

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI**

O.A. No.3404 of 2017

Orders reserved on : 29.11.2018

Orders pronounced on : 06.12.2018

Hon'ble Ms. Nita Chowdhury, Member (A)

1. Srinivas Pillari,
S/o Late Sh. A. Venkayamma
R/o 83 D/1A, Ground Floor,
Chetla Road, Kolkata 700027.

Aged about 42 years
2. A. Venkata Ramana
S/o Sh. A. Venkata Swamy
R/o D-1, CBI Residential Colony,
Road No.46, Jubilee Hills,
Hyderabad-500033.

Aged about 42 years
3. Smt. Girish Joshi,
W/o Sh. Vishal Joshi,
R/o H.No.305, Shirdi Puram,
Kolar Road, Bhopal (M.P.) 462042.

Aged about 43 years
4. Arup Kumar Deka
S/o Late Sh. Haladhar Deka
R/o Flat No.3B, Mayuri Residency,
Pragati Nagar Bylane-4, Satgaon,
Guwahati-781171, Assam.

Aged about 40 years
5. Deepak Kumar Sharma,
S/o Sh. Ramesh Chand Sharma
R/o Flat No.6119/3, G-6,
Vasant Kunj, New Delhi – 70.

Aged about 43 years
6. Vimala Anne,
W/o Sh. Sri Mallibabu Y
R/o 302, Frangipani CHSL, Nahar Amrit Shakti,
Chandivali, Andheri (East) Mumbai – 400072.

Aged about 42 years

7. Krushna Chandra Panda
 S/o Late Sh. Magatha Panda
 R/o Qtr. No.-Type-IV/5, CBI Colony,
 Unit-8, Nayapalli, Bhubaneshwar-751012.

Aged about 41 years

8. Deepti Vashista
 W/o Sh. Rajeev Vashista
 R/o A-6/69 Paschim Vihar,
 New Delhi-110063.

Aged about 40 years

9. P.S. Gopala Krishnan
 S/o Sh. M.P. Subramanian
 R/o F1, 3rd Floor, #50, TCS Apartments,
 Behind Reva College,
 Ganganagar, Bangalore – 560032.

Aged about 39 years

10. G. Murugesan,
 S/o Sh. K. Govindarajan,
 R/o 54R, CBI Colony,
 Vasant Vihar, New Delhi-110057.

Aged about 39 years

(Group 'B'/Group 'A')

(Assistant Programmers/Programmers/SSA in CBI)

.....Applicants

(By Advocate : Shri Ajesh Luthra)

Versus

1. Central Bureau of Investigation
 Through its Director,
 CGO Complex, Lodhi Road,
 New Delhi-110003.

2. Union of India
 Through its Secretary,
 Department of Personnel & Training,
 Ministry of Personnel, Public Grievance & Pension,
 North Block, New Delhi.

3. Union Public Service Commission,
 Through its Secretary,
 Dholpur House, Shahjahan Road,
 New Delhi.

4. Under Secretary to the Government of India
 Department of Financial Services,
 Ministry of Finance,
 Jeevan Deep Building, Sansad Marg,
 New Delhi.

....Respondents

(By Advocate : Shri Gyanendra Singh)

O R D E R

MA 3613/2017

This MA has been filed by the applicants seeking joining together in a single Original Application. For the reasons stated therein, the same is allowed. The applicants are permitted to join together in a single Original Application.

OA 3404/2017

By filing this OA, the applicants are seeking the following reliefs:-

- “a. Quash and set aside the impugned orders dated 01/08/2017 along with its enclosure(s) placed at Annexure A/1.
- b. Direct the respondent No.1 to induct the applicants into statutory defined pension scheme under CCS (Pension) Rules, 1972 by treating them to have been appointed as Assistant Programmers notionally from the date of joining of Mr. Anjani Kumar Suman i.e. 15/12/2003 or the date of joining of Mr. Bhupender Jaising Rathor i.e. 27/11/2003 for the limited purpose of grant of old defined pension under CCS (Pension) Rules, 1972 and its other related benefits like Gratuity, commutation of pension under commutation of pension Rules, 1981, GPF under GPF Rules only at par with Mr. Anjani Kumar Suman.
- c. Declare that the applicants are deemed to have been appointed as Assistant Programmers notionally and they are regulated by CCS

(Pension) Rules, 1972, commutation of pension Rules, 1981 and GPF Rules.

- d. Subsequently direct the respondent No. 1 to open GPF accounts in respect of all these applicants and compute in respect of each of the applicants the total amount of actual monthly contributions deducted from the salary the applicant for NPS account plus the interest on the said monthly contributions as per the interest rate under GPF rules (at par with Anjani Kumar Suman) and transfer such computed total amount in respect of each applicant to his respective GPF account from the amount accumulated in his existing NPS account.
- e. Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice in favour of the applicants."

2. Brief facts of the case as stated in the OA are that respondent no.3, Union Public Service Commission (UPSC) had issued advertisement in April/May 2002 for filling up 65 posts of Assistant Programmer in Central Bureau of Investigation (CBI). The applicants had applied and participated in the said direct recruitment process.

2.1 The written test for the said examination was conducted during December 2002 and interviews were conducted during July/August 2003 by UPSC. The UPSC had made a mention in the call letter for interview issued in respect of Smt. Deepti Vashista (applicant No.8) about the production of a certificate regarding MIT is equivalent to essential qualification for the said post. That on 28.8.2003, the said applicant no.8 had submitted to UPSC the certificate issued by

Gurujambheshwar University, wherein it was certified that MIT is equivalent to MSC Computer Science.

2.2 The results of the selection were declared on 1.9.2003 and UPSC had recommended 36 candidates to the said post including all the applicants except applicant no.8. On 3.9.2003, the UPSC sent communications to the applicants except applicant no.8 that they were recommended to the said post. However, UPSC had issued the aforesaid recommendation in respect of the applicant no.8 on 15.7.2004.

2.3 Medical examination was completed in respect of all applicants except applicant no.8 during September/October, 2003. Applicants averred that even in the offer of appointment to the applicants, it was not indicated that the candidate would be member of the new contributory pension scheme.

2.4 Applicants further stated that Mr. Anjani Kumar Suman and Mr. Bhupender Jaising Rathod were also selected by UPSC on the said post through the same recruitment process. The offer of appointment in respect of Mr. Anjani Kumar Suman (presently working as Programmer, Systems Division, CBI Head Office, New Delhi) was issued by CBI during first week of December, 2003 and he had joined on 15.12.2003. Further offer of appointment in respect of Mr. Bhupesh Jaising Rathod, the then Asst. Programmer, ACB, Mumbai

was issued on 20.11.2013 and he had joined on 27.11.2003. As such the said candidates were placed under old Pension Scheme.

2.5 The seniority among Assistant Programmers is reckoned as per the order of merit recommended by UPSC. Accordingly, Mr. Anjani Kumar Suman was shown junior to applicant no.1 to applicant no.8 only and Mr. Bhupender Jaising Rathod was shown junior to all the applicants.

2.6 Applicants averred that issuance of recommendation to the said post in respect of applicant no.8 and issuance of offer of appointment in respect of all the other applicants was relatively delayed by the UPSC and CBI respectively without there being any lapse/laches on applicants part. The impact of the aforesaid delay is that these applicants were deprived of the benefit of old defined Pension Scheme under CCS (Pension) Rules, 1972, commutation of pension Rules, 1981 and GPF Rules which were came to an end on 31.12.2003 without their fault and they are making contribution from their salary in accordance with the new scheme.

2.7 Applicant further averred that had the applicants been appointed by CBI along with above said juniors, the applicants would avail the benefits of old pension scheme. The applicants have been requesting the respondent no.1 for extending the benefits of old defined pension scheme to them

at par with above mentioned juniors/batchmates with a profound hope that the same may be acceded to.

2.8 However, vide impugned order dated 1.8.2017 issued by respondent no.1, it has been intimated that a reply in this regard has already been conveyed to ACB, Hyderabad vide HO ID dated 13.5.2015. Vide HO ID dated 13.5.2015, respondent no.1 had intimated that the representation of Shri A. Venkata Ramana (Applicant NO.2) has been examined under the relevant rules but the request for extending the benefit of old pension scheme had not been acceded to by the competent authority. In the latest representation dated 1.10.2016, Shri A. Venkata Ramana (applicant no.2) has added some additional facts including the minutes of third meeting of inter departmental group on New Contributory pension Scheme dated 3.9.2003, wherein it was decided that DPPW would inform the recruiting agencies that the new Government employees would participate in the pension system available to them on the date of joining and an undertaking to that effect should be obtained from the employees. Shri A. Venkata Ramana also submitted that the said decision was not informed to him either by UPSC the recruiting agency or CBI and obtained his undertaking for accepting the above condition. Had he been asked for acceptance in the said vide offer of appointment dated 18.12.2003, he would have joined on or before 31.12.2003 even travelling by air. Consequently on joining service on

1.1.2004, he was placed under NPS depriving him of the right of availing old defined pension scheme benefit, infringing his fundamental rights.

2.9 The applicants stated that their claim has been wrongly and arbitrarily rejected without application of mind.

2.10 Feeling aggrieved by the impugned order, the applicants have filed this OA seeking the reliefs as quoted above.

3. Pursuant to notice issued to the respondents they have filed their reply in which they have besides giving reply to the OA raised the preliminary objection that instant OA is liable to be dismissed as the applicants have approached this Tribunal after an inordinate and inexplicable delay of almost 13 years, as the cause of action arose in favour of the applicants at the time when they joined the service, i.e., in the year 2004 and now after almost 13 years the applicants are agitating the matter without coming up with any explanation for the intervening period.

3.1 The OA is also liable to be dismissed on account of legal maxim, "Vigilantibus ET Non Dormiantibus Jura Subveniunt" which lays down that the law assists those who are vigilant with their rights and not who sleep there upon.

3.2 They further stated that the representations earlier submitted by the applicants were rejected by respondents between the year 2010 and 2015, as the same could not be

acceded to as per Government's guidelines. The Chart depicting the same is as follows:-

Sl. No.	Name & Designation of the officials	Date of representation	Remarks
1.	Deepak Sharma, Programmer (Applicant-5)	14.06.2010	HO has informed vide ID dated 28.10.2010 that their requests have not been acceded to.
2.	Krushna Chandra Panda, Programmer (Applicant-7)	14.06.2010	
3.	Deepak Sharma, Programmer (Applicant-5)	28.10.2013	HO has informed vide ID dated 11.12.2013 that their requests have not been acceded to.
4.	Krushna Chandra Panda, Programmer (Applicant-7)	28.10.2013	
5.	A. Venkata Ramana, Programmer (Applicant-7)	26.10.2013	
6.	Ms. Vimala Anne, Programmer (Applicant-6)	28.10.2013	
7.	Arup Kumar Deka, SSA (Applicant-4)	29.10.2013	
8.	Smt. Girish Joshi, SSA (Applicant-3)	29.10.2013	HO has informed vide ID dated 18.12.2013 that their requests have not been acceded to.
9.	A. Venkata Ramana, Programmer (Applicant-2)	09.04.2015	HO has informed vide ID dated 13.05.2015 that their requests have not been acceded to.
10.	A. Venkata Ramana, Programmer (Applicant-2)	01.10.2016	HO has informed vide ID dated 1.8.2017 that their requests have not been acceded to.

They further stated that from the above chart, it is clear that OA filed by the applicants is time barred, as the instant OA has not been filed within the limitation period after their representations were turned down by the respondents.

3.3 They also stated that in the appointment letters, it was specifically mentioned at Clause-IX that the other conditions of service will be governed by the relevant rules and orders in force from time to time. At the time when the applicant joined the service, NPS was already in force and as per the above clause, the applicants were placed under the said scheme.

3.4 They further stated that the CCS Pension Rules are/were applicable only to those Govt. servants who were appointed on or before 31.12.2003. As per record, none of the applicants was appointed on or before 31.12.2003. As per the Gazette Notification dated 22.12.2003, NPS System was made mandatory for the Govt. employees who joined the service from 1.1.2004.

3.5 As per records, each and every applicant joined the service after 1.1.2004 as such they were accordingly placed in NPS and applicants must have realized after getting their first month salary that they have been placed under NPS despite the same none of them raised the issue of their being placed in NPS at any point of time subsequently till considerable time. As far as the cases of Shri Anjani Kumar Suman and Shri Bhpesh Jai Singh Rathod are concerned, it is evident that both of them joined the service prior to 31.12.2003 and were accordingly as per applicable rules at the said time, placed in Old Pension Scheme.

3.6 They also stated that there was no delay on the part of the respondents in issuing the appointment letters to the applicant and whatever time was taken the same was required for the completion of all the codal formalities which are mandatory and pre-requisite for the applicant in any Govt. service. The discontinuation of old Pension Scheme and introduction of new Pension Scheme has been done by the Govt. of India and is applicable to every Central Govt. employees who has joined the service or or after 1.1.2004 and not alone to the applicants.

3.7 They also stated that the averments made by the applicant Shri A. Venkataramana in the instant OA are in itself contradictory as on one hand the said applicant is stating that he was neither informed either by UPSC or by CBI about the decision of interdepartmental group on new contributory pension scheme dated 3.9.2013 wherein it was decided that DPPW would inform the recruiting agencies that the new government employees would participate in pension system available to them on the date of joining and an undertaking to that effect should be obtained from the Govt. employee. The said applicant further stated that in case, he would have been asked in this regard vide offer of appointment letter dated 18.12.2003 then he would have joined prior to 31.12.2003. However, the fact is that the said applicant after joining came to know about his being placed in the NPS, even signed the documents in this regard and

continued with the NPS for about 13 years and surprisingly has now come with absolutely untenable averments.

3.8 They further stated that it is not the date of vacancy or initiating of recruitment process, rather it was/is the date of joining which decides whether the employee will be placed under OPS or NPS. They vehemently denied that issuance of offer of appointment was delayed by the CBI.

4. Applicants have also filed their rejoinder besides reiterating the averments made in the OA replied to the preliminary objection by stating that the grievance of the applicants is that Mr. Anjani Kumar Suman, who is a batchmate/junior to the applicants was placed in old defined Pension Scheme under CCS (Pension) rules, 1972 and whereas the applicants were placed in NPS as the issuance of their offer of appointment was delayed by respondent no.1 and that the applicants are making monthly contribution to the extent of 10% of Basic+DA from their salaries to their NPS pension fund and in old defined Pension Scheme there is no need to make monthly contribution for the purpose of pension. The claim of the applicants is regarding applicability of old defined Pension Scheme under CCS (Pension) Rules, 1972 whereby the applicants acquire continuous cause of action as per the ratio of the Hon'ble Supreme Court in the case of **Union of India & Anr. vs. Tarsem Singh**, (2008) 8 SCC 648. Moreover, there is no averment in the entire reply

that the claim of the applicants has been rejected vide impugned order dated 1.8.2017 by respondent no.1 on the ground that the same was time barred and therefore, it is not open to the respondents to raise the technical plea of delay and/or laches etc.

5. Heard learned counsel for the parties and perused the material placed on record.

6. During the course of hearing, learned counsel for the applicants reiterated the facts as stated in the OA and submitted that the case of the applicants is squarely covered by the decision of Hon'ble Delhi High Court in the case of ***Parma Nand Yadav and others vs. Union of India and others*** in Writ Petition (Civil) No.3834/2013 decided on 12.2.2015 and the said judgment of the Hon'ble Delhi High Court was already implemented by Directorate General Border Security Force in the case of the petitioners therein.

6.1 Counsel for the applicants also placed reliance on the Orders of this Tribunal in OA No.1795/2011 decided on 1.8.2012, OA No.3747/2013 decided on 22.9.2014, OA No.1869/2011 decided on 11.12.2013 and also of Ernakulam Bench in OA No.724/2012 and OA180/00020/2015 and also of Jabalpur Bench in OA No.203/00290/2017 (copies enclosed with the OA) as also of Hon'ble Delhi High Court in Writ Petition(Civil)

No.10028/2009 decided on 2.8.2010 and Writ Petition (Civil)

No.5983/2010 decided on 3.2.2011.

6.2 Counsel further placed reliance on judgment of Hon'ble High Court of Uttrakhand at Nainital in Special Appeal No.330/2013 in which the Hon'ble High Court observed as follows:-

“Undisputedly, when petitioners applied for the post, old pension scheme was in existence, therefore, petitioners had every reasonable expectation that they would be governed by the service conditions prevailing on the date posts were advertised and recruitment process was commenced. In our considered view, service conditions, prevailing on the date recruitment process commenced, cannot be permitted to be altered in disadvantage of the recruitees. Moreover, in our considered opinion, Government Order dated 25.10.2005 is prospective in nature and cannot be made applicable for the post prior to 25.10.2005. Therefore, we do not find any reason to take contrary view to the view taken by the learned Single Judge.

Consequently, Both the appeals fail and are hereby dismissed.”

7. Counsel for the respondents besides reiterating the averments made in the counter affidavit as noted above submitted that similarly situated candidates working in the CBI had earlier filed OA 2337/2017 and this Tribunal vide Order dated 4.7.2018 dismissed the similar claim as made by the applicants in this OA.

8. Counsel for the applicants also placed reliance on the Order of this Tribunal dated 2.11.2018 in OA No.2616/2017

and submitted that the applicants are entitled to the reliefs as claimed by them in this OA.

9. Before advertiring to the issue involved in this case, this Court first is required to deal with the issue of preliminary objection of limitation as raised by the respondents in this case. In view of the fact that applicants are seeking the relief of grant of benefits of old pension scheme instead of new pension scheme towards which they are making admissible contribution towards NPS monthly as such the plea of limitation does not apply in this case as the same can be said to be a recurring cause of action.

10. Having regard to the facts and circumstances as also submissions of learned counsel for the parties, this Court finds that the short question that arises for consideration is whether applicants would be entitled to the benefit of old pension scheme and the benefits of General Provident Fund (GPF) under the CCS (Pension) Rules, 1972, even though their joining was after 1.01.2004 when a new pension scheme was introduced and given effect to.

10. Before advertiring the aforesaid issue, this Court feels to note the Gazette Notification dated 22.12.2003 which reads as under:-

“F.No. 5/7/2003 - ECB &PR- The government approved on 23rd August, 2003 the proposal to implement the budget announcement of 2003 - 04 relating to introducing a new restructured defined

contribution pension system for new entrants to Central Government service, except to Armed Forces, in the first stage, replacing the existing system of defined benefit pension system.

- (i) **The system would be mandatory for all new recruits to the Central Government service from 1st of January 2004 (except the armed forces in the first stage).** The monthly contribution would be 10 percent of the salary and DA to be paid by the employee and matched by the Central government. However, there will be no contribution from the Government in respect of individuals who are not Government employees. The contribution and investment returns would be deposited in a non-withdrawable pension tier-I account. The existing provisions of defined benefit pension and GPF would not be available to the new recruits in the Central Government service.
- (ii) In addition to the above pension account, each individual may also have a voluntary tier-II withdrawable account at his option. This option is given as GPF will be withdrawn for new recruits in Central government service. Government will make no contribution into this account. These assets would be managed through exactly the above procedures. However, the employee would be free to withdraw part or all of the 'second tier' of his money anytime. This withdrawable account does not constitute pension investment, and would attract no special tax treatment.
- (iii) Individuals can normally exit at or after age 60 years for tier-I of the pension system. At the exit the individual would be mandatorily required to invest 40 percent of pension wealth to purchase an annuity (from an IRDA - regulated life insurance company). In case of Government employees the annuity should provide for pension for the lifetime of the employee and his dependent parents and his spouse at the time of retirement. The individual would receive a lump-sum of the remaining pension wealth, which he would be free to utilize in any manner. Individuals would have the flexibility to leave the

pension system prior to age 60. However, in this case, the mandatory annuitisation would be 80% of the pension wealth.

Architecture of the new Pension System

- (iv) It will have a central record keeping and accounting (CRA) infrastructure, several pension fund managers (PFMs) to offer three categories of schemes viz. option A, B and C.
- (v) The participating entities (PFMs and CRA) would give out easily understood information about past performance, so that the individual would be able to make informed choices about which scheme to choose.

2. The effective date for operationalization of the new pension system shall be from 1st of January, 2004.”

(emphasis supplied)

11. From the plain reading of the aforesaid Notification, it is quite clear that this new pension system is mandatory in nature for all new recruits to the Central Government service from 1st of January 2004, except the armed forces in the first stage. Further the effective date of operationalization of the new pension system shall be from 1.1.2004. However, there are certain cases in which this Tribunal as well as High Court found that the applicants/petitioners therein were deprived to join the services before 1.1.2004 and the same was not due to fault of the applicant/petitioner but due to compelling circumstances, which deprived them to join before the date of 1.1.2004.

12. Having regard to the Orders of this Tribunal as well as Hon'ble Delhi High Court as noted above, this Court has to

see whether applicants in compelling circumstances deprived to join before 1.1.2004 or not. The advertisement for the post in question was issued in April/May 2002 and written examination was conducted during December 2002 and interviews were conducted during July/August 2003 by UPSC and final result of the said selection was declared on 1.9.2003 and UPSC recommended 36 candidates to the said post including all the applicants except applicant no.8 and communications to this effect was issued by UPSC on 3.9.2003 and in respect of applicant no.8 on 15.7.2004 and Medical examination was completed in respect of all the applicants except applicant no.8 during September/October 2003. The applicants were issued offer of appointment in December 2003/January 2004 and applicant no.8 after July 2004. As the 36 candidates were recommended by the UPSC for the post in question in CBI vide Press note dated 1.9.2003 and after the recommendations only four months were taken by the respondents to recruit the applicants and other candidates except applicant no.8, the said period cannot be said to be unduly delayed the appointments of the applicants, the reason is obvious that certain cordal formalities were also required to be done by the respondents before finally issuing the offer of appointment to the candidates. As such this Court does not find any compelling circumstances, which deprived them to join before the date of 1.1.2004. It is also relevant that some of the candidates were issued offer of appointment

in November and December 2003 and pursuant to receipt of such offer of appointment, they joined before 1.1.2004 and as such they were rightly given benefit of old Pension Scheme as the effect of new pension scheme is w.e.f. 1.1.2004 and the applicants in the present OA have joined after 1.1.2004 and as such this Court does not find any reason to interfere in the decision of the respondents treating the applicants governed by New Pension Scheme. As such the reliance placed by the learned counsel for the applicants of this Tribunal as well as of Hon'ble Delhi High Court's Orders (supra) does not help him in any manner.

13. Counsel for the applicants also strenuously relied upon the judgment of the Hon'ble High Court of Uttarakhand at Nainital in Special Appeal No.330/2013 (supra) and referred to the observations as quoted above. This Court is aware that the aforesaid judgment of the Hon'ble High Court of Uttarakhand at Nainital and other similar cases were challenged before the Hon'ble Supreme Court and the Hon'ble Apex Court vide Order dated 13.2.2015 in SLP (C) No.2412-2413/2015 stayed the operation of the aforesaid Judgment of the Hon'ble High Court of Uttarakhand.

14. It is settled law that a candidate cannot be considered to have been an employee of the government from a date prior to the date of joining the government. The other service

matters have to be those which are in operation at the time of their joining.

15. Contention has been raised on behalf of the Applicants that the employees who were junior to them in the seniority but who joined the government earlier than them have been given the advantage of old pension scheme. It is only because of fortuitous circumstances of their joining under the government before 1.01.2004, they have been able to get the benefit of old pension scheme and GPF scheme. The employees who were joined after 1.01.2004 are senior to many of the employees who were joined before 1.01.2004 and only on the basis of such accident of circumstances, they cannot be discriminated and not given the benefit of old pension scheme. It was also contended that the Applicants are not responsible for delay in joining under the government. It is the responsibility of respondents. In the considered opinion of this Court, the applicants cannot allege discrimination vis-a-vis their juniors who became part of the old pension scheme by virtue of joining the service under the government before 1.01.2004 and also before the applicants, who are senior to them. The right of the employees for enjoying service conditions including pension applicable to those who joined the government after 1.01.2004 have not been denied to them. The applicants have been given the benefit of pension scheme albeit it is the new pension scheme

applicable after 1.01.2004. The crucial date of application of pension scheme would be the date of their joining the government. Since they have joined the government after 1.01.2004, they cannot be given advantage of the old pension scheme retrospectively. It would be an appointment only from the date they have joined the service of the government. Under these circumstances, notwithstanding that some of the employees who were part of the same selection and junior to the Applicants have got the benefit of old pension scheme, the Applicants would not be entitled for induction in old pension scheme and GPF scheme retrospectively. We cannot give any relief to the Applicants, in view of the clear provisions of Rules. It is further relevant to note here that the offer of appointment in respect of Mr. Anjani Kumar Suman was issued in December, 2003 and he had joined on 15.12.2003 and in the case of Mr. Bhupesh Jaising Rathod the same was issued on 20.11.2013 and he had joined on 27.11.2003. As the rules as applicable on the dates of their joining were applicable in their cases. It is further relevant to note here that in the appointment letters, it was specifically mentioned at Clause-IX that the other conditions of service will be governed by the relevant rules and orders in force from time to time.

16. In the result and for the foregoing reasons, this Court does not find any reason to interfere with the action of the

respondents giving the benefits of new Pension Scheme to the applicants by virtue of their joining in Government after 1.1.2004. Accordingly, the instant OA is dismissed being devoid of merit. There shall be no order as to costs.

**(Nita Chowdhury)
Member (A)**

/ravi/