a somewhat comparable case on facts that arose in New Okhla Industrial Development Authority and Another vs. B.D. Singhal and Others, the appellant - Authority (NOIDA) had resolved to recommend enhancement of the age of superannuation of its employees from 58 to 60 years. The said proposal, when sent to the State Government for prior approval, was turned down. This led to the aggrieved employees filing a writ petition before the High Court of Judicature at Allahabad which was allowed and NOIDA was directed to consider the matter afresh and forward its proposal to the State Government for its approval. It was left open to the State Government to consider giving effect to the increase in the age of retirement from the date when NOIDA had resolved to bear the financial burden for the increase of age or from such date as it may consider expedient. This time, the State Government acceded to the proposal received from NOIDA for enhancing the age of retirement to 60 years, but made the said decision prospective. Aggrieved by the refusal of the State Government to make the decision retrospective, the respondents amended the pending writ petition which was allowed by the High Court that struck down the provision of making the decision prospective and directed that such of the respondents who had retired from service by then, would be deemed to have worked till the extended age of retirement, with all consequential benefits. Challenging the said decision, the State of Uttar Pradesh filed a Petition for Special Leave to Appeal under Article 136 of the Constitution of India, which was allowed by this Court with the following observations :

"22. Whether the age of superannuation should be enhanced is a matter of policy. If a decision has been taken to enhance the

age of superannuation, the date with effect from which the enhancement should be made falls within the realm of policy. The High Court in ordering that the decision of the State government to accept the proposal to enhance the age of superannuation must date back to 29 June 2002 has evidently lost sight of the above factual background, more specifically (i) the rejection of the original proposal on 22 September 2009; and (ii) the judgment of the Division Bench dated 17 January 2012 refusing to set aside the order rejecting the proposal on 22 September 2009 which has attained finality. But there is a more fundamental objection to the basis of the decision of the High Court. The infirmity in the judgment lies in the fact that the High Court has trenched upon the realm of policy making and has assumed to itself, jurisdiction over a matter which lies in the domain of the executive. Whether the age of superannuation should be increased and if so, the date from which this should be effected is a matter of policy into which the High Court ought not to have entered.

xxx xxx xxx

24. Whether the decision to increase the age of superannuation should date back to the resolution passed by NOIDA or should be made effective from the date of the approval by the State government was a matter for the State government to decide. Ultimately, in drawing every cut-off, some employees would stand on one side of the line while the others would be positioned otherwise. This element of hardship cannot be a ground for the High Court to hold that the decision was arbitrary. When the State government originally decided to increase the age of superannuation of its own employees from fifty-eight to sixty years on 28 November 2001, it had left the public sector corporations to take a decision based on the financial impact which would result if they were to increase the age of superannuation for their own employees.

25. From time to time the authorities of the State took a decision bearing upon the exigencies of service prevailing in each organisation..... The State government had evidently determined that it was for each organisation to consider and determine the impact of the financial burden, and based on that the organisation was to submit a proposal for the approval of the government.

26. The High Court's observation that the Government order on 30 September 2012 increasing the age of superannuation prospectively is arbitrary seems to be based on the premise that the respondent-employees have a vested right to the increase in the age of retirement on the passage of the resolution by NOIDA. However, Section 19 of the Act stipulates that regulations - which would include amendments as in this case - will require the previous approval of the State Government. The employees will have a vested right to the increased age of superannuation only after the service regulations are modified upon approval of the State

Government, and from such date as maybe prescribed by the Government. Para 1(ii) of the government order issued on 30 September 2012 clearly and in unambiguous terms states that the order shall come into force prospectively. The government order can be given retrospective application only if expressly stated or inferred through necessary implication. Therefore, the respondent- employees could not have claimed a vested right that the enhancement in the age of retirement should be made effective from the date on which NOIDA had resolved to submit a proposal for the approval of the government."

(Emphasis added)"

17. So far as the reliance has been placed upon clause-11 of the Appendix-B Module Agreement Form-II being the part and the parcel of the appointment order which gives benefits of the change in the service condition is concerned, the same is of no aid or assistance so the writ petitioner(s), particularly, when the benefits cannot be accorded and mere asking, however, they are subject to the terms and conditions so mentioned in the guidelines providing for extension of tenure.

18. Even otherwise this Court in exercise of jurisdiction under Article 226 of the Constitution of India cannot by a judicial fiat direct the respondents to violate their own provisions.

19. So much so Clause-3(d) of the guidelines dated 13.08.2024 which provides for 5 years or 65 years whichever is earlier has not been questioned.

20. As regard, the reliance placed upon the judgment of the Hon'ble Apex Court in **B. Prabhakar Rao and others (supra)**, the same is not applicable as it is distinguishable. As here in the present case, there is no irrational classification.

21. So much so the judgment in **Manish Gupta and Another (supra)** is also distinguishable even the reliance placed upon in **Shashthi Dutt Shashtri and others (supra)**, is also misconceived.

22. Considering the case from the four corners of law and irresistible conclusions stand drawn that the writ petitioner(s) have miserably failed to show any illegality committed by the respondents in not permitting the writ petitioner(s) to continue till 65 years.

22. Accordingly, the writ petitions stand **rejected**.

February 10, 2026

Ashu

(Vikas Budhwar,J.)