IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 490 of 2024
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1. Praveen Kumar, aged about 67 years, Son of Late Krishna Deo Narayan, Resident of at Narayan Niwas, 34 Hawainagar, Road No.3, P.O.-Hatia, P.S. –Jagarnathur, District-Ranchi, Jharkhand.
2. Umesh Prasad, aged about 65 years, Son of Late Hari Sao, Resident of Kusai Colony, Qr. No. D-13, P.O. & P.S.-Doranda, Dist-Ranchi.
3. Kumar Devendra Narayan Singh, aged about 63 years, Son of Sri Dineshwar Prasad Singh, Resident of Jai Shree Green City, Block B, Flat No.5 A, P.O. & P.S.- Argora, District-Ranchi, Jharkhand.
4. Ashit Ranjan Verma, aged about 68 years, Son of Late Dukhi Lal, Resident of M 3, Argora Housing Colony, P.O. & P.S.-Argora, District-Ranchi, Jharkhand.
5. Suresh Ram, aged about 65 years, Son of Late Ram Lagan Ram, Resident of Qr. No.D/5, Kusai Vidyut Colony, Doranda, P.O. & P.S.-Doranda, District-Ranchi.
6. Vijay Kumar, aged about 66 years, Son of Late Badri Prasad, Resident of Flat No.104, Akansha Complex, Pusp Vihar, Harihar Singh Road, Morabadi, P.O. & P.S.-Morabadi, District-Ranchi, Jharkhand.

... ... Appellants/Petitioners

Versus

1. Jharkhand Urja Vikas Nigam Limited, having its office at Engineers Building, HEC, Dhurwa, Ranchi-4 through its Chairman Cum Managing Director, P.O.-Dhurwa, P.S.-Jagarnathpur, District-Ranchi.
2. General Manager (Personnel and General Administration), Jharkhand Urja Vikas Nigam Limited, Engineers Building, HEC, P.O-Dhurwa, P.S.-Jagarnathpur, District-Ranchi.

... ... **Respondents**

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CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE AKHIL KUMAR

For the Appellants : Mr. Amritansh Vats, Advocate
Mr. Arpan Manjesh Ekka, Advocate
Mr. Kumar Abhishek, Advocate

For the Respondents : Mr. Manoj Kumar, Sr. S.C.
Mr. Abhijeet Suman, AC to Sr. S.C.

Order No. 08: Dated 15th October, 2026

Per Sujit Narayan Prasad, J

Prayer:

1. The instant intra-court appeal, under Clause 10 of the Letters Patent, has been directed against order/judgment dated 03.07.2024 passed by learned Single Judge in W.P. (S) No. 399 of 2017 by which the writ petition filed by the writ petitioners has been disposed of on the ground that fate of similar impugned orders/notifications have already been decided vide order dated 08.9.2022 by the Co-ordinate Bench of this Court in W.P. (S) No. 3306 of 2015 by dismissing the writ petition.

Brief facts of the case:

2. Before referring to the factual aspect of the matter, it needs to mention herein that initially writ petition being W.P. (S) No.3306 of 2015 was filed on 23.07.2015 seeking a direction upon the respondents to correctly fix the pay scale of the petitioners after giving due benefit of MACP with the date of entitlement of each petitioner and also to pay the

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arrears to each petitioner w.e.f. the date of their entitlement along with interest.

3. At the stage of the writ proceedings, the petitioners had relied upon the various decisions made by the erstwhile electricity board i.e. Bihar State Electricity Board succeeded by Jharkhand State Electricity Board including the office order No. 292 dated 24.02.2012 issued by Jharkhand State Electricity Board, which, as per the petitioners, was clarifying earlier decisions contained in resolution No. 2492 dated 12.05.2010 and also office order No. 546 dated 13.04.2011 and office order No. 1724 dated 03.11.2011.

4. During the pendency of this writ petition, the respondents passed an order dated 18.11.2016 whereby the office order No. 292 dated 24.02.2012 was withdrawn with retrospective effect and further a direction has been issued to grant 1st, 2nd and 3rd M.A.C.P in terms of resolution No. 2492 dated 12.05.2010 and office order No. 1724 dated 03.11.2011.

5. The impugned order dated 18.11.2016 was followed by two consequential orders vide Notification No. 338 dated 26.07.2017 for G.T.O. and Notification No. 1313 dated 18.07.2017.

6. Accordingly, the writ petitioners-appellants filed interlocutory application seeking amendment of the writ petition and challenged the annulment of the Office Order

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No. 292 dated 24.02.2012 with retrospective date vide the Office Order No. 2251 dated 18.11.2016 whereby benefits given to the petitioners vide Office Order No. 292 dated 24.02.2012 were withdrawn with retrospective date. The writ petitioners-appellants also challenged those two notifications being Notification No. 338 dated 26.07.2017 for G.T.O. and notification No. 1313 dated 18.07.2017 for General Cadres Graduate Engineers Electrical. The said interlocutory application was allowed. Thereafter, the petitioners filed the amended writ petition.

7. It is pertinent to mention herein that by virtue of the order dated 22.06.2022, the writ court directed the respondents to produce the records of the decision-making process with regard to impugned order dated 18.11.2016 and also with regard to the consequential orders and the matter was adjourned.

8. Subsequently, the original records were produced before the concerned court. In order to give opportunity of hearing to the petitioners, the respondents placed a copy of the original records by filing a supplementary counter affidavit to which a rejoinder was also filed.

9. The factual aspect involved in the present case is that the petitioners-appellants were initially appointed by the Bihar state Electricity Board, Patna, on the post of Junior Electrical Engineer (JEE). Later on, they were promoted to

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the post of Assistant Electrical Engineer and Electrical Executive Engineer as also were granted ACP/MACP.

10. It is the case of the petitioners-appellants that vide Resolution No.2492 dated 12.05.2010, upon implementation of 6th Pay Revision Commission, a modified Assured Career Progression Scheme was made applicable in the Electricity Department, which provides financial up-gradation on completion of 10/20/30 years of service. Thereafter, another office order no. 292 dated 24.02.2012 was notified making certain amendments in the MACP Scheme in terms of guidelines prevalent in the Central Government.

11. It is further case of the petitioners-appellants that even the cadre of the petitioners-appellants has not been finally bifurcated from the erstwhile BSEB to the successor JSEB. In this context Office Order No.292 dated 24.02.2012 was issued explaining the resolution no. 2492 dated 12.05.2010 under which clause 15 of resolution no. 2492 dated 12.05.2010 was modified under which it was explained that the explanation given by the Central Govt. under MACP Scheme would be applied in JSEB and instead of ACP, it would be considered as promotion as because ACP was not implemented in Board. On the basis of above clarification vide office order no.292, the petitioners were granted 3rd MACP vide order no. 7342 dated 07.12.2013 in the Grade Pay of Rs.7750/- into the promotional post.

12. It is further case of the appellants that an audit objection was raised by the office of Accountant General with regard to grant of MACP for the persons whose entry level post was Assistant Executive Engineer (AEE) G.T.O; Assistant Electrical Engineer (General) and General Cadre and on the basis of audit objection office order no. 2251 dated 18.11.2016 was issued by which earlier office order no. 292 dated 24.02.2012 was cancelled with retrospective effect and MACP given to the employees vide resolution no. 2492 dated 12.05.2010 was substituted by new pay scale and for the petitioners it was downgraded as first ACP in the grade pay of Rs. 5100; 2nd ACP in the grade pay of Rs.5600/- and 3rd ACP in grade pay of Rs.6600/-.

13. Accordingly, by virtue of office order dated 18.11.2016, the MACP granted to the petitioners-appellants vide order dated 07.12.2013 was cancelled and recalled with retrospective effect.

14. The petitioners being aggrieved with office order dated 18.11.2016 by which earlier office order no. 292 dated 24.02.2012 was cancelled with retrospective effect approached this Court by filing writ petition being W.P. (S) No.399 of 2017, which was disposed of in terms of order dated 08.09.2022 passed in W.P.(S) No. 3306 of 2015, which is the subject matter of instant intra-court appeal.

Submissions on behalf of appellants:

15. Learned counsel for the petitioners-appellants has submitted that the writ Court erred in not considering Rule 6.7 (b) of notification dated 06.01.2014 as contained in Notification No. 18 being named as Jharkhand State Electricity Reform Transfer Scheme, 2013 wherein the rule has been framed that "*the terms and conditions of the services applicable to personnel on the effective date shall be intact of shall be more favorable than those applicable to them immediately before the said effective date. Accordingly, the salary, allowances and other pecuniary benefits including terminal benefits applicable on the effective date shall be protected and shall not be anyway changed.*"

16. Further, the learned writ court did not appreciate Rule 6.20 of notification dated 06.01.2014 as contained in Notification No. 18 whereby the service condition will be intact and shall be more favorable than the present service condition and, in the case, the transferee companies do not fulfill any service condition, the State Government guarantees and shall ensure through the holding company continuance of those benefits.

17. Learned counsel for the petitioners-appellants has further submitted that the Writ Court also did not consider the rule framed through the notification dated 01.04.2014 whereby it has guaranteed that the service conditions of the previous employees shall remain intact and the service

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benefits given by the previous Board shall be protected and will not be changed.

18. Submission has been made that the order dated 18.11.2016 was issued for rectification of the pay scale of the degree holder after grant of MACP not the pay scale of the appellants, who are diploma holder, as the same was not mentioned in the said office order, even though, the benefits of MACP has been cancelled with retrospective effect.

19. Therefore, submission has been made that so far present impugned order is concerned, it is only for the degree holders officers, who have been appointed directly on the post of Assistant Electrical Engineer/Assistant Executive Engineer not for the present appellants, who are coming from the cadre of Junior Electrical Engineer as objection raised by the office of Accountant General are only concerned with the pay scale after grant of MACP of Assistant Electrical Engineer/Assistant Executive Engineer not for the present appellants as their grade pay has never been objected by the office of Accountant General.

20. Further, the learned writ Court has grossly erred in not considering the fact as per the conduct of business, Regulation 1973 of BSEB and adopted by JSEB, any order/modification signed by the secretary shall be termed as authenticated by the Board. Therefore, the appellants should

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not suffer for any internal process of the Board either authenticated or unauthenticated.

21. Learned counsel for the petitioners-appellants has further submitted that the argument advanced on behalf of the petitioners/appellants that according to Section 133 of the Electricity Act, 2003 wherein it has been clearly provided that the State Government may, by a transfer scheme, provide for the transfer of the officers and employees to the transferee on the vesting of properties, rights and liabilities in such transferee as provided under Section 131, has not been appreciated in right prospective.

22. Further, the learned writ Court also did not appreciate the argument made on behalf of the petitioners/appellants that the decisions which were already taken by Bihar State Electricity Board in favour of the petitioners/appellants and thereafter by Jharkhand State Electricity Board are binding on the respondent company in view of section 133 of the Electricity Act, 2003.

23. It has been submitted that order dated 18.11.2016 has been passed on the basis of audit objection whereas the auditors have no role to play in the matter and further the writ Court ought to have appreciated the fact that the Jharkhand Electricity Board is an autonomous body and as such the same can make rule regulations etc on its own in the benefit of the employees/officers and as such the

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objection made by the Audit/Accountant General has got no sanctity in the eye of law as well in fact, which is detrimental to the employees or officers of the board such as petitioners/appellants.

24. Referring to notification dated 6th January, 2014, which was published on 09.01.2014, submission has been made that according to it the transfer scheme was duly notified only on 09.01.2014 and therefore any terms and conditions of employment which was effective prior to the notification dated 09.01.2014 is a binding on the respondents and the same cannot be changed to the disadvantage of the petitioners as has been done by the respondents while passing the impugned order dated 18.11.2016 whereby the Office Order No. 292 dated 24.02.2012 has been withdrawn with retrospective date, that too during the pendency of the writ petition. Accordingly, the action of the respondents is also *mala fide* as the earlier decision of the Board contained in office order No. 292 dated 24.02.2012 has been annulled during the pendency of writ petition which was subsequently impugned by making an amendment in the main writ petition.

25. Further submission has been made that the decision contained in office order No. 292 dated 24.02.2012 issued under the orders of the Jharkhand State Electricity Board

and therefore for all purposes, the same is the decision of the Board and is binding on the parties.

26. So far as parity of the case of the present petitioners-appellants to that of petitioners in W.P (S) No. 3306 of 2015 is concerned, submission has been made that it is not at all applicable to the present case in view of the fact that, JSEB and subsequent companies never raised objection about authentication of Office Order no. 292 dated 24.02.2012.

27. Learned counsel for the petitioners has submitted that Office Order No. 292 dated 24.02.2012 was instrumental in removing anomaly of 3rd MACP grade pay of Rs. 7,750/- to different batches and to ensure fundamental right of parity with the engineers of G.T.O. & General Cadre of (1981, 1984 batches and engineer of G.T.O. & General Cadre of 2000 batches of JSEB). Further, vide Office Order No. 2251, dated 18.11.2016 the respondents revived anomaly again and violated the fundamental right of parity in awarding 3rd MACP grade pay.

28. Submission has been made that the appellants herein are entitled to the identical treatment in case of Corrigendum/Correction issued under the Signature of Secretary after approval of the Chairman, JSEB under conduct of business regulation 1973 and seek reinstating the Office Order No. 292 dt-24-02-2012 and relevant notification

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no. 7342, dated 07.12.2013 whereby the 3rd MACP grade pay of Rs. 7,750/- was allowed.

29. On the basis of aforesaid grounds, submission has been made that the petitioners/appellants are entitled to benefit of 3rd MACP after reviving the awarded grade pay of Rs. 7,750/-.

30. Learned counsel for the writ petitioners-appellants on the aforesaid ground has submitted that the order passed by the learned Single Judge requires interference.

Submission on behalf of respondents:

31. At the outset, learned counsel for the respondents placed copy of the order dated 15th January, 2026 passed in L.P.A. No. 253 of 2023 with L.P.A. No. 21 of 2023 by this Court has submitted that case of the petitioners is squarely covered by the order passed in L.P.A. No. 253 of 2023 with L.P.A. No. 21 of 2023.

32. However, on merit, submission has been made that the MACP Scheme, as notified by the Government of India and adopted with modifications by the autonomous JSEB, provides for financial up-gradation to the immediate next higher grade pay in the hierarchy on completion of specified years of service.

33. Further submission has been made that the fundamental Principle of MACP is "Immediate Next Higher Grade Pay". Para 2 of the Government of India's MACP

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unequivocally states that "*The MACPS envisages merely placement in the immediate next higher grade pay in the hierarchy...*" This principle was faithfully incorporated into JSEB's MACP Scheme under Resolution No. 2492 dated 12.05.2010. The phrase "*immediate next higher grade pay*" is clear and unambiguous. It does not mean the "*next promotional post's grade pay*" but the next consecutive grade pay in the standardized pay structure.

34. It has further been submitted that the Office Order No. 292 dated 24.02.2012 is a Clarification, not a Benefit. This order was issued to clarify that "*time bound scale was neither equivalent to ACP nor promotional scale, hence, it would not be counted as MACP like ACP or promotion.*" It did not create a new entitlement but explained an existing rule.

35. Further, when the statutory audit (Accountant General) was pointed out, the Board re-evaluated it. Accordingly, Office Order No. 292 dated 24.02.2012, was withdrawn vide Memo No. 2251 dated 18.11.2016 which cannot be said to be *mala fide* but a necessary correction of a jurisdictional error to align pay fixation with the sanctioned Scheme.

36. It has been submitted that the learned Single Judge finding that Office Order No. 292 dated 24.02.2012 was not properly approved by the Board is a finding of fact based on record, has passed the impugned order, basing upon the order passed in W.P. (S) No. 3306 of 2015.

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37. It has further been submitted that all these aspects of the matter have been dealt with in order dated 08.09.2022 passed in W.P.(S) No. 3306 of 2015, basis upon which the subject matter of writ petition being W.P.(S) No. 399 of 2017 was disposed of.

38. Learned counsel for the respondents on the aforesaid ground has submitted that the order passed by the learned Single Judge requires no interference by this Court.

Analysis

39. This Court has heard the learned counsel for the parties and has gone through the rival submissions advanced on behalf of parties as also the pleading available on record and also order dated 15th January, 2026 passed in L.P.A. No. 253 of 2023 with L.P.A. No. 21 of 2023.

40. This Court before proceeding further requires to mention herein that the Co-ordinate Bench while deciding the intra-court appeal being LPA No. 253 of 2023 with L.P.A. No. 21 of 2023 has also taken note of order dated 08.09.2022 passed in W.P. (S) No.3306 of 2015, basis upon which writ petition being W.P. (S) No. 399 of 2017 was disposed of.

41. Therefore, this Court needs to first go through the factual aspect involved in L.P.A. No. 253 of 2023, so as to come to the conclusion as to whether the factual aspect

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involved in the present *lis* is similar to the factual aspect involved in L.P.A. No. 253 of 2023 or not.

42. The factual aspect involved in L.P.A. No. 253 of 2023 is that the writ petitioners-appellants were initially appointed by the Bihar State Electricity Board, Patna, and are the retired Graduate Engineers of erstwhile Jharkhand State Electricity Board, which has since been divided into four nigams, namely, (i). Jharkhand Urja Vikash Nigam Limited; (ii). Jharkhand Urja Sancharan Nigam Ltd.; (iii). Jharkhand Urja Vitaran Nigam Ltd.; (iv). Jharkhand Urja Utpadan Nigam Limited. The appellants were appointed as Assistant Electrical Engineers/Assistant Executive Engineers in the General Cadre and GTO Case in the year 1984.

43. The Government of India, provided benefits of 6th Pay Revision to its employees with effect from 01.01.2006. The State of Jharkhand also decided to give benefits to its employees in above line. Therefore, by Resolution dated 28.02.2008 the State of Jharkhand decided to give benefits of 6th Pay Revision to its employees with effect from 01.01.2006. By above resolution of the State Government in paragraph 14 it is stated that ".. *In the modified ACP Scheme, there will be three financial up-gradation i.e. after 10, 20 and 30 years.....".*

44. The JSEB, upon relying on the decision of the State Government, made the benefits of 6th Pay Revision applicable to its employee and also took decision to give

benefit of Modified Assured Career Progression (M.A.C.P.) to its employees on completion of 10, 20 and 30 years of service.

45. The engineers, working in JSEB, being not satisfied with decision of Modified Assured Career Progression (M.A.C.P) upon completion of 10, 20 and 30 years like the State Government Employees, demanding better prospect of M.A.C.P. considering claim and demand of the Engineers working under JSEB, the Board by its Resolution dated 13.04.2011 decided that *"In partial modification of Board's Resolution no. 2492 dated 12.05.2010, Board vide its resolution no. 744 has decided as follows:- For Electrical Engineers of the Board (General) Cadre and G.T.O. Cadre, benefit of M.A.C.P. will be after 8-16-24 years of continuous service. However, for other employees of the Board the benefit of M.A.C.P. will be available respectively after 10-20-30 years of continuous service....."*

46. The office order No. 546/EB dated 13.04.2011 was followed by another office order no. 1724 dated 03.11.2011 whereby the MACP Scheme was modified to the extent that it to be implemented from 01.09.2008, as quoted and referred above.

47. Thereafter, another Office Order No. 292 dated 24.02.2012 was issued amending the earlier decisions contained in Resolution No.-2492 dated 12.05.2010 whereby

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mainly two changes have been made, *firstly*, clause no. 15 and 17 has been modified by replacing the term "A.C.P." with the term "Promotion" and *secondly,* clause 16 (ga) has been modified by which the electrical engineers of the Board (General Cadre and GTO) have been carved out as a different class with regard to grant of benefits of MACP after 8-16-24 years of continuous service and for other employees, the benefits of M.A.C.P. have been made available after 10-20-30 years of continuous service.

48. However, certain audit objection was raised with regard to the office order No. 292 dated 24.02.2012 and when the matter was examined, it revealed that the office order No. 292 dated 24.02.2012 was merely an executive order and the same was never approved properly.

49. Accordingly, the respondents passed order dated 18.11.2016 whereby the aforesaid office order No. 292 as contained in memo No. 24.02.2012 has been withdrawn with retrospective effect and further a direction has been issued to grant M.A.C.P in terms of resolution No. 2492 dated 12.05.2010 and office order No. 1724 dated 03.11.2011.

50. Now coming to the factual aspect involved in the present case. The petitioners-appellants were initially appointed by the Bihar state Electricity Board, Patna, on the post of Junior Electrical Engineer (JEE) and retired from erstwhile Jharkhand State Electricity Board [now Jharkhand

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Urja Vikas Nigam Limited]. In between, they were promoted to the post of Assistant Electrical Engineer and Electrical Executive Engineer as also were granted ACP/MACP.

51. It is the case of the petitioners-appellants that vide Resolution No.2492 dated 12.05.2010, upon implementation of 6th Pay Revision Commission, a modified Assured Career Progression Scheme was made applicable in the Electricity Department, which provides financial up-gradation on completion of 10/20/30 years of service. Thereafter, another office order no. 292 dated 24.02.2012 was notified making certain amendments in the MACP Scheme in terms of guidelines prevalent in the Central Government.

52. It is further case of the petitioners-appellants that even the cadre of the petitioners-appellants has not been finally bifurcated from the erstwhile BSEB to the successor JSEB. In this context Office Order No.292 dated 24.02.2012 was issued explaining the resolution no. 2492 dated 12.05.2010 under which clause 15 of resolution no. 2492 dated 12.05.2010 was modified under which it was explained that the explanation given by the Central Govt. under MACP Scheme would be applied in JSEB and instead of ACP, it would be considered as promotion as because ACP was not implemented in Board. On the basis of above clarification vide office order no.292, the petitioners were granted 3rd

MACP vide order no. 7342 dated 07.12.2013 in the Grade Pay of Rs.7750/- into the promotional post.

53. An audit objection was raised by the office of Accountant General with regard to grant of MACP for the persons whose entry level post was Assistant Executive Engineer (AEE) G.T.O; Assistant Electrical Engineer (General) and General Cadre and the on the basis of audit objection office order no. 2251 dated 18.11.2016 was issued by which earlier office order no. 292 dated 24.02.2012 was cancelled with retrospective effect and MACP given to the employees vide resolution no. 2492 dated 12.05.2010 was substituted by new pay scale and for the petitioners it was downgraded as first ACP in the grade pay of Rs. 5100; 2nd ACP in the grade pay of Rs.5600/- and 3rd ACP in grade pay of Rs.6600/-.

54. Accordingly, by virtue of office order dated 18.11.2016, the MACP granted to the petitioners-appellants vide order dated 07.12.2013 was cancelled and recalled with retrospective effect.

55. The petitioners being aggrieved with office order dated 18.11.2016 by which earlier office order no. 292 dated 24.02.2012 was cancelled with retrospective effect approached this Court by filing writ petition being W.P. (S) No.399 of 2017, which was disposed of in terms of order

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dated 08.09.2022 passed in W.P.(S) No. 3306 of 2015, which is the subject matter of instant intra-court appeal.

56. Thus, from the factual aspect involved in both the cases, it is clear that save and except the difference that the petitioners-appellants in the present *lis* were initially appointed on the post of Junior Electrical Engineer (JEE) whereas petitioners-appellants in L.P.A. No. 253 of 2023 the petitioners-appellants were initially appointed as Engineer Graduates, there is no other substantial difference between the set of petitioners in both the cases.

57. It is not in dispute that the order(s) challenge in both the cases i.e., the subject matter of present *lis* [LPA No.490 of 2024] and the issue involved in LPA No. 253 of 2023, upon which reliance has been placed by learned State Counsel stating that the present appeal is squarely covered by the order passed in LPA No. 253 of 2023, is Order No.2251 dated 18.11.2016 whereby benefits given to the petitioners were withdrawn with retrospective date.

58. Admittedly, the Co-ordinate Bench of this Court having discussed the issue in detail passed order dated 15th January, 2026 in LPA No. 253 of 2023 and found no illegality in the impugned order dated 18.11.2016 whereby the Office Order No. 292 dated 24.02.2012 was withdrawn.

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59. For ready reference, relevant portion of order dated 15th January, 2026 passed in LPA No. 253 of 2023 with L.P.A. No. 21 of 2023 is quoted as under:

> *"**92**.Thus, Rule is settled that administrative instruction cannot take the shape of statutory effect on the operation of Law and the instruction do not have any overriding effect on the operation of the Act.*
>
> *93.Reference in this regard may be made to the judgment rendered by Hon'ble Apex Court in the case **Ratan Kumar Tandon and Ors. Vrs. State of U.P.,** reported in **(1997) 2 SCC 161**. However, the said judgment has been given in the context of the ceiling Act, but the principle decided therein that executive instructions cannot have any overriding effect upon the statute.*
>
> *94.Further, by referring to Section 131 (2) and (4) of Electricity Act 2003 the learned Senior Counsel has contended that it makes it clear that Successor Companies only can step into the shoes of the Statutory body and they cannot reduce/withdraw (Including MACP, G.P Rs 9000) a vested rights of employees and remain enforceable even after restructuring of Board.*
>
> *95.In order to appreciate the aforesaid contention this Court has gone through Section 131 of the Electricity Act 2003 particularly sub-Section (2) and (4) thereof, wherein it has been stipulated that any property, interest in property, rights and liabilities vested in the State Government under sub-section (1) shall be re-vested by the State Government in a Government company or in a company or companies, in accordance with the transfer scheme so published along with such other property, interest in property, rights and liabilities of the State Government as may be stipulated in such scheme, on such terms and conditions as may be agreed between the State Government and such company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be.*
>
> *96. For ready reference the said Section of the Act 2003 is being quoted as under:*
>
> > ***131. Vesting of property of Board in State Government**.—(1) With effect from the date on which a transfer scheme, prepared by the State Government to*

give effect to the objects and purposes of this Act, is published or such further date as may be stipulated by the State Government (hereafter in this Part referred to as the effective date), any property, interest in property, rights and liabilities which immediately before the effective date belonged to the State Electricity Board (hereinafter referred to as the Board) shall vest in the State Government on such terms as may be agreed between the State Government and the Board.

(2) Any property, interest in property, rights and liabilities vested in the State Government under sub-section (1) shall be re-vested by the State Government in a Government company or in a company or companies, in accordance with the transfer scheme so published along with such other property, interest in property, rights and liabilities of the State Government as may be stipulated in such scheme, on such terms and conditions as may be agreed between the State Government and such company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be:

Provided that the transfer value of any assets transferred hereunder shall be determined, as far as may be, based on the revenue potential of such assets at such terms and conditions as may be agreed between the State Government and the State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be.

(3) Notwithstanding anything contained in this section, where,—

(a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the State Government;

(b) a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on

all persons including third parties and even if such persons or third parties have not consented to it.

(4) The State Government may, after consulting the Government company or company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, referred to in sub-section (2) (hereinafter referred to as the transferor), require such transferor to draw up a transfer scheme to vest in a transferee being any other generating company or transmission licensee or distribution licensee, the property, interest in property, rights and liabilities which have been vested in the transferor under this section, and publish such scheme as statutory transfer scheme under this Act.

(5) A transfer scheme under this section may —

(a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements which shall promote the profitability and viability of the resulting entity, ensure economic efficiency, encourage competition and protect consumer interests;

(b) define the property, interest in property, rights and liabilities to be allocated—

(i) by specifying or describing the property, rights and liabilities in question; or

(ii) by referring to all the property, interest in property, rights and liabilities comprised in a described part of the transferor's undertaking; or

(iii) partly in one way and partly in the other;

(c) provide that any rights or liabilities, stipulated or described in the scheme shall be enforceable by or against the transferor or the transferee;

(d) impose on the transferor an obligation to enter into such written agreements with or execute such other

instruments in favour of any other subsequent transferee as may be stipulated in the scheme.

(e) mention the functions and duties of the transferee;

(f) make such supplemental, incidental and consequential provisions as the transferor considers appropriate including provision stipulating the order as taking effect; and

(g) provide that the transfer shall be provisional for a stipulated period.

(6) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by the Board, with the Board or for the Board, or the State Transmission Utility or generating company or transmission licensee or distribution licensee, before a transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the Board, with the Board or for the State Government or the transferee and all suits or other legal proceedings instituted by or against the Board or transferor, as the case may be, may be continued or instituted by or against the State Government or concerned transferee, as the case may be.

(7) The Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.

Explanation.—For the purposes of this Part,—

(a) "Government company" means a Government company formed and registered under the Companies Act, 1956 (1 of 1956);

(b) "company" means a company to be formed and registered under the Companies Act, 1956 (1 of 1956) to undertake generation or transmission or distribution in accordance with the scheme under this Part.

97.Thus, Section 131 of the Electricity Act provides for vesting of property of the Board in the State Government. It states that after the property is vested in the State Government by the State

Electricity Board, the State Government shall re-vest the property in a Government company or in a company or companies in accordance with the transfer scheme. Section, 131(4) of the Electricity Act contemplates the formulation of such a transfer scheme.

98.At this juncture, it needs to refer herein Section 133 of the Electricity Act which refers to provisions related to officers and employees, and states as follows:

> ***133. Provisions relating to officers and employees**.—The State Government may, by a transfer scheme, provide for the transfer of the officers and employees to the transferee on the vesting of properties, rights and liabilities in such transferee as provided under Section 131.*
>
> *(2) Upon such transfer under the transfer scheme, the personnel shall hold office or service under the transferee on such terms and conditions as may be determined in accordance with the transfer scheme:*
>
> *Provided that such terms and conditions on the transfer shall not in any way be less favourable than those which would have been applicable to them if there had been no such transfer under the transfer scheme.*
>
> *Provided further that the transfer can be provisional for a stipulated period.*
>
> *Explanation.—For the purposes of this section and the transfer scheme, the expression "officers and employees" shall mean all officers and employees who on the date specified in the scheme are the officers and employees of the Board or transferor, as the case may be.*

99.Thus, as per the mandate of Section 133 (2) of the Electricity Act, the transferred personnel are to be governed by terms and conditions as may be determined in accordance with the transfer scheme. The proviso to Section 133 (2) protects the interest of the transferees in so far as the conditions of their service are not to be less favorable than those which would have been applicable to them had no transfer taken place.

100.As per the contention of the learned counsel for the respondent the MACP Scheme was implemented after the transfer and is new general Scheme applicable to all.

101.Since, the Section 133 of Electricity Act, 2003 guarantees that terms of service shall not be less favourable upon transfer to a successor company and the MACP Scheme was implemented after the transfer and is a new, general scheme applicable to all, therefore Fixing pay correctly under this new scheme cannot be termed as making terms "less favourable." Further from the aforesaid Sections of the Act 2003 it is evident that the Act 2003 does not fossilize pay scales or prohibit corrections.

102This Court, in view of the discussions made hereinabove and law laid down by Hon'ble Apex Court, finds no illegality in the impugned order dated 18.11.2016 whereby the Office Order No. 292 dated 24.02.2012 has been withdrawn as also the consequential orders vide Notification No. 338 dated 26.07.2017 for G.T.O. and notification No. 1313 dated 18.07.2017 and in our considered view the same requires no interference by this Court.

103.Further from perusal of the impugned order it is evident that the learned writ Court's finding that Office Order No. 292 was not properly approved by the full Board is a finding of fact based on record and even if signed by the Secretary, if it substantially altered the Board's sanctioned Resolution No. 2492 without Board approval, it was without jurisdiction. Its subsequent withdrawal was thus valid.

104.The learned Single Judge, taking into consideration the aforesaid fact, has refused to interfere with the impugned orders, which in our considered view, as per the discussion made herein above, cannot be faulted with.

105.Accordingly, the instant intra-court appeals fail and are dismissed."

60. Having regard to the foregoing discussion, this Court is of the considered opinion that the controversy arising in the present appeal is no longer res integra and is squarely governed by the judgment dated 15.01.2026 passed by a Co-

ordinate Bench of this Court in LPA No. 253 of 2023 with L.P.A. No. 21 of 2023.

61. The learned Single Judge, taking into consideration order dated 08.09.2022 passed in W.P. (S) No.3306 of 2015, which has been taken note by the Co-ordinate Bench of this Court in LPA No. 253 of 2023 with L.P.A No. 21 of 2023, has refused to interfere with the impugned orders, which in our considered view, as per the discussion made herein above, cannot be faulted with.

62. Accordingly, the instant intra-court appeal fails and is dismissed.

63. Pending Interlocutory Application(s), if any, stands disposed of.

(Sujit Narayan Prasad, J.)

(Akhil Kumar, J.)

15th October, 2026
A.F.R.
Alankar/
Uploaded on 28.10.2026

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