
(2018) 08 J&K CK 0020

In the Jammu And Kashmir High Court

Case No : Service Writ Petition No. 96 Of 2011

Dr. Naheed Soz @APPELLANT@Hash State Of Jammu & Kashmir & Ors

Date of Decision : 06-08-2018

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 19(1)(g), 21

Citation : (2018) 08 J&K CK 0020

Hon'ble Judges : M. K. Hanjura, J

Bench : Single Bench

Judgement

1. In this writ petition, the petitioner, has craved the indulgence of this Court in quashing the order bearing No. 1192-GAD of 2005 dated 27th of

September, 2005, and the communication No. GAD(Ser)Genl-25/96 dated 17th of September, 2010, attached to the petition as Annexures & &

&, respectively.Â

2. The facts germane to the decision of the petition on hand are that in the year 1986, the petitioner was appointed as Junior Research Officer in the

Institute of Management and Public Administration (IMPA), Srinagar, vide an order bearing No. 127/IMPA/86 dated 17th of December, 1986. By

another order dated 13th of June, 1987, the petitioner was deemed to have been appointed as Lecturer/Research Officer with effect from the date of

her initial appointment in the IMPA. It is stated in the writ petition that in the 5th meeting of the Executive Council of the IMPA, held in the

year 1989 and headed by the then Chief Minister, the services of the employees of the IMPA were ordered to be made pensionable. However,

because of the pendency of the matter with the Administrative Department for working out certain modalities, the said order could not be

implemented.Â

3. It is further urged that on the 30th day of October, 1998, by an order of the General Administration Department (GAD), Govt. of J&K, bearing

No. 1437GAD of 1998, the petitioner, who had been promoted to the post of Assistant Professor in the IMPA, was transferred and posted as

Development Officer, J&K Women Development Corporation with immediate effect. It is further pleaded that since this arrangement did not put the

petitioner to any disadvantage, therefore, she accepted the assignment. The petitioner was permanently absorbed in the service of the Corporation on

the 24th of January, 2001 and was promoted to the post of General Manager in the year 2004 by taking into consideration her past service rendered in

the IMPA.

4. It is further stated that by dint of the order bearing No. 1192-GAD of 2005 dated 27th of September, 2005, (impugned herein) the respondent No.2

â?" Principal Secretary to Govt., GAD, directed that the pensionary benefits, applicable to the employees of the State Government, will be extended to

all the employees of the IMPA with effect from 23rd of September, 2005 (the cut-off date). The petitioner approached the respondent No.2 by the

medium of a representation stating therein that the provision of making the pensionary benefits available to only those employees of the IMPA, who

were/are working there as on the cut-off date, needed to be reconsidered. It is stated that when the representation of the petitioner was not responded

to, she reminded the respondent No.2 about her grievance and prayed that the order ofÂ Â the pensionary benefit be extended to those employees

also who had been working in the IMPA before the cut-off date. It is further contended that the representations were finally respondedÂ to in terms

of communication bearing No. GAD(Ser)Genl-25/96 datedÂ 17th of September, 2010, whereunder the petitioner was informed that her request was

examined by the authorities concerned in consultation with theÂ respondent No.3 - Finance Department, J&K Govt., whoÂ rejected the same on the

ground that the order, extending theÂ pensionary benefits toÂ only those employees of the IMPA, who had been there on the cut-off date, cannot be

applied retrospectively.Â

5. The petitioner has further contended that the impugned orders are illegal, discriminatory, based on malafides and are without jurisdiction. The

orders impugned suffer from judicial and procedural impropriety. These are in

complete violation of Articles 14, 19(1)(g) and 21 of the Constitution of India and, therefore, deserve to be set aside. The cut-off date prescribed in the first impugned order suffers from the vice of discrimination as it creates two classes of employees, i.e., those who were employed in the IMPA prior to the cut-off date and those who were employed there, after the cut-off date, without citing any reason whatsoever for creating such classification.Â

6. It is further stated that the petitioner had been transferred to the Corporation from the IMPA at the time when the service of the employees in both the IMPA and the Corporation were non-pensionable, thus, altering the terms of the petitioner's previous service to her detriment, notwithstanding the fact that she was transferred by the respondent No.2 "IMPA, itself, is unjustified, arbitrary, perverse and unreasonable. It impinges the constitutional and statutory rights of the petitioner. In view of the facts and circumstances aforementioned, the petitioner prays that the petition be allowed and the orders impugned therein, be quashed.Â Â

7. The respondent No.2 has filed the objections, wherein it is stated that the petitioner has no cause of action to file the writ petition in view of the fact that she ceased to be the employee of an IMPA in terms of the order No. 2-JKWDC of 2001 dated 24-01-2001, whereby she hasÂ Â been absorbed in the J&K Womens Development Corporation w.e.f 04-12-2000 permanently. It is further pleaded that her lien in the IMPA stands terminated and she has accepted the employment of the Corporation and continues to be there till date.Â Â The writ petition is liable to be dismissed inasmuch as, the petitioner has raised the disputed question of the fact, which cannot be adjudicated upon in a writ petition.Â Â Â

8. The respondent has further stated that in the order of transfer of the petitioner from IMPA to the Corporation, it was made clear to her that her future service will be governed by the rules and regulations of the Corporation. Thus, it is abundantly clear that by joining the Corporation, the petitioner had accepted the conditions of the order of the transfer and, therefore, she cannot claim any benefit that accrued or may accrue to the employees of the IMPA, after the issuance of the order of her transfer. It is further stated that the petitioner has no right to impugn the validity of the order dated 27th of September, 2005, in view of the fact that it pertains only to

the employees of the IMPA, who were working there at the relevant point of time. Finally, it is pleaded that in view of the facts and circumstances explained hereinabove, the petition of the petitioner, being devoid of any merit, be dismissed.

9. In her Rejoinder Affidavit, the petitioner has stated that she has rendered 12 years of valuable service in the IMPA and, therefore, does qualify for pension on the face of the conditions for the grant or otherwise of pension and these are as follows:

The service must be under the State;

The employment must be on substantive and permanent basis; and The service must be paid by the Government.

The petitioner has pleaded that she has rendered her service under the State. Her employment was substantive and permanent and she was being paid

by the State Government. She has rendered more than 10 years of service which is a prerequisite for the grant of pension in any Government

Department. The discriminatory treatment meted out to the petitioner by not giving her the benefit of the pension scheme has violated the rights

guaranteed to her under Articles 14, 16 and 21 of the Constitution of India and that it does not lie in the mouth of the respondent No.2 to state and

contend that the petitioner is not entitled to the pension as the respondents themselves have created an exception while granting pension to one late

Prof. Manzoor Ahmad, who died in the year 2003 and, as such, the Government order No.1192-GAD of 2005 dated 27th of September, 2005, is

arbitrary, unjust and illegal and does not stand the test of reasonableness as envisaged under Article 14 of the Constitution of India.Â Â Â Â

10. Heard and considered.

11. It is the admitted case of the petitioner and the respondents that the petitioner, who had been promoted to the post of Assistant Professor in the

IMPA, was transferred and posted as a Development Officer in the J&K Women Development Corporation vide an order of the General

Administration Department bearing No. 1437-GAD of 1998. It is also admitted that the petitioner was permanently absorbed in the services of the

Corporation on the 24th day of January, 2001 and was promoted to the post of General Manager in the year 2004 by taking into consideration her past

service rendered in the IMPA. By order No. 1192-GAD of 2005 dated 27th of

September, 2005, impugned herein this petition, the respondent No.2, Principal Secretary to Government, General Administration Department, directed that the pensionary benefits applicable to the employees of the State Government will be extended to all the employees of the IMPA w.e.f. 23rd of September, 2005, which was the cut-off date for according the benefits under and in terms of the said order. The petitioner moved a representation before the respondent No.2 pleading therein that the pensionary benefits should be made available to those employees of the IMPA also who were working there before the cut-off date and, therefore, the matter requires to be reconsidered. This did not find favour with the respondent No.2 and, to the dismay of the petitioner, she, in terms of the communication No. GAD(Ser)Genl-25/96 dated 17th of September, 2010, was informed that her request was examined by the authorities concerned in consultation with the Finance Department, who rejected the same on the ground that the benefit of the order has been extended to only those employees of the IMPA who had been there on the cut-off date and, therefore, the same cannot be applied retrospectively.

12. The judicial review is a developing subject. Its scope varies from case to case. It is considered to be a basic feature of the Constitution. The Apex Court has, in a catena of judgments, defined the outline of the sovereign power, as vested in the three pillars of the Government, that are, the Legislature, the Executive and the Judiciary. In *Kesavananda Bharti*'s case, the Apex Court explained the term "basic feature". The Court said that it is supposed to be the sum total of the core of our Constitution. The Apex Court, while interpreting the meaning of "judicial review", said that the power of the "judicial review" is, however, confined not merely to deciding whether, in making the impugned laws, the Central or State Legislatures, have acted within the four corners of the legislative lists earmarked for them; the Courts also deal with the question as to whether the laws are made in conformity with and not in violation of the other provisions of the Constitution. It further said that as long as some fundamental rights exist and are a part of the Constitution, the power of judicial review has also to be exercised with a view to see that the guarantees afforded by those rights are not contravened. Review has thus become an integral part of our constitutional system and a power has been vested in the

High Courts and the Supreme Court to decide about the constitutional validity of provisions of statutes. If the provisions of the Statute are found to be violative of any Article of the Constitution, which is the touchstone for the validity of all laws, the Supreme Court and the High Courts are empowered to strike down the said provisions.

13. The law also provides that the correctness of the reasons that prompted the Government to take a decision and take one course of action instead of the other, is not a matter of concern in the judicial review and the Court is not the appropriate forum for conducting such investigations. The scope of the judicial review has to be confined to find out whether the Government decision was against the statutory provisions or violative of the fundamental rights of the citizens of the State.

14. In the case of *Federation of Railway Officers Association & Ors. v. Union of India*, reported in *AIR 2003 SC 1344*, the Apex

Court said that the wholesome rule in regard to judicial interference in an administrative decision is that if the Government takes into consideration all the relevant factors, eschews from considering irrelevant factors and acts reasonably within the parameters of the law, Courts would keep off the same.

15. What requires to be seen, delved and probed into here is whether the order impugned amounts to arbitrary or colorable exercise of power and, therefore, can be subjected to judicial scrutiny. In case, the Court comes to the conclusion that the order is arbitrary or has been passed in colorable exercise of power or is based on collateral grounds, the Court has the power to review the said order.

16. The law on the subject is lucid, loud and clear. In case titled *D. S. Nakara & Ors. v. Union of India*, reported in *1983(1) Supreme Court*

Cases 305, a Bench of the Supreme Court comprising 3 Hon'ble Judges, probed into the subject which forms the bone of contention herein

this case and Paragraph Nos. 49, 50 and 58 to 62 are relevant for the determination of the matter, which read as under:

50. There is nothing immutable about the choosing of an event as an eligibility criteria subsequent to a specified date. If the event is certain but its occurrence at a point of time is considered wholly irrelevant and arbitrarily selected having no rationale for selecting it and having an undesirable

effect of dividing homogeneous class and of introducing the discrimination, the same can be easily severed and set aside. While examining the case

under Art. 14, the approach is not: 'either take it or leave it', the approach is removal of arbitrariness and if that can be brought about by severing the

mischievous portion the court ought to remove the discriminatory part retaining the beneficial portion. The pensioners do not challenge the liberalised

pension scheme. They seek the benefit of it. Their grievance is of the denial to them of the same by arbitrary introduction of words of limitation and

we find no difficulty in severing and quashing the same. This approach can be legitimised on the ground that every Government servant retires. State

grants upward revision of pension undoubtedly from a date. Event has occurred revision has been earned. Date is merely to avoid payment of arrears

which may impose a heavy burden. If the date is wholly removed, revised pensions will have to be paid from the actual date of retirement of each

pensioner. That is impermissible. The State cannot be burdened with arrears commencing from the date of retirement of each pensioner. But effective

from the specified date future pension of earlier retired Government servants can be computed and paid on the analogy of fitments in revised pay-

scales becoming prospectively operative. That removes the nefarious unconstitutional part and retains the beneficial portion. It does not adversely

affect future pensioners and their presence in the petitions becomes irrelevant. But before we do so, we must look into the reasons assigned for

eligibility criteria, namely, 'in service on the specified date and retiring after that date'. The only reason we could find in affidavit of Shri Mathur is the

following statement in paragraph 5:

The date of effect of the impugned orders has been selected on the basis of relevant and valid considerations."

58. Now if the choice of date is arbitrary, eligibility criteria is unrelated to the object sought to be achieved and has the pernicious tendency of dividing

an otherwise homogeneous class, the question is whether the liberalised pension scheme must wholly fail or that the pernicious part can be severed,

cautioning itself that this Court does not legislate but merely interprets keeping in view the underlying intention and the object, the impugned measure

seeks to subserve ? Even though it is not possible to oversimplify the issue, let us read the impugned memoranda deleting the unconstitutional part.

Omitting it, the memoranda will read like this :

At present, pension is calculated at the rate of 1/80th of average emoluments for each completed year of service and is subject to a maximum of

33/80 of average emoluments and is further restricted to a monetary limit of Rs. 1,000/- per month. The President is, now, pleased to decide that with

effect from 31st March, 1979 the amount of pension shall be determined in accordance with the following slabs.

If from the impugned memoranda the event of being in service and retiring subsequent to specified date is severed, all pensioners would be governed

by the liberalised pension scheme. The pension will have to be recomputed in accordance with the provisions of the liberalised pension scheme as

salaries were required to be recomputed in accordance with the recommendation of the Third Pay Commission but becoming operative from the

specified date. It does therefore appear that the reading down of impugned memoranda by severing the objectionable portion would not render the

liberalised pension scheme vague, unenforceable or unworkable.

59. In reading down the memoranda, is this Court legislating? Of course 'not'. When we delete basis of classification as violative of Art. 14, we merely

set at naught the unconstitutional portion retaining the constitutional portion.

60. We may now deal with the last submission of the learned Attorney General on the point. Said the learned Attorney- General that principle of

severability cannot be applied to augment the class and to adopt his words 'severance always cuts down the scope, never enlarges it'. We are not sure

whether there is any principle which inhibits the Court from striking down an unconstitutional part of a legislative action which may have the tendency

to enlarge the width and coverage of the measure. Whenever classification is held to be impermissible and the measure can be retained by removing

the unconstitutional portion of classification, by striking down words of limitation, the resultant effect may be of enlarging the class. In such a situation,

the Court can strike down the words of limitation in an enactment. That is what is called reading down the measure. We know of no principle that

'severance' limits the scope of legislation and can never enlarge it. To refer to the Jaila Singh's case (supra), when for the benefit of allotment of land

the artificial division between pre-1955 and post-1955 tenant was struck down by this Court, the class of beneficiaries was enlarged and the cake in

the form of available land was a fixed quantum and its distribution amongst the larger class would protanto reduce the quantum to each beneficiary

included in the class. Similarly when this Court in Randhir Singh's case (supra) held that the principle of 'equal pay for equal work' may be properly

applied to cases of unequal pay based on no classification or irrational classification it enlarged the class of beneficiaries. Therefore, the principle of

'severance' for taking out the unconstitutional provision from an otherwise constitutional measure has been well recognised. It would be just and

proper that the provision in the memoranda while retaining the date for its implementation, but providing 'that in respect of Government servants who

were in service on the 31st March, 1979 but retiring from service in or after that date' can be legally and validly severed and must be struck down.

The date is retained without qualification as the effective date for implementation of scheme, it being made abundantly clear that in respect of all

pensioners governed by 1972 Rules, the pension of each may be recomputed as on April 1, 1979 and future payments be made in accordance with

fresh computation under the liberalised pension scheme as enacted in the impugned memoranda. No arrears for the period prior to 31st March, 1979 in

accordance with revised computation need be paid.

61. In this context the last submission of the learned Attorney General was that as the pension is always correlated to the date of retirement, the Court

cannot change the date of retirement, and impose fresh commutation benefit. We are doing nothing of this kind. The apprehension is wholly

unfounded. The date of retirement of each employee remains as it is. The average emoluments have to be worked out keeping in view the

emoluments drawn by him before retirement but in accordance with the principles of the liberalised pension scheme. The two features which make

the liberalised pension scheme more attractive is the redefining of average emoluments in Rule 34, and introduction of slab system simultaneously

raising the ceiling. Within these parameters, the pension will have to be recomputed with effect from the date from which the liberalised pension

scheme came into force i.e. March 31, 1979. There is no question of fresh commutation of pension of the pensioners who retired prior to 31st March,

1979 and have already availed of the benefit of commutation. It is not open to them to get that benefit at this late date because commutation has to be

availed of within specified time limit from the date of actual retirement. May be some marginal retirees may earn the benefit. That is inevitable. To

say that by our approach we are restructuring the liberalised pension scheme, is to ignore the constitutional mandate. Similarly, the court is not

conferring benefits by this approach, the court only removes the illegitimate classification and after its removal the law takes its own course.

62. But in this context the learned Attorney submitted the following quotation which appears to have been extracted from a decision of American

Court, citation of which was not available. The quotation may be extracted from the written submission. It reads as under:

It remains to enquire whether this plea that Congress would have enacted the legislation and the Act being limited to employees engaged in

commerce within the district of Columbia and the Territory. If we are satisfied that it would not or that the matter is in such doubt that we are unable

to say what Congress would have done omitting the unconstitutional features then the statute must fail.

We entertain no such apprehension. The Executive with parliamentary mandate liberalised the pension scheme. It is implicit in liberalising the scheme

that the deed to grant little higher rate of pension to the pensioners was considered eminently just. One could have understood persons in the higher

pay bracket being excluded from the benefits of the scheme because it would have meant that those in higher pay bracket could fend for themselves.

Such is not the exclusion. The exclusion is of a whole class of people who retire before a certain date. Parliament would not have hesitated to extend

the benefit otherwise considered eminently just, and this becomes clearly discernible from page 35 of 9th Report of Committee on Petitions (Sixth Lok

Sabha) April, 1976. While examining their representation for better pensionary benefit, the Committee concluded as under:

The Committee are of the view that Government owe a moral responsibility to provide adequate relief to its retired employees including pre 1.1.1973

pensioners, whose actual value of pensions has been eroded by the phenomenal rise in the prices of essential commodities. In view of the present

economic conditions in India and constant rise in the cost of living due to inflation, it is all the more important even from purely humanitarian

considerations if not from the stand point of fairness and justice, to protect the actual value of their meagre pensions to enable the pensioners to live in

their declining years with dignity and in reasonable comfort.

Therefore, we are not inclined to share the apprehension voiced by the learned Attorney that if we strike down the unconstitutional part, the

parliament would not have enacted the measure. Our approach may have a parliamentary flavour to sensitive noses.â??

17. Again, in the case of â??R. L. Marwaha v. Union of India & Ors.â??, reported in â??1987(4) Supreme Court Cases 31â??, the Supreme Court

had the occasion to determine the fixation of a date for the purpose of computation of pension, Paragraph No.8 of which assumes significance herein

this case and it is reproduced hereinbelow, verbatim et literatim:

8. There is no dispute that the ICAR though it is a body registered under the Societies Registration Act, 1960, is a body which is sponsored, financed

and controlled by the Central Government. There has been a continuous mobility of personnel between Central Government departments and

autonomous bodies, like the ICAR both ways and the Government thought, and rightly so, that it would not be just to deprive an employee who is later

on absorbed in the service of the autonomous body, like the ICAR the benefit of the service rendered by him earlier in the Central Government for

purposes of computation of pension and similarly the benefit of service rendered by an employee who is later on absorbed in the Central Government

service the benefit of the service rendered by him earlier in the autonomous body for purposes of computation of pension. If that was the object of

issuing the notification then the benefit of such notification should be extended to all pensioners who had rendered service earlier in the Central

Government or in the autonomous body as the case may be with effect from the date of the said Government order. Now let us take the case of a

person who had rendered service under the Central Government between January 1, 1953 and July 1, 1955 but who has retired from service of the

ICAR in 1985. There is no dispute that such a person gets the benefit of the service put in by him under the Central Government for purposes of his

pension. But another pensioner who has put in service under the Central Government during the same period will not get similar concession if he has

retired prior to the date of the Government order if Paragraph 7 of that order is applied to him. The result will be that whereas in the first case there

is pensionary liability of the Central Government in the second case it does not

exist although the period of service under the Central Government is the same. This discrimination arises on account of the Government order. There is no justification for denying the benefit of the Government order to those who had retired prior to the date on which the Government order was issued. The respondents have not furnished any acceptable reason in support of their case, except saying that the petitioner was not entitled to the benefit of the Government order because the order says that it would not be applicable to those who had retired prior to the date on which it was issued. In the absence of any explanation which is worthy of consideration it has to be held that the classification of the pensioners who were working in the Government/ autonomous bodies into two classes merely on the basis of the date of retirement as unconstitutional as it bears no nexus to the object to be achieved by the order.â??

18. The law laid down in case titled â??T. S. Thiruvengadam v. Secretary to Government of India & Ors.â??. reported in â??1993(2) Supreme Court

Cases 174â??. elucidates this concept further and Paragraph No.10 of the said judgment, which is germane to the issue, lays down as under:

â??10. We do not, also, find substance in the contention that the revised benefits being new it could only be prospective in operation and cannot be

extended to employees who were absorbed earlier. It is no doubt correct that the Memorandum dated June 16, 1967 is prospective which only means

that the benefits therein can be claimed only after June 16, 1967. The Memorandum, however, takes into consideration the past event that is the period of service under the Central Government for the purposes of giving pro- rata pension. Whoever has rendered pensionable service prior to coming into

force of the Memorandum would be entitled to claim the benefits under the said Memorandum. Restricting the benefits only to those who were

absorbed in public undertakings after June 16, 1967 would be arbitrary and hit by Articles 14 and 16 of the Constitution.â??Â

19. The Apex Court of the country, again, in its decision rendered in a batch of cases, lead case being â??Kallakurichi Taluk Retired Officials

Association, Tamil Nadu & Ors. v. State of Tamil Naduâ?? reported in â??(2013) 2 Supreme Court Cases 772â??. had an occasion to peep deep

into the classification rule, in Paragraph Nos. 33 and 34, which are reproduced below, word for word and letter for letter:

33. At this juncture it is also necessary to examine the concept of valid classification. A valid classification is truly a valid discrimination. Article 16 of

the Constitution of India permits a valid classification [see, *State of Kerala vs. N.M. Thomas* (1976) 2 SCC 310]. A valid classification is based on a

just objective. The result to be achieved by the just objective presupposes, the choice of some for differential consideration/treatment, over others. A

classification to be valid must necessarily satisfy two tests. Firstly, the distinguishing rationale has to be based on a just objective. And secondly, the

choice of differentiating one set of persons from another, must have a reasonable nexus to the objective sought to be achieved. Legally, the test

for a valid classification may be summarized as, a distinction based on a classification founded on an intelligible differentia, which has a rational

relationship with the object sought to be achieved. Whenever a cut off date (as in the present controversy) is fixed to categorise one set of pensioners

for favourable consideration over others, the twin test for valid classification (or valid discrimination) must necessarily be satisfied.

34. In the context of the instant appeals, it is necessary to understand the overall objective of treating "dearness allowance" (or a part of it) as

"dearness pay". There can be no doubt, that "dearness allowance" is extended to employees to balance the effects of ongoing inflation, so

as to ensure that inflation does not interfere with the enjoyment of life, to which an employee is accustomed. Likewise, the objective of "dearness

pay" is to balance the effects of ongoing inflation, so that a pensioner can adequately sustain the means of livelihood to which he is accustomed.

Having understood the reason why the Government extends the benefit of "dearness allowance" and "dearness pay", to its employees and

pensioners respectively, we would venture to search for answers to the twin tests which must be satisfied, for making a valid classification (or a valid

discrimination), in the present fact situation.

20. The judgments cited above bring it to the fruition that the denial of revised benefits to those who are absorbed prior to the cut-off date violates the

mandate of Articles 14 and 16 of the Constitution of India. These also state that denying the benefit of a Government order to those who had retired

on the date it was issued has no basis or justification, unless and until, some acceptable reason in support thereof is put forward. Merely saying that a

particular person is not entitled to the benefit of the Government order because a Government order says so, as is the position herein this case, would not be sufficient. In the absence of any explanation, which is worthy of consideration, the classification of the employees into two classes on the basis of the date of retirement is unconstitutional as it has no nexus with the object sought to be achieved by that order. The application of the order only to those employees who were in service on the cut-off date are words of limitation which introduce a mischief and these are vulnerable as they deny equality. Such an order introduces an arbitrary fortuitous circumstance and, therefore, cannot withstand the test of law. A classification which creates a class within a class should have a distinguishing rationale based on a just objective and the choice of discriminating one set of persons with another must have a reasonable nexus with the objective sought to be achieved. The Government order or the communication, detailed hereinbefore and impugned herein this petition, do not, in any manner, substantiate so and, therefore, need to be quashed.

21. In view of the preceding analysis, the impugned Government Order No. 1192-GAD of 2005 dated 27th of September, 2005, as also the communication No. GAD(Ser)Genl-25/96 dated 17th of September, 2010, are set aside and, as a sequel thereto, the respondents are directed to accord fresh consideration to the case of the petitioner in accordance with the law laid down above as also taking into consideration the number of years of the service that she has rendered in IMPA as expeditiously as possible, preferably within a period of two months from the date the certified copy of this order is made available to them by the petitioner.Â