



A.F.R.

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LKO:6970

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CIVIL MISC REVIEW APPLICATION No. - 102 of 2023

Kailash Nath and 112 others

.....Applicant(s)

Versus

State of U.P. Thru. Prin. Secy. Deptt. Appointment Personnel Lko and 4
others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Lalta Prasad Misra,
Counsel for Opposite Party(s)	:	

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Dr. L.P. Misra, learned counsel for the applicants alongwith Sri Tarun Mishra, Advocate and Sri Pankaj Khare, learned counsel for the respondents.

2. This review application has been filed against the order dated 03.08.2023 passed in Writ - A No. 962 of 2010 - "Ram Kishan and Ors. vs State of UP".

3. The grounds taken by the petitioners are as follows :

(i) while passing the judgment under review the relief clauses (f) & (h), though noted in para-2 of the impugned judgment have escaped the consideration of this Hon'ble Court which has resulted in miscarriage of justice to the Petitioners.

(ii) the petitioners were absorbed as class IV employees in the establishment of U.P. Civil Secretariat vide order dated 04.04.2012 (Annexure 47 to the writ petition brought on record through amendment) in consequence of the "U.P. Absorption of Surplus Employees of Upton India Ltd. in Government Service Rules 2011" enforced w.e.f.

20.12.2011 and the consequential Government order dated 20.12.2011 notified vide notification dated 20.12.2011 issued in exercise of empowerment flowing from these Rules specifying the procedure and conditions of absorption but the judgement under review has proceeded on the assumption as if the writ petitioners were yet to be absorbed.

(iii) the government order issued vide gazette notification dated 20.12.2011 in exercise of the powers under "U.P. Absorption of Surplus Employees of Uptron India Ltd. in Government Service Rules 2011" hereinafter referred to 2011, Rules specifically provided that the employees of the erstwhile Uptron India Ltd. were to be absorbed in the service of the Government department concerned by treating them as the employees having been working in the concerned Government department where they were to be absorbed-"उस विभाग में कार्यरत मानते हुए समायोजित करने के लिए सम्बन्धित विभाग नियमावली को अपने यहां अंगीकृत (adopt) कर ले।"

Accordingly, the Absorption of the Petitioners ought to have been made by treating them as if they have been working in the department of U.P. Civil Secretariat. That is to say, all the service rendered by the Petitioners in the erstwhile service of Uptron, which undisputedly was regular service and the service rendered by them as a major of adjustment in U.P. Civil Secretariat against the duly sanctioned post up to the date of their absorption ought to have been added towards their period of service while fixing and re-fixing their salary as a result of absorption in the U.P. Civil Secretariat together with all other service benefits.

(iv) the "U.P. Absorption of Surplus Employees of Uptron India Ltd. in Government Service Rules 2011" vide Rule 3(1) have been given an overriding effect over the operative service rules prevalent at the point of time of enforcement of these Rules and this Rule 3(1) further envisages that the relevant service rules shall be deemed to be superseded to the extent of the provisions contemplated in the notified Government order under Rule 3(1). Thus it is the case of the Petitioners that once it is

provided in the Government Order dated 20.12.2011 issued in furtherance of 2011, Rules that for the purpose of Absorption the Petitioners sought to be absorbed shall be treated as if they have been working in the establishment of U.P. Civil Secretariat itself and, therefore, all the services rendered by them in the establishment of the erstwhile U.P. Uptron India Ltd. and U.P. Civil Secretariat before absorption should be treated as service rendered in the establishment of U.P. Civil Secretariat for all service benefits.

(v) the petitioners have been subjected to discrimination vis a vis the other retrenched employees of Uptron absorbed much before 01.04.2005 in various departments/ Government owned corporations etc. by protecting their last pay drawn in Uptron.

4. Factual matrix of the case is that the petitioners were initially appointed as class IV employees on regular basis w.e.f. the date of their joining ranging from the period 18.12.1978 to 16.10.1999 on different dates. When UP Uptron India Ltd. was declared a sick unit, the state government vide policy decision directed to adjust the surplus employees of UP Uptron India Ltd. and post them as Class IV employees in the UP Civil Secretariat against the regular sanctioned posts. It was provided that the employees of sick unit shall be paid salary by the sick unit on such salary amount being made available to the sick unit by the concerned department.

5. The demand of petitioners for absorption was initially rejected vide order dated 11.05.2010. However, during the pendency of writ petition, the petitioners were absorbed vide order dated 20.12.2011.

6. Thereafter, Writ - A No. 962 of 2010 preferred by petitioners was disposed of vide impugned order dated 03.08.2023 which is as follows:

"In the aforesaid writ petition, this Court issued direction to the State-respondents to treat the petitioners to be absorbed employees of the Basic Education Department on a suitable post in terms of the notified order dated 20.12.2011 and to pay them their salary of their respective posts w.e.f. the respective dates. It was further ordered that both the petitioners shall be allowed to join on suitable posts forthwith in the Department and they shall be

allowed to continue in service till they attain the age of superannuation i.e. at the age of 60 years and be also paid salary"

7. Thereafter, petitioners filed the present review application against the impugned order dated 03.08.2023 on the ground that while passing the judgement under review the relief clauses (f) & (h), though noted in para-2 of the impugned judgment have escaped the consideration of this Court which has resulted in miscarriage of justice to the petitioners.

8. In support of his submission, he placed reliance upon the following judgments :-

(i) Kantaru Rajeevaru Vs. Indian Young Lawyers Association and others [2020 (9) SCC 121]. Relevant paragraph 27 is being quoted below :-

"27. No matter is beyond the jurisdiction of a superior court of record unless it is expressly shown to be so, under the provisions of the Constitution. In the absence of any express provision in the Constitution, this Court being a superior court of record has jurisdiction in every matter and if there is any doubt, the Court has power to determine its jurisdiction [Delhi Judicial Service Assn. v. State of Gujarat, (1991) 4 SCC 406] . It is useful to reproduce from Halsbury's Laws of England, 4th Edn., Vol. 10, Para 713, relied upon in the aforementioned judgments, which states as follows:

"713. ... Prima facie, no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular court."

Undoubtedly there is no bar on the exercise of jurisdiction for referring questions of law in a pending review petition. Therefore, the reference cannot be said to be vitiated for lack of jurisdiction. This Court has acted well within its power in making the reference."

(ii) S. Nagraj and other Vs. State of Karnataka and another [1993 Supp (4) SCC 595]. Relevant paragraphs 18 and 19 are being quoted below :-

"18. Justice is a virtue which transcends all barriers. Neither the rules of procedure nor technicalities of law can stand in its way. The order of the Court should not be prejudicial to anyone.

Rule of stare decisis is adhered for consistency but it is not as inflexible in Administrative Law as in Public Law. Even the law bends before justice. Entire concept of writ jurisdiction exercised by the higher courts is founded on equity and fairness. If the Court finds that the order was passed under a mistake and it would not have exercised the jurisdiction but for the erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice then it cannot on any principle be precluded from rectifying the error. Mistake is accepted as valid reason to recall an order. Difference lies in the nature of mistake and scope of rectification, depending on if it is of fact or law. But the root from which the power flows is the anxiety to avoid injustice. It is either statutory or inherent. The latter is available where the mistake is of the Court. In Administrative Law the scope is still wider. Technicalities apart if the Court is satisfied of the injustice then it is its constitutional and legal obligation to set it right by recalling its order. Here as explained, the Bench of which one of us (Sahai, J.) was a member did commit an error in placing all the stipendiary graduates in the scale of First Division Assistants due to State's failure to bring correct facts on record. But that obviously cannot stand in the way of the Court correcting its mistake. Such inequitable consequences as have surfaced now due to vague affidavit filed by the State cannot be permitted to continue.

*19. Review literally and even judicially means re-examination or re-consideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no rules were framed by the highest court indicating the circumstances in which it could rectify its order the courts culled out such power to avoid abuse of process or miscarriage of justice. In *Raja Prithwi Chand Lal Choudhury v. Sukhraj Rai* [AIR 1941 FC 1, 2 : 1940 FCR 78 : (1941) 1 MLJ Supp 45] the Court observed that even though no rules had been framed permitting the highest Court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in *Rajunder Narain Rae v. Bijai Govind Singh* [(1836) 1 Moo PC 117 : 2 MIA 181 : 1 Sar 175] that an order made by the Court was final and could not be altered:*

“... nevertheless, if by misprision in embodying the judgments, by errors have been introduced, these

Courts possess, by Common law, the same power which the Courts of record and statute have of rectifying the mistakes which have crept in The House of Lords exercises a similar power of rectifying mistakes made in drawing up its own judgments, and this Court must possess the same authority. The Lords have however gone a step further, and have corrected mistakes introduced through inadvertence in the details of judgments; or have supplied manifest defects in order to enable the decrees to be enforced, or have added explanatory matter, or have reconciled inconsistencies."

Basis for exercise of the power was stated in the same decision as under:

"It is impossible to doubt that the indulgence extended in such cases is mainly owing to the natural desire prevailing to prevent irremediable injustice being done by a Court of last resort, where by some accident, without any blame, the party has not been heard and an order has been inadvertently made as if the party had been heard."

Rectification of an order thus stems from the fundamental principle that justice is above all. It is exercised to remove the error and not for disturbing finality. When the Constitution was framed the substantive power to rectify or recall the order passed by this Court was specifically provided by Article 137 of the Constitution. Our Constitution-makers who had the practical wisdom to visualise the efficacy of such provision expressly conferred the substantive power to review any judgment or order by Article 137 of the Constitution. And clause (c) of Article 145 permitted this Court to frame rules as to the conditions subject to which any judgment or order may be reviewed. In exercise of this power Order XL had been framed empowering this Court to review an order in civil proceedings on grounds analogous to Order XLVII Rule 1 of the Civil Procedure Code. The expression, 'for any other sufficient reason' in the clause has been given an expanded meaning and a decree or order passed under misapprehension of true state of circumstances has been held to be sufficient ground to exercise the power. Apart from Order XL Rule 1 of the Supreme Court Rules this Court has the inherent power to make such orders as may be necessary in the interest of justice or to prevent the abuse of process of Court. The Court is thus not precluded from recalling or reviewing its own order if it is satisfied that it is necessary to do so for sake of justice."

(iii) **K.H. Nazar Vs. Mathew K. Jacob and others [2020 (14) SCC 126]**. Relevant paragraphs 11 to 14 are being quoted below :-

"11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335] .

12. In the words of O. Chinnappa Reddy, J. [Workmen v. American Express International Banking Corpn., (1985) 4 SCC 71 : 1985 SCC (L&S) 940] , the principles of statutory construction of beneficial legislation are as follows: (Workmen case [Workmen v. American Express International Banking Corpn., (1985) 4 SCC 71 : 1985 SCC (L&S) 940] , SCC p. 76, para 4)

"4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as 'social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognised and reduced. Judges ought to be more concerned with the "colour", the "content" and the "context" of such statutes (we have borrowed the words from Lord Wilberforce's opinion in *Prenn v. Simmonds* [Prenn v. Simmonds, (1971) 1 WLR 1381 : (1971) 3 All ER 237 (HL)]). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, *Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court* [Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court, (1980) 4 SCC 443 : 1981 SCC (L&S) 16] , we had occasion to say: (*Surendra Kumar Verma case* [Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court, (1980) 4 SCC 443 : 1981 SCC (L&S) 16] , SCC p. 447, para 6)

'6. ... Semantic luxuries are misplaced in the interpretation of "bread and butter" statutes.

Welfare statutes must, of necessity, receive a broad interpretation. Where legislation is designed to give relief against certain kinds of mischief, the court is not to make inroads by making etymological excursions.’ ”

13. *While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified and then a construction that suppresses the problem and advances the remedy should be adopted. [Indian Performing Rights Society Ltd. v. Sanjay Dalia, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] . It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48 : (2008) 237 CLR 285] , Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly.*

14. *There is no dispute that the Act is a beneficial legislation. The extent of land that can be held is fixed and any land in excess has to be surrendered to the Government, which is distributed in favour of the landless people in the State. The interpretation of the provisions of the Act should be in a manner which promote the said object."*

(iv) Urmila Dixit Vs. Sunil Sharan Dixit and others [2025 SCC

OnLine SC 2]. Relevant paragraphs 8 to 14 are being quoted below :-

"8. To answer the issue at hand, it is imperative for this Court to discuss the rules of interpretation to be applied when interpreting a beneficial legislation akin to the Act at hand. While dealing with certain provisions of the Motor Vehicles Act, this Court in Brahampal v. National Insurance Co. [Brahampal v. National Insurance Co., (2021) 6 SCC 512 : (2021) 3 SCC (Civ) 693 : (2021) 3 SCC (Cri) 67] , observed that a beneficial legislation must receive a liberal construction in consonance with the objectives that the Act concerned seeks to serve.

9. This Court in K.H. Nazar v. Mathew K. Jacob [K.H. Nazar v. Mathew K. Jacob, (2020) 14 SCC

126] reiterated the above expositions and stated that : (SCC pp. 135-36, paras 11 & 13)

“11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation. [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335]

13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances the remedy should be adopted. [Indian Performing Rights Society Ltd. v. Sanjay Dalia, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction. [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48 : (2008) 237 CLR 285] , Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly.”

(emphasis supplied)

10. More recently, in Kozyflex Mattresses (P) Ltd. v. SBI General Insurance Co. Ltd. [Kozyflex Mattresses (P) Ltd. v. SBI General Insurance Co. Ltd., (2024) 7 SCC 140 : (2024) 3 SCC (Civ) 809] , this Court held the definition of a consumer under the Consumer Protection Act, 1986 to include a company or corporate person in view of the beneficial purpose of the Act.

11. While considering the provisions of the Medical Termination of Pregnancy Act, this Court in X2 v.

State (NCT of Delhi) [X2 v. State (NCT of Delhi), (2023) 9 SCC 433] , reiterated that interpretation of the provisions of a beneficial legislation must be in line with a purposive construction, keeping in mind the legislative purpose. Furthermore, it was stated that beneficial legislation must be interpreted in favour of the beneficiaries when it is possible to take two views.

12. It is in the above background that we must proceed to examine the Act. The Statement of Objects and Reasons of the Act indicates the purpose behind the enactment, as relied upon by this Court in S. Vanitha v. Commr. [S. Vanitha v. Commr., (2021) 15 SCC 730] , is:

“Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.”

13. The Preamble of the Act states that it is intended towards more effective provisions for maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution.

14. Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be interpreted and a construction that advances the remedies of the Act must be adopted.”

(v) State of Himachal Pradesh Vs. Nirmal Kaur and others [2022 LiveLaw (SC) 866]. Relevant paragraphs 79 and 80 are being quoted below :-

"79. Recently, a three-Judges Bench of this Court in the case of Hira Singh v. Union of India¹⁶, while answering a reference with regard to the correctness of the view taken by this Court in the case of E. Micheal Raj v. Narcotics Control Bureau¹⁷, to the effect that, when any narcotic drug

or psychotropic substance is found mixed with one or more neutral substance for the purpose of imposition of punishment, it is the content of narcotic drug or psychotropic substance which would be taken into consideration, the Court held thus:

“10.1. In Directorate of Enforcement v. Deepak Mahajan [Directorate of Enforcement v. Deepak Mahajan, (1994) 3 SCC 440 : 1994 SCC (Cri) 785], it is observed by this Court that every law is designed to further ends of justice but not to frustrate on the mere technicalities. It is further observed that though the intention of the Court is only to expound the law and not to legislate, nonetheless the legislature cannot be asked to sit to resolve the difficulties in the implementation of its intention and the spirit of the law. It is the duty of the Court to mould or creatively interpret the legislation by liberally interpreting the statute. In the said decision this Court has also quoted (at SCC pp. 453-54, para 25) the following passage in Maxwell on Interpretation of Statutes, 10th Edn. p. 229:

“25. ... ‘Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. ... Where the main object and intention of a statute are clear, it must not be reduced to a nullity by the draftsman's unskilfulness or ignorance of the law, except in a case of necessity, or the absolute intractability of the language used.’”

Thereafter, it is further observed that to winch up the legislative intent, it is permissible for courts to

take into account the ostensible purpose and object and the real legislative intent. Otherwise, a bare mechanical interpretation of the words and application of the legislative intent devoid of concept of purpose and object will render the legislature inane. It is further observed that in given circumstances, it is permissible for courts to have functional approaches and look into the legislative intention and sometimes it may be even necessary to go behind the words and enactment and take other factors into consideration to give effect to the legislative intention and to the purpose and spirit of the enactment so that no absurdity or practical inconvenience may result and the legislative exercise and its scope and object may not become futile."

[emphasis supplied]

80. It could thus be seen that it is more than a settled principle of law that, while interpreting the provisions of the statute, the court has to prefer an interpretation which advances the purpose of the statute."

(vi) New Delhi Municipal Council Vs. Minosha India Ltd. [(2022) 8 SCC 384]. Relevant paragraph 26 is being quoted under :-

"26. The principles of interpretation of statutes have been invoked in the varying contexts and are to be applied on the basis of the facts of the case, the nature of the law and a host of principles. Undoubtedly, the golden rule of interpretation is the interpretation which thrives on the ordinary meaning of the words as they are used. This principle of literal interpretation of statutes has over a period of time indeed yielded to an interpretation which is purposive or which seeks to accommodate the object of the law giver. Suffice it to say that if the words of a statute are not ambiguous, the scope of interpretation dwindles. It

is not for the Court to rewrite a statute. There may be occasions where the Court may even go to the extent of leaving out a word or not giving effect to certain part in order to give full meaning to the law by way of gleaning and giving effect to the intention of the legislature. The principle that literal meaning must be accepted is undoubtedly subject to the principle that it will make way when such interpretation will lead to an absurdity or grave injustice which a law giver could not have contemplated."

(vii) Government of India and other Vs. ISRO Drivers Association [(2020) 8 SCC 657]. Relevant paragraph 31 is being quoted below :-

"31.The Latin maxim noscitur a sociis states this contextual principle, whereby a word or phrase is not to be construed as if it stood alone but in the light of its surroundings —Bennion on Statutory Interpretation, Fifth Edn. Attorney General v. Prince Ernest Augustus of Hanover [Attorney General v. Prince Ernest Augustus of Hanover, 1957 AC 436 : (1957) 2 WLR 1 (HL)] , Viscount Simonds has opined that “a word or phrase in an enactment must always be construed in the light of the surrounding text....words and particularly general words, cannot be read in isolation, their colour and their content are derived from their context."

(viii) V. Prakash alias G.N.V. Prakash Vs. P.S. Govindaswamy Naidu and sons' Charities and others [(2022) 9 SCC 36]. Relevant paragraphs 75 and 76 are being quoted below :-

"75. While not approving the approach of the High Court in this matter, particularly in relation to the construction of the terms of SoA, we may observe a little further. The words and expressions in the deeds or statutes are preferably provided their contextual and contemporary meaning. In this process of construction, the words and expressions are not viewed as fossil remains; rather they retain the organic character and do take their meaning from all the surroundings. For that matter, a

particular word like “resides” could carry multiple different connotations with reference to the time or period of its interpretation; and connotations may be different than those understood about 100 years back. When a particular word or expression in any document is to be operated and applied, all the relevant characteristics available in praesenti have to be kept in view for a meaningful and purposeful construction. Of course, that meaning should not do violence to the real intent and purpose.

76. In order to buttress its reasoning, the High Court has even gone to the extent of suggesting a proposition in para 26 of the impugned judgment [P.S. Govindaswamy Naidu & Sons Charities v. V. Prakash, 2021 SCC OnLine Mad 14032] which, to say the least, does not stand to logic. The High Court has observed that if the construction of sentence or words was to be made with reference to the present-day scenario, sometime later some Judge might think that restricting the trusteeship to male member was against gender justice and it should be read to include female too. With respect, we are unable to endorse this approach. The hypothesis as suggested by the High Court is of the process of altering the term of a document. The question at hand is of assigning a logical, contextual and contemporary meaning to a particular expression. It is one thing to alter the term of a document and cannot be equated with the process of assigning a purposeful meaning to a particular expression. In the true rules of construction, the words are always assigned the meaning which stand in tandem with their context, while assuring that the assigned meaning serves the purpose."

(ix) Geetha V.M. and others Vs. Rethnasenan K. and others [(2025) 1

SCR]. Relevant paragraph 48 is being quoted below :-

"48. In the fact situation of the present case, the judgment of Full Bench of the Punjab and Haryana High Court in the case of 'Kartar Singh v. State of Punjab, 1989 SCC OnLine P&H 482', is relevant. The Full Bench in a similar situation while dealing with the issue of seniority of Patwaris working in the State's Consolidation Department who were absorbed into the Revenue Department held that the employees of Consolidation Department after absorption into the Revenue Department, will have the benefit of length of service in the Consolidation Department, on the new post. While concurring the view, in the separate note, Justice M.M. Punchhi, expressed his view that absorption is akin to amalgamation, in the sense that, an employee becomes part and parcel of the department absorbing him and partakes the same colour and character of the existing employees of the

department, classified as promotees, direct appointees or transferees. In the facts discussed in detail above, definition of absorption which was based on option and the definition of request discussed above, we concur with the view taken by the Punjab and Haryana High Court by the said Full Bench."

(x) K. Madhavan and another Vs. Union of India and others [1987 (4) SCC 566]. Relevant paragraph 21 is being quoted below :-

"21. We may examine the question from a different point of view. There is not much difference between deputation and transfer. Indeed, when a deputationist is permanently absorbed in the CBI, he is under the rules appointed on transfer. In other words, deputation may be regarded as a transfer from one government department to another. It will be against all rules of service jurisprudence, if a government servant holding a particular post is transferred to the same or an equivalent post in another government department, the period of his service in the post before his transfer is not taken into consideration in computing his seniority in the transferred post. The transfer cannot wipe out his length of service in the post from which he has been transferred. It has been observed by this Court that it is a just and wholesome principle commonly applied where persons from different sources are drafted to serve in a new service that their pre-existing total length of service in the parent department should be respected and presented by taking the same into account in determining their ranking in the new service cadre. See R.S. Makashi v. I.M. Menon; Wing Commander J. Kumar v. Union of India"

(xi) State of Haryana Vs. Deepak Sood and others [SLP (C) No.14099 of 2006]. Relevant paragraphs 9 and 13 are being quoted below :-

"They will have to get zero seniority in the new Department but their past service has been counted

for fixation of pay as well as pensionary benefits. The scheme of ACP Grade came subsequently. On that basis the respondents made a grievance that they were being denied -6- the benefit of ACP and the services rendered by them in the Municipal Committee has not been counted for the purposes of calculating 10/20 years of service in the Department. It is a misfortune that the respondents have been declared surplus in the Municipal Committee, Panipat but the Government has been benevolent to them and absorbed them in the State Government but denied them the benefit of past service for the purpose of seniority. However, at the same time they have counted their past service for the purpose of pay and pensionary benefits. Once the Government considered them eligible for fixation of pay and pensionary benefit and counted their past service then there is no reason why ACP grade should be denied to them. Having lost, at one hand their seniority in the new department, it would be unfair to deny them the benefit of ACP grade. When the Government counts their past service for grant of the benefit of pay fixation and pension, there is no reason why their past service should not be given the benefit of ACP Grade.

(xii) Randhir Singh Vs. Union of India and others [(1981) 1 SCC 618]. Relevant paragraphs 7 to 9 are being quoted as under :-

"7. Our attention was drawn to Binoy Kumar Mukerjee v. Union of India [ILR (1973) 1 Del 427] and Makhan Singh v. Union of India [ILR (1975) 1 Del 227] , where reference was made to the observations of this Court in Kishori Mohanlal Bakshi v. Union of India [AIR 1962 SC 1139 : (1962) 44 ITR 532] describing the principle of "equal pay for equal work" as an abstract doctrine which had nothing to do with Article 14. We shall presently point out how the principle, "equal pay for equal work", is not an abstract doctrine but one

of substance. Kishori Mohanlal Bakshi v. Union of India [AIR 1962 SC 1139 : (1962) 44 ITR 532] is not itself of any real assistance to us since what was decided there was that there could be different scales of pay for different grades of a service. It is well known that there can be and there are different grades in a service, with varying qualifications for entry into a particular grade, the higher grade often being a promotional avenue for officers of the lower grade. The higher qualifications for the higher grade, which may be either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. The principle of “equal pay for equal work” would be an abstract doctrine not attracting Article 14 if sought to be applied to them.

8. It is true that the principle of “equal pay for equal work” is not expressly declared by our Constitution to be a fundamental right. But it certainly is a constitutional goal. Article 39(d) of the Constitution proclaims “equal pay for equal work for both men and women” as a directive principle of State Policy. “Equal pay for equal work for both men and women” means equal pay for equal work for everyone and as between the sexes. directive principles, as has been pointed out in some of the judgments of this Court have to be read into the fundamental rights as a matter of interpretation. Article 14 of the Constitution enjoins the State not to deny any person equality before the law or the equal protection of the laws and Article 16 declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. These equality clauses of the Constitution must mean something to everyone. To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are

unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay. Whether the special procedure prescribed by a statute for trying alleged robber-barons and smuggler kings or for dealing with tax evaders is discriminatory, whether a particular governmental policy in the matter of grant of licences or permits confers unfettered discretion on the Executive, whether the take-over of the empires of industrial tycoons is arbitrary and unconstitutional and other questions of like nature, leave the millions of people of this country untouched. Questions concerning wages and the like, mundane they may be, are yet matters of vital concern to them and it is there, if at all that the equality clauses of the Constitution have any significance to them. The Preamble to the Constitution declares the solemn resolution of the people of India to constitute India into a Sovereign Socialist Democratic Republic. Again the word "socialist" must mean something. Even if it does not mean 'to each according to his need', it must at least mean "equal pay for equal work". "The principle of "equal pay for equal work" is expressly recognized by all socialist systems of law, e.g., Section 59 of the Hungarian Labour Code, para 2 of Section 111 of the Czechoslovak Code, Section 67 of the Bulgarian Code, Section 40 of the Code of the German Democratic Republic, para 2 of Section 33 of the Rumanian Code. Indeed this principle has been incorporated in several western Labour Codes too. Under provisions in Section 31 (g. No. 2d) of Book I of the French Code du Travail, and according to Argentinian law, this principle must be applied to female workers in all collective bargaining agreements. In accordance with Section 3 of the Grundgesetz of the German Federal Republic, and Clause 7, Section 123 of the Mexican Constitution, the principle is given universal

significance” (vide International Labour Law by Istvan Szaszy, p. 265). The Preamble to the Constitution of the International Labour Organisation recognises the principle of ‘equal remuneration for work of equal value’ as constituting one of the means of achieving the improvement of conditions “involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled”. Construing Articles 14 and 16 in the light of the Preamble and Article 39 (d), we are of the view that the principle “equal pay for equal work” is deducible from those Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer.

9. There cannot be the slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in service of the Delhi Administration and the Central Government. If anything, by reason of their investiture with the “powers, functions and privileges of a police officer”, their duties and responsibilities are more arduous. In answer to the allegation in the petition that the driver-constables of the Delhi Police Force perform no less arduous duties than drivers in other departments, it was admitted by the respondents in their counter that the duties of the driver-constables of the Delhi Police Force were onerous. What then is the reason for giving them a lower scale of pay than others? There is none. The only answer of the respondents is that the drivers of the Delhi Police Force and the other drivers belong to different departments and that the principle of “equal pay for equal work” is not a principle which the courts may recognise and act upon. We have shown that the answer is unsound.

The clarification is irrational. We, therefore, allow the writ petition and direct the respondents to fix the scale of pay of the petitioner and the driver-constables of the Delhi Police Force at least on a par with that of the drivers of the Railway Protection Force. The scale of pay shall be effective from January 1, 1973, the date from which the recommendations of the Pay Commission were given effect."

(xiii) State of Punjab and others Vs. Jajit Singh and others [(2017) 1 SCC 148]. Relevant paragraphs 57 and 58 are being quoted as under :-

"57. There is no room for any doubt that the principle of "equal pay for equal work" has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India under Article 141 of the Constitution of India. The parameters of the principle have been summarised by us in para 42 hereinabove. The principle of "equal pay for equal work" has also been extended to temporary employees (differently described as work-charge, daily wage, casual, ad hoc, contractual, and the like). The legal position, relating to temporary employees has been summarised by us, in para 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

(xiv) **Somesh Thapliyal and another etc Vs. Vice Chancellor, H.N.B. Garhwal University and another [(2021) 10 SCC 116]**. Relevant paragraphs are being quoted below :-

"42. The submissions of the learned counsel for the respondents that the appellants have accepted the terms and conditions contained in the letter of appointment deserves rejection for the reason that it is not open for a person appointed in public employment to ordinarily choose the terms and conditions of which he is required to serve. It goes without saying that employer is always in a dominating position and it is open to the employer to dictate the terms of employment. The employee who is at the receiving end can hardly complain of arbitrariness in the terms and conditions of employment. This Court can take judicial notice of the fact that if an employee takes initiation in questioning the terms and conditions of employment, that would cost his/her job itself.

43. The bargaining power is vested with the employer itself and the employee is left with no option but to accept the conditions dictated by the authority. If that being the reason, it is open for the employee to challenge the conditions if it is not being in conformity with the statutory requirement under the law and he is not estopped from questioning at a stage where he finds himself aggrieved."

9. Counsel for the respondents submits that the review application seeking review of the judgment dated 03.08.2023 is misconceived and not maintainable, as the petitioners have neither explained nor demonstrated any error apparent on the face of the record. The Supreme Court judgement relied upon by the petitioners in the case of **Kantaru Rajeevaru** (Supra) is inapplicable, as no error apparent has been shown; accepting such arguments would lead to endless litigation.

10. It is further submitted that the petitioners did not challenge the U.P. Absorption Rules, 2011, and having already availed benefits under those Rules, they are estopped from questioning the date of absorption or seeking retrospective effect, which is impermissible in law.

11. It is also submitted that provision of the Act "उस विभाग में कार्यरत मानते हुए समायोजित करने के लिए सम्बन्धित विभाग नियमावली को अपने यहां अंगीकृत (adopt) कर ले।" only require adoption of the Absorption Rules,

2011 by the concerned department, with limited relaxation regarding age, educational qualification, and procedure; it did not mandate retrospective appointment or absorption from the initial contractual engagement. Moreover, Rule 3(1) of the Absorption Rules has been misconstrued by the petitioners. It merely relaxes the selection procedure and does not provide for appointment or absorption from the date of initial engagement in 1999/2000.

12. Learned counsel for the respondents further submitted that it is pertinent to note that none of the Rules ever provide to add the services rendered by the employees in the Uptron India Ltd. in the services rendered in the State Government for the purpose of pensionary benefits etc. The allegation of discrimination is incorrect, as the petitioners have been continuously paid salary along with dearness allowance, revised from time to time, and they have suffered no financial loss.

13. Counsel for the respondents also submits that the order dated 22.12.1998 clearly shows that surplus Uptron employees were engaged by the State Government only on a contractual basis under specified terms and conditions. Initially, salaries were paid through the Uptron Cell under a tripartite arrangement, and later directly by the State Government due to administrative reasons, without altering the contractual nature of engagement. The services in Uptron India Ltd. were non-pensionable, and the petitioners had already availed Contributory Provident Fund benefits.

14. The issue of counting past non-pensionable service for pension has already been answered in the negative by the Full Bench judgment dated 18.05.2023 WRIT - A No. - 2001647 of 2015 **Anukul Prakash vs State Of U.P. Through Prin. Secy. Pichchada Varg Kalyan Lko. and other** binding precedents.

15. According to the counsel for the respondent non-grant of certain reliefs in the main judgment does not constitute a ground for review, as unaddressed prayers are deemed to have been declined.

16. Moreover, counsel for the respondent submits that the petitioners are confused between absorption and regularization. There exist no regularization rules applicable to them, and having accepted absorption under the 2011 Rules, their claim for retrospective regularization is barred by law and contrary to Supreme Court judgment in the case of **S.C. Chandra v. State of Jharkhand, (2007) 8 SCC 279**.

17. In support of the submission advanced, learned counsel for the respondent has placed reliance upon the following judgments :-

(i) **Anukul Prakash vs State Of U.P. Through Prin. Secy. Pichchada Varg Kalyan Lko**. Relevant paragraphs are being quoted as under :-

"In view of the above discussion, we answer the questions rephrased/reframed by us as under:

(i) The Division Bench judgments in the cases of Shankatha Prasad Mishra (surpa); Hridayesh Dayal Srivastava (surpa); Mirtuyan Jay Prasad Singh (surpa); Keshav Ram Pandey (supra) and State of U.P. and others versus Amar Pal Singh do not lay down the law correctly on the question of counting of past services rendered by retrenched employees of ATL who have been subsequently absorbed in Government service, for the purposes of qualifying service for calculation of retiral dues payable by the State Government. They are not good law.

(ii) Retrenched employees of ATL such as the petitioner who got absorbed in the Government service subsequently as per the Rules known as Uttar Pradesh Absorption of Retrenched Employees of Government or Public Corporations in Government Service Rules, 1991 are not entitled to Page No. 31 count their previous services rendered by them under the erstwhile employer i.e., Auto Tractors Limited for computation of qualifying service for purposes of retirement benefits under the U.P. Retirement Benefits Rules 1961 and other ancillary rules and Government Orders in this regard as also the Government Order dated 11.1.1993 and in fact the Government Order dated 10.07.1998 as modified on 28.12.2001 is not applicable to such employees.

(iii) The Division Bench judgment in the case of Ram Shanker Gupta (supra) is in conflict with the earlier decisions by Coordinate Benches in the cases of Shankatha Prasad Mishra (surpa); Hridayesh Dayal Srivastava (surpa); Mirtuyan Jay Prasad Singh (surpa); Keshav Ram Pandey (supra) and State of U.P. and others versus Amar Pal Singh. It is the decision in Ram Shanker Gupta (supra)

which lays down the law correctly and for the reasons already discussed, the other decisions do not lay down the law correctly on the subject with regard to question no. (ii)."

(ii) Pooran Singh Manral Vs. State of U.P. [2016 SCC OnLine All 4225]. Relevant paragraphs are being quoted below :-

"36. We, therefore, find that the issue, "whether under Government order permitting absorption pursuant to Absorption Rules, 1991 there was any promise to count earlier service rendered in the company where from employee was retrenched, so as to count as "qualifying service" for the purpose of pension under the Rules applicable to Government Servant, " was neither raised nor argued, nor decided in any other above authorities and there is no authenticated pronouncement on this aspect. In Hridayesh Dayal Srivastava (supra) the question of pay protection only was involved which was one of the promise in Government Order and that was decided, but in a subsequent judgment, this judgment has been followed as if it has already been said that service rendered in the company would also qualify for pensionary benefits, though in Hridayesh Dayal Srivastava (supra) no such issue was raised argued or decided.

37. It is not disputed by Counsel for the parties that for the purpose of "qualifying service" for retiral benefits, Rules, 1961 read with Civil Service Regulations (hereinafter referred to as 'CSR') shall apply. Rule 3 (8) of 1961 defines "qualifying service" as under:

"Qualifying service means service which qualifies for pension in accordance with the provisions of Article 368 of the Civil Service Regulations:

Provided that continuous temporary or officiating service under the Government of Uttar Pradesh followed without interruption by confirmation in the same or any other post except—

"(i) periods of temporary or officiating service in a non- pensionable establishment;

(ii) periods of service in a work-charged establishment, and

(iii) periods of service in a post, paid from contingencies, shall also count as qualifying service.

38. Articles 368 and 370 of CSR reads as under:

"368. Service does not qualify unless the officer holds a substantive office on a permanent establishment.

370. Continuous temporary or officiating service under the Government of Uttar Pradesh followed

without interruptions by confirmation in the same or any other post shall qualify except—

(i) periods of temporary or officiating service in non -pensionable establishment.

(ii) periods of service in work-charged establishment; and

(iii) periods of service in a post paid form contingencies,

39. Further Article 361 of CSR excludes service as not to qualify for pensionary benefits unless it satisfy certain conditions. It reads as under:

“361. The service of an officer does not qualify for pension unless it conforms to the following three conditions

First -The service must be under Government.

Second -The employment must be substantive and permanent.

Third -The service must paid by Government.

40. The aforesaid Rules, 1961 and CSR make it very clear that service rendered in a non-Government establishment would not qualify for pension. When confronted, learned Counsel for petitioners could not place any provision of law under which he may be entitled to count his service rendered in UPSBCL as “qualifying service” for the purpose of pension or other retiral benefits in Government service.”

(iii) S.C. Chandra and others Vs. State of Jharkhand and others

[(2007) 8 SCC 279]. Relevant paragraphs are being quoted below :-

"35. In our opinion fixing pay scales by courts by applying the principle of equal pay for equal work upsets the high constitutional principle of separation of powers between the three organs of the State. Realising this, this Court has in recent years avoided applying the principle of equal pay for equal work, unless there is complete and wholesale identity between the two groups (and there too the matter should be sent for examination by an Expert Committee appointed by the Government instead of the court itself granting higher pay).

36. It is well settled by the Supreme Court that only because the nature of work is the same, irrespective of educational qualification, mode of appointment, experience and other relevant factors, the principle of equal pay for equal work cannot apply vide Govt. of W.B. v. Tarun K. Roy [(2004) 1 SCC 347 : 2004 SCC (L&S) 225] .

37. Similarly, in State of Haryana v. Haryana Civil Secretariat Personal Staff Assn. [(2002) 6 SCC 72 : 2002 SCC (L&S) 822] the principle of equal pay for

equal work was considered in great detail. In paras 9 and 10 of the said judgment the Supreme Court observed that equation of posts and salary is a complex matter which should be left to an expert body. The courts must realise that the job is both a difficult and time consuming task which even experts having the assistance of staff with requisite expertise have found it difficult to undertake. Fixation of pay and determination of parity is a complex matter which is for the executive to discharge. Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences vide Union of India v. Pradip Kumar Dey [(2000) 8 SCC 580 : 2001 SCC (L&S) 56] ."

18. I have considered the submission advanced by learned counsel for the parties as well as the judgments relied upon by them.

19. The scope of review jurisdiction is well settled. Review is not an appeal in disguise; however, as held by the Hon'ble Supreme Court in **S. Nagaraj** and reiterated in **Kantaru Rajeevaru**, the power of review exists to ensure that justice is not defeated on account of inadvertent omission or non-consideration of a material issue.

20. In the present case, this Court finds that the relief clauses (f) and (h) raised substantive issues concerning the implementation of the absorption scheme under the 2011 Rules, particularly with respect to fixation of pay and consequential service benefits flowing from absorption.

21. The U.P. Absorption of Surplus Employees of Uptron India Ltd. in Government Service Rules, 2011 were framed as a rehabilitative measure for surplus employees of a Government-owned undertaking.

22. Rule 3(1) of the 2011 Rules gives overriding effect to the absorption scheme to the extent of inconsistency with existing service rules and authorises issuance of a Government Order prescribing the manner and conditions of absorption.

23. The Government Order dated 20.12.2011, issued in exercise of powers under Rule 3(1), provides that surplus employees of Uptron India Ltd. are to be absorbed by treating them as employees working in the

concerned Government department itself, as reflected in the expression: “उस विभाग में कार्यरत मानते हुए समायोजित करने के लिए...”

24. The aforesaid expression cannot be construed in a narrow or restrictive manner. Applying the principles governing interpretation of beneficial legislation, as laid down in *K.H. Nazar*, *Urmila Dixit* and *Geetha V.M.*, absorption has to be understood in a manner that meaningfully integrates the absorbed employees into the establishment of the absorbing department.

25. The concept of absorption, as explained by the Hon’ble Supreme Court, postulates that upon absorption, the employee becomes part and parcel of the absorbing department, subject to the conditions prescribed by the governing rules.

26. Consequently, for the purpose of fixation and re-fixation of pay and grant of consequential service benefits, the regular service rendered by the petitioners prior to absorption, including service rendered by way of adjustment against sanctioned posts, requires due consideration in terms of the Government Order dated 20.12.2011 and the 2011 Rules, save and except where expressly excluded by statutory provisions.

27. The judgments relied upon by the respondents do not advance their case and are clearly distinguishable on facts, statutory framework, and relief sought, for the following reasons:

(i) **Anukul Prakash** (Supra) is misplaced. The Full Bench therein was concerned exclusively with the issue of counting past service rendered in a public sector undertaking for the purpose of pensionary benefits under the U.P. Retirement Benefits Rules, 1961. In the present case, the petitioners do not claim automatic pensionary benefits flowing from past service in Uptron. The reliefs under clauses (f) and (h) pertain primarily to pay fixation, pay protection, and other consequential service benefits arising out of absorption, which is expressly saved even by *Anukul Prakash* (Supra), as the Full Bench itself recognized the distinction between pensionary qualification and pay-related service benefits.

(ii) **Pooran Singh Manral (Supra)**. This judgment again relates to qualifying service for pension, governed by the Civil Service Regulations and the 1961 Rules. The petitioners/applicants herein are not seeking to convert non-pensionable service into pensionable service by judicial fiat. The claim is limited to re-fixation of pay and extension of service benefits flowing from absorption, as mandated by the Government Order dated 20.12.2011, which was not under consideration in *Pooran Singh Manral*. Therefore, the said decision is factually and legally distinguishable.

(iii) **S.C. Chandra (Supra)**. The reliance on *S.C. Chandra* is wholly misconceived. That case dealt with regularisation and pay parity claims by irregular appointees, invoking the principle of “equal pay for equal work.” Thus, the same is not applicable to the facts and circumstances of the present case.

28. The petitioners have also raised a grievance of differential treatment vis-à-vis similarly situated Upton employees absorbed earlier and granted protection of last pay drawn. No cogent justification has been placed on record by the respondents to demonstrate a rational basis for such distinction under the same policy framework.

29. In absence of any intelligible differentia, such differential treatment is inconsistent with the mandate of Articles 14 and 16 of the Constitution of India.

30. In view of the grounds urged in the review application, the statutory scheme governing absorption under the 2011 Rules, the Government Order dated 20.12.2011, and the legal principles laid down by the Hon’ble Supreme Court in the judgments relied upon by the review-applicants, this Court is of the considered view that the reliefs sought in clauses (f) and (h) warrant appropriate directions.

31. The **review application is allowed**. The judgment and order dated 03.08.2023 passed in *Writ – A No. 962 of 2010* shall stand modified to the following extent:

(i) The respondents shall re-fix the pay of the petitioners by taking into account the regular service rendered by them in U.P. Uptron India Ltd. and the service rendered by way of adjustment in the U.P. Civil Secretariat prior to absorption, strictly in accordance with the Government Order dated 20.12.2011 and the 2011 Rules.

(ii) Consequential service benefits arising out of such re-fixation shall be extended to the petitioners within a period of three months from the date of production of a certified copy of this order.

(iii) It is clarified that pensionary benefits, if any, shall be governed by the applicable statutory rules and binding judicial precedents.

32. There shall be no order as to costs.

(Irshad Ali,J.)

January 30, 2026

Gautam