
(2010) 07 AHC CK 0117
In the Allahabad High Court

State of U.P and Another

APPELLANT

Vs

Narendra Singh and Others
Commissioner Trade Tax
Vs Umesh Rai and Others

RESPONDENT

Date of Decision : 23-07-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 8 Rule 1
Constitution of India, 1950 — Article 14, 309
Uttar Pradesh Fundamental Rules — Rule 56
Uttar Pradesh Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 1995 — Rule 4, 4(1), 4(2), 4(3), 4(4)

Citation : (2010) 07 AHC CK 0117

Hon'ble Judges : Uma Nath Singh, J;Devendra Kumar Arora, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Devendra Kumar Arora, J.—This bunch of writ petitions have been filed on behalf of the State of U.P. for quashing of the judgment & order, passed by the learned U. P. Public Services Tribunal, Lucknow in different claim petitions.

2. Since, the common question of law is involved in these writ petitions, accordingly they are being heard and decided by means of a common judgment.

3. Writ Petition No. 134 (S/B) of 2002, State of U.P. and Anr. v. Narendra Singh will be leading case in this judgment.

4. Brief facts of the case are that during the different years the private respondents were awarded adverse entries against which they preferred representations which were decided by the authorities concerned beyond the time prescribed in the Rules. The private respondents against the said adverse entries preferred various claim petitions before the State Public Services Tribunal, Lucknow and challenged the adverse entries on the ground that the representations were decided beyond the time, prescribed in the U.P.

Government Servants (disposal of representation against the adverse annual confidential reports and allied matters) Rules-1995 (here-in-after referred to as Rules, 1995) and prayed for quashment of the said adverse entries. The learned Tribunal allowed claim petitions basically on the ground of delayed disposal of the representations. The learned Tribunal also observed that the representations have also been decided by means of a non-speaking orders, which is also violation of the Rules 1995 and held that the claim petitioners are entitled to get the benefit of Rule 5 of the Rules, 1995. The learned Tribunal further directed that the impugned adverse entry shall not be treated adverse against the claimants (herein private respondents) for the purposes of promotion, crossing of efficiency bar and other service matters. Being aggrieved with the said judgment and orders, passed by the learned Tribunal, the petitioner, State of U. P. has approached this Court.

5. The main contention of learned Additional Chief Standing Counsel, appearing on behalf of the Petitioners/ State, is that the adverse entries have been provided to the private respondents by the competent authorities in order to bring qualitative improvement in public work. The adverse entries were speaking one and were also conveyed to the concerned private respondents. Further, the representations, so moved by the private respondents against their adverse entries, were also considered and decided and communicated to the concerned private respondents.

6. It is further submitted that in order to bring clarity in matters of communication of adverse entries and for disposal of representation expeditiously, so that the government servant may not get deprived of service benefits because of non-disposal of representation, in the year 1995, the State Government in exercise of powers conferred under the proviso to Article 309 of the Constitution of India, framed Rules known as "Uttar Pradesh Government Servants (Disposal of Representation against Annual Confidential Reports and allied Matters) Rules, 1995. The Rules, 1995 have overriding effect over all existing Rules and orders on the subject relating to disposal of representation against Annual Confidential Reports.

7. Rule 4 of Rules, 1995 reads as under:

4. Communication of adverse report and procedure for disposal of representation .-(1) Where a report in respect of a Government Servant is adverse or critical, wholly or in part, hereinafter referred to as adverse report, the whole of the report shall be communicated in writing to the Government Servant concerned by the accepting authority or by an officer not below the rank of reporting authority nominated in this behalf by the accepting authority, within a period of 45 days from the date of recording the report and a certificate to this effect shall be recorded in the report.

(2) A Government Servant may, within a period of 45 days from the date of communication of adverse report under Sub-rule (1), represent in writing directly

and also through proper channel to the authority, one rank above the accepting authority, hereinafter referred to as the competent authority, and if there is no competent authority, to the accepting authority itself, against the adverse report so communicated:

Provided that if the competent authority or the accepting authority, as the case may be, is satisfied that the Government Servant concerned had sufficient cause for not submitting the representation within the said period, he may allow a further period of 45 days for submission of such representation.

(3) The competent authority or accepting authority as the case may be, shall, within a period not exceeding one week from the date of receipt of the representation under Sub-rule (2), transmit the representation to the appropriate authority, who has recorded the adverse report, for his comments who shall, within a period not exceeding 45 days from the date of receipt of the representation, furnish his comments to the competent authority or the accepting authority, as the case may be-

Provided that no such comments shall be required if the appropriate authority has ceased to be in, or has retired from, the service or is under suspension before sending his comments.

(4) The competent authority or the accepting authority, as the case may be, shall within a period of 120 days from the date of expiry of 45 days specified in Sub-rule (3), consider the representation alongwith the comments of the appropriate authority, and if no comments have been received without waiting for the comments, and pass speaking orders

(a) rejecting the representation; or

(b) expunging the adverse report wholly or partly as he considers proper.

(5) Where the competent authority due to any administrative reasons, is unable to dispose of the representation within the period specified in Sub-rule (4), he shall report in this regard to his higher authority, who shall pass such orders as he considers proper for ensuring disposal of the representation within the specified period.

(6) An order passed under Sub-rule (4) shall be communicated in writing to the Government servant concerned.

(7) Where an order expunging the adverse report is passed under Sub-rule (4), the competent authority or the accepting authority, as the case may be, shall omit the report so expunged.

(8) The order passed under Sub-rule (4) shall be final.

(9) Where any matter for-

(i) communication of an adverse report;

- (ii) representation against an adverse report;
- (iii) transmission of representation to the appropriate authority for his comments;
- (iv) comments of the appropriate authority; or
- (v) disposal of representation against an adverse report: is pending on the date of the commencement of these rules, such matters shall be dealt with and disposal if within the period prescribed therefore under this rule.

Explanation.-In computing the period prescribed under this rule for any matters specified in this sub-rule, the period already expired on the date of the commencement of these rules shall not be taken into account.

8. Rule 5 of Rules, 1995 provide that wherein the adverse reports were not communicated to the incumbent or where a representation against an adverse entry had not been disposed of in accordance with Rule 4, such report/entry would not be treated as adverse for the purposes of promotion, crossing of efficiency bar and other service matters of the government servant.

9. Rule 5 reads as under:

5. Report not to be treated adverse: Except as provided in Rule 56 of the Uttar Pradesh Fundamental Rules contained in Financial Handbook Volume II, Part-I to IV, where an adverse report is not communicated or a representation against an adverse report has not been disposed of in accordance with Rule 4, such report shall not be treated adverse for the purpose of promotion, crossing of efficiency-bar and other service matters of the Government Servant concerned.

10. Rule 7 of Rules, 1995 provides for penalty in the event of failure to communicate adverse report or wilfully fails to dispose of the representation within the prescribed period and for willful default in placing the report before the competent authority by a Section Officer in the Secretariat and for treating such a default to be a misconduct punishable in accordance with the punishment rules applicable to the incumbent.

11. Rule 7 is being quoted below:

7. Penalty: (1) Where an officer legally bound to communicate an adverse report to the Government servant concerned or where an officer legally competent to dispose of a representation against an adverse report under these rules, wilfully fails to do so, within the period prescribed therefore, shall be guilty of misconduct and be punishable in accordance with the punishment rules applicable to him.

(2) A Section Officer in the Secretariat and an officer or official incharge of an office, other than the Secretariat, shall place the representation, comments of the appropriate authority thereon and other relevant records, if any, before the competent authority or the accepting authority, as the case may be, immediately after their receipt. Any wilful default, in this behalf, on his part shall be a

misconduct and he shall be punishable in accordance with the punishment rules applicable to him.

12. After coming into force of the Rules, 1995, a number of employees challenged their adverse reports before the Tribunal on the ground that the representations against the same had either not at all been disposed of or not been disposed of within the time schedule provided in Rule 4 of Rules, 1995. The learned Tribunal without entering into merits of the case, merely on the ground that the representation against Annual Confidential Reports had not been disposed of within the time schedule mentioned in Rules, 1995, passed orders for treating the adverse confidential reports as not adverse for the purpose of promotion, crossing of efficiency bar and other service matters.

13. Learned Additional Chief Standing Counsel also submitted that Rule 4 lays down the procedure for considering and deciding the representation made by a government servant against the Annual Confidential Reports in which the time prescribed with respect to various stages in the procedure is not mandatory but is only directory. Learned Counsel further argued that delay in disposal of representation, as long as representation is not disposed of, cannot be construed to mean that the adverse material gets wiped off altogether from the service record of the government servant concerned. Further, the benefit of Rule 5 inasmuch as the Annual Confidential Reports would not be treated as adverse for the purpose of promotion, crossing of efficiency bar and other service matters of a government servant only upto a point of time till the representation is not decided and not beyond that. Once representation has been decided by the competent authority after adopting the substantive procedure as laid down in Rule 4, it gives a fresh cause of action and such an order disposing of the representation in judicial review has to be tested on its own strength independent of the delay.

14. Rule 5 comes into play in two contingencies only:

(I) Where the adverse report has not been communicated (a provision thereof is made in Rule 4(1))

(II) Where a representation against the adverse entry has not been disposed of in accordance with Rule 4.

15. It is only these two contingencies that the report is not to be treated as adverse for the purpose of promotion, crossing of efficiency bar and other service matters. Had it been the intention of the legislature to give the benefit where the representation has been disposed of though beyond the prescribed time schedule, it would have been specifically provided for such third contingency in Rule 5 but the same is not so.

16. Further submission of learned Counsel appearing on behalf of the State is that mere delay of couple of days to a few months or even more cannot be used by the incumbent to his advantage. The effect of such interpretation would

actually mean that an incumbent himself may indulge in causing hindrance and ultimately reap the benefit of his disposal of representation by a delay of a day or two. Consequently, a provision is to be construed in such a manner so as to make it workable and effective and with intent, not to defeat the purpose of incorporation of the Rules, 1995. From the point of time of disposal of representation onwards where the schedule expires up till the time of decision, Government Servant cannot be given the benefit of Rule 5 beyond the date of disposal of representation.

17. Another submission of learned Counsel for State is that the time schedule provided for in Rule 4 is only directory and not mandatory and for proving home this point, he referred to Order VIII Rule 1 C.P.C. which in sum and substance provides that

the defendant shall on or before first hearing or within such time as the court may fix, which shall not be beyond 30 days from the date of service of summons on the defendant, present a written submission of his defence.

18. It is further submitted that in the provision though a negative language has been used yet in number of judgments Hon^{ble} the Supreme Court interpreted it to conclude that despite use of negative "shall not be beyond 30 days" has held that it is not mandatory in character but it is only directory in nature.

19. A perusal of Sub-rule (4) of Rule 4 would reveal that it does not make use of any negative language nor does it limit the period of 120 days by use of any such words like "not exceeding" etc. while clothing the competent authority to dispose of representation.

20. As such, where representation has been disposed of though beyond the time frame yet from that point onwards the government servant cannot be any longer held entitled to benefit of Rule 5. Moreso, since such disposal of representation gives a fresh cause of action quite capable to standing on its own legs in judicial scrutiny since it is a speaking order having been passed after due deliberation and consideration of all aspects in consonance with principles of natural justice provided for as safeguards as substantive provision in Rule 4 of the Rules, 1995.

21. We have considered the submission of learned Counsel for the petitioners and gone through the record of writ petitions.

22. A century ago in *Taylor v. Taylor* (1875) 1 Ch D 426 Jessel Mr. Adopted the rule that "where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that the other methods of performance are necessarily forbidden". The rule was followed by Privy Council in AIR 1936 253 (Privy Council) of the same reads as under:

18. ...The rule which applies is a different and not less well recognised rule, namely, that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden....

23. This rule has since been approved by Hon"ble Supreme Court in Rao Shiv Bahadur Singh and Another Vs. The State of Vindhya Pradesh, again in Deep Chand Vs. The State of Rajasthan, State of U.P. v. Singhara Singh AIR 1964 ASC 358 , in Babu Verghese and Others Vs. Bar Council of Kerala and Others,

24. It is a well settled rule of administrative law that an executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. This rule was enunciated by Mr. Justice Frankfurter in Vitarelli v. Seaton (1959) 359 US 535 : 3 L Ed 2d 1012 where the learned Judge observed:

An executive agency must be rigorously held to the standards by which it professes its action to be judged.

Accordingly, if dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that procedure must be scrupulously observed.... This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with the sword.

The Hon"ble Supreme Court accepted the rule as valid and applied in India in Dr. Amarjit Singh Ahluwalia Vs. The State of Punjab and Others, and in subsequent decision given in Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, The Hon"ble Supreme Court in Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, while appreciating the said rule pleased to observe in para-10 as under:

It may be noted that this rule, though supportable also as emanating from Article 14, does not rest merely on that article. It has an independent existence apart from Article 14. It is a rule of administrative law which has been judicially evolved as a check against exercise of arbitrary power by the executive authority. If we turn to the judgment of Mr. Justice Frankfurter and examine it, we find that he has not sought to draw support for the rule from the equality clause of the United States Constitution but evolved it purely as a rule of administrative law. Even in England, the recent trend in administrative law is in that direction as is evident from what it stated at pages 540-41 in Prof. Wade's Administrative Law 4th Edition. There is no reason why we should hesitate to adopt this rule as a part of our continually expanding administrative law. Today with tremendous expansion of welfare and social service functions increasing control of material and economic resources and large scale assumption of industrial and commercial activities by the State, the power of the executive Government to affect the lives of the people is steadily growing. The attainment of socio-economic justice being a conscious end of State policy, there is a vast and inevitable increase in the frequency with which ordinary citizens come into

relationship of direct encounter with State power-holders. This renders it necessary to structure and restrict the power of the executive Government so as to prevent its arbitrary application or exercise. Whatever be the concept of the rule of law whether it be the meaning given by Dicey in his "the Law of the Constitution" or the definition given by Hayek in his "Road to Serfdom" and "Constitution of liberty" or the exposition set forth by Herry Jones in his "The Rule of Law and the Welfare State", there is, as pointed out by Mathew, J., in his article on "The Welfare State, Rule of Law and Natural Justice" in Democracy, Equality and Freedom "substantial agreement in juristic thought that the great purpose of the rule of law notion is the protection of the individual against arbitrary exercise of power, wherever it is found". It is indeed unthinkable that in democracy governed by the rule of law the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affection of some right or denial of some privilege.

25. "The question as to whether a statute is mandatory or directory depends upon the intent of the Legislature and not upon the language in which the intent is clothed. The meaning and intention of the Legislature must govern, and these are to be ascertained not only from the phraseology of the provision, but also by considering its nature, its design, and the consequences which would follow from construing it the one way or the other". "For ascertaining the real intention of the Legislature, the nature and design of the statute, and the consequences which would follow from construing it the one way or the other; the impact of other provisions whereby the necessity of complying with the provisions in question is avoided; the circumstances, namely, that the statute provides for a contingency of the non-compliance with the provisions; the fact that the non-compliance with the provisions is or is not visited by some penalty; the serious or the trivial consequences, that flow therefrom; and above all, whether the object of the legislation will be defeated or furthered." If object of the enactment will be defeated by holding the same directory, it will be construed as mandatory. Whenever a statute requires a particular act to be done in a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence, it would be difficult to accept the argument that the failure to comply with the said requirement should lead to any other consequence.

26. Maxwell on interpretation of statute, 12th edition, while analyzing the cases in which statutory requirement have been held to be mandatory observed that where the whole aim and object of the legislature would be plainly defeated if the command to do the things in a particular manner did not imply a prohibition on doing it in any other. It is further opined that if the benefit be for the protection of an individual in his private capacity the same can be waived. To illustrate, reference has been made about waiver of the benefit of the Limitation Act on the

maxim of law "Quilibet potest renunciare juri pro se introducto", meaning "an individual may renounce a law made for his special benefit". Maxwell further says that if the benefit be one which has been imposed in public interest there can be no waiver of the same.

27. Craies in his Statute Law has opined the same, as would appear from what has been stated at page 269 of 7th Edn. By drawing attention to the aforesaid maxim, it has been observed that if the object of a statute is "not one of general policy, or if the thing which is being done will benefit only a particular person or class of persons, then the conditions prescribed by the statute are not considered as being indispensable". To illustrate this principle, it has been stated that if the statutory condition be imposed simply for the security or the benefit of the parties to the action themselves, such condition will not be considered as indispensable and either party may waive it.

28. Crawford in his Interpretation of Laws takes the same view as would appear from pages 540-542 (1989 Reprint). The learned author while quoting the aforesaid maxim states at page 542 that requirement like giving of notice may be waived as the same is intended for the benefit of the person concerned.

29. Francis Bennion in his Statutory Interpretation (1984), at pages 27 et seq stated that if the performance of statutory duty be one which would come within the aforesaid maxim, the person entitled to the performance can effectively waive performance of the duty by the person bound. As an illustration mention has been made (at page 29) of decision in Toronto Corpn. v. Russell and Stylo Shoes Ltd. v. Prices Tailors Ltd. wherein it was held that a duty to give notice of certain matters can be waived by the person entitled to notice, if there is no express or implied indication that absence of notice would be fatal.

30. H.W.R. Wade has dealt with this aspect at page 267 of the 6th Edn. of his treatise wherein he has quoted what Lord Denning, MR said in Wells v. Minister of Housing and Local Government, which reads as under:

I take the law to be that a defect in procedure can be cured, and an irregularity can be waived, even by a public authority, so as to render valid that which would otherwise be invalid.

31. In "words and Phrases" (Permanent Edition), the meaning of words "irregularity" and "nullity" has been analyzed at page 469 of Vol. 22A and at pages 772 and 773 Vol. 28A respectively. "Irregularity" is want of adherence to some prescribed rule or mode of proceeding"; whereas "nullity" is "a void act or an act having no legal force or validity" as stated at page 772. At page 773 it has been mentioned that the safest rule of distinction between an "irregularity" and a "nullity" is to see whether "a party can waive the objection: if he can waive, it amounts to irregularity and if he cannot, it is a nullity."

32. The analysis of Rule 1995 reveals that the whole adverse report has to be communicated in writing to the Government Servant by the concerned accepting

authority or by an officer not below the rank of reporting authority nominated in this behalf by the accepting authority, within a period of 45 days from the date of recording the report and a certificate to the said effect has to be recorded in the report.

33. The Sub-rule (2) of Rule 4 gives an option to a Government Servant to represent in writing directly and also through proper channel within a period of 45 days to the authority, one rank above the accepting authority, and if there is no such authority then to the accepting authority itself. If government servant concerned shows sufficient cause for not submitting the representation within the prescribed period, the competent authority or the accepting authority may grant a further time of 45 days for submission of such representation.

34. The Sub-rule (3) of Rule 4 further mandates that the competent authority within the period not exceeding one week from the date of receipt of the representation under Sub-rule (2), transmit the representation to the appropriate authority, who has recorded the adverse report, for his comments and the said authority shall within a period not exceeding 45 days from the date of the receipt of representation has to furnish his comments to the competent authority and no comments shall be required if the appropriate authority has ceased to be in, or has retired from, the service or is under suspension before sending his comments.

35. Sub-rule (4) mandates a competent authority to consider the representation alongwith comments of appropriate authority, and if no comments have been received without waiting for comments, and pass speaking orders (a) rejecting the representation; or (b) expunging the adverse report wholly or partly as he considers proper within a period of 120 days from the date of expiry of 45 days specified in Sub-rule (3).

36. The Sub-rule (5) provides where the competent authority due to any administrative reasons, is unable to dispose of the representation within a period specified in Sub-rule (4), he shall report in this regard to his higher authority, and in such situation the higher authority shall pass orders as he considers proper for ensuring disposal of the representation within the specified period.

37. The Rule 5 provides that except as provided in Rule 56 of the Uttar Pradesh Fundamental Rules contained in Financial Handbook Volume-II, Parts II to IV, where an adverse report is not communicated or a representation against an adverse report has not been disposed of in accordance with Rule 4, such report shall not treated adverse for the purpose of promotion, crossing of efficiency-bar and other service matters of the Government Servant concerned.

38. The examination of rule further reveals that Rule 6 provides that the competent authority has to maintain a register in such form as may be specified by the government from time to time and shall make appropriate entries therein.

39. The Sub-rule (1) of Rule 7 provides for penalty by treating it as a misconduct

and punishable in accordance with the applicable punishment rules. If an officer legally bound to communicate an adverse report to the concerned government servant or where an officer legally competent to dispose of a representation against an adverse report under these rules, willfully fails to do so, within the period prescribed therefor.

40. Sub-rule (2) of Rule 7 cast a duty upon section officer in Secretariat and officer or official incharge of an office, other than the Secretariat, of placing the representation, comments of appropriate authority thereon and other relevant records, if any, before the competent authority or the accepting authority, immediately after their receipt and any wilful default, in this behalf, on the part of the said officer has to be treated as a misconduct and the officer concerned is liable for punishment in accordance with the applicable punishment rules.

41. The analysis of the provisions of rules 1995 makes it crystal clear that there is a prescribed time schedule for disposal of the representation and the time starts from the stage of communication of the adverse reports in writing to a government servant. The authorities have been given discretion to allow further time of 45 days to the government servant, where government servant fails to submit his representation against the adverse report within the time of 45 days from the date of communication, on showing sufficient cause for not submitting the representation within the prescribed period of 45 days. The rule further mandates that if the comments of the authority, who has recorded the adverse report are not received within the time prescribed, the competent authority has to proceed further without waiting for the comments and pass speaking orders within a period of 120 days from the date of expiry of 45 days specified in Sub-rule (3).

42. Sub-rule 5 of Rule 4 further take care of a situation where a competent authority due to any administrative reason is unable to dispose of the representation within the period specified in Sub-rule 4 then the competent authority has to inform his higher authorities and the duty has been cast upon the said higher authority for passing such orders as he considers proper for ensuring disposal of the representation within the specified period.

43. Under Rule 6, the competent authority is required to maintain register and make appropriate entries therein for achieving the object prescribed under Rules, 1995.

44. The Legislature even has taken care for making compliance of Rule 4 by incorporating penal clause in Rule 7 in the event of failure to communicate adverse report or dispose of the representation willfully within the prescribed period by competent authority or in default in placing the representation, comments of the appropriate authority with other relevant record before the competent authority, by the concerned officer.

45. A holistic view of the provisions of the Disposal of Representation Rules, 1995 reflects that the same have been incorporated with zeal and pious intention

of ensuring disposal of representation of government servant made against adverse entry awarded to him and on examining the provisions of Rules, 1995, it is absolutely clear that a time frame schedule has been prescribed with the panel provisions against the defaulting officers. The rule further prescribes the mode which is required to be strictly observed and failure of disposal of the representation in accordance with Rule 4, entitles a government servant of the benefit of not treating such report as adverse for the purposes of promotion, crossing of efficiency bar and other service matters.

46. In view of the above, we are of the considered view that Rules 1995, nowhere provides the situation, where the representation of a government servant has been decided by the competent authority beyond/ after the expiry of time schedule prescribed under Rule 4 will remain in operation except for the period upto the disposal of the representation.

47. On the basis of aforesaid analysis, we are of the considered view that all these writ petition lack merits and do not warrant any interference by this Court.

48. Accordingly, all the writ petitions are hereby dismissed with the observation that in the cases where the representation against the adverse entry has not been disposed of in accordance with provisions of Rule 4 of U.P. Government Servants (Disposal of Representation against Annual Confidential Reports and allied Matters) Rule, 1995, such report shall not be treated as adverse for the purposes of promotion, crossing of efficiency bar and other service matters of the government servant concerned as per the mandate of Rule 5 of Rules, 1995.

49. As we are deciding these writ petitions only on legal issues without entering into the factual disputes, therefore, the concerned authorities are hereby directed to examine the individual case in pursuance to the provisions of Rule 5 of Rules, 1995.

50. With the aforesaid observations and directions, all these writ petitions are dismissed.

51. There shall be no order as to costs.