

**IN THE HIGH COURT of JUDICATURE FOR RAJASTHAN AT
JODHPUR**

:JUDGMENT:

- [1] D.B. Civil Special Appeal [W] No.431/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
A.N.Mathur & Ors.
- ...
- [2] D.B. Civil Special Appeal [W] No.442/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Dr.HL Choudhary & Anr.
- ...
- [3] D.B. Civil Special Appeal [W] No.443/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Smt. Asha Devi & Ors.
- ...
- [4] D.B. Civil Special Appeal [W] No.444/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Dr.A.K.Kurchania & Anr.
- ...
- [5] D.B. Civil Special Appeal [W] No.445/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Ashok Kumar Gupta & Anr.
- ...
- [6] D.B. Civil Special Appeal [W] No.446/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Mohini Choudhary (Man) & Anr.
- ...
- [7] D.B. Civil Special Appeal [W] No.447/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Mrs. Sumitra Dhabai & Ors.
- ...
- [8] D.B. Civil Special Appeal [W] No.492/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
KP Alexander & Anr.
- ...

- [9] D.B. Civil Special Appeal [W] No.493/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
S.N. Sodani & Ors.
...
- [10] D.B. Civil Special Appeal [W] No.547/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Dr.KR Varghese & Anr.
...
- [11] D.B. Civil Special Appeal [W] No.548/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Padam Singh Choudhary & Anr.
...
- [12] D.B. Civil Special Appeal [W] No.549/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Durga Singh & Ors.
...
- [13] D.B. Civil Special Appeal [W] No.494/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Dr.Meenu Srivastav & Anr.
...
- [14] D.B. Civil Special Appeal [W] No.495/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
Dr.Rakesh Shah & Ors.
...
- [15] D.B. Civil Special Appeal [W] No.496/2012
Maharana Pratap University of Agriculture & Technology, Udaipur
Vs.
TW Shankaran & Anr.
...
- [16] D.B. Civil Special Appeal [W] No.633/2012
State of Rajasthan Vs. A.N. Mathur & Ors.
..
- [17] D.B. Civil Special Appeal [W] No.663/2012
State of Rajasthan Vs. Smt. Asha Devi & Ors.
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- [18] D.B. Civil Special Appeal [W] No.664/2012
State of Rajasthan Vs. Padam Singh Choudhary & Anr.
...
- [19] D.B. Civil Special Appeal [W] No.665/2012
State of Rajasthan Vs. Dr.KA Varghese & Anr.
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- [20] D.B. Civil Special Appeal [W] No.667/2012
State of Rajasthan Vs. Dr.Meenu Srivastav & Anr.
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- [21] D.B. Civil Special Appeal [W] No.668/2012
State of Rajasthan Vs. Dr.Rakesh Shah & Ors.
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- [22] D.B. Civil Special Appeal [W] No.671/2012
State of Rajasthan Vs. TW Shankaran & Anr.
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- [23] D.B. Civil Special Appeal [W] No.672/2012
State of Rajasthan Vs. Dr. AK Kurchania & Anr.
...
- [24] D.B. Civil Special Appeal [W] No.673/2012
State of Rajasthan Vs. Durga Singh & Ors.
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- [25] D.B. Civil Special Appeal [W] No.693/2012
State of Rajasthan Vs. Ashok Kumar Gupta & Anr.
...
- [26] D.B. Civil Special Appeal [W] No.694/2012
State of Rajasthan Vs. Mohini Choudhary (MAN) & Anr.
...
- [27] D.B. Civil Special Appeal [W] No.695/2012
State of Rajasthan Vs. Dr.HL Choudhary & Anr.
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- [28] D.B. Civil Special Appeal [W] No.666/2012
State of Rajasthan Vs. Mrs. Sumitra Dhabai & Ors.
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- [29] D.B. Civil Special Appeal [W] No.702/2012
State of Rajasthan Vs. S.N. Sodani & Ors.
...
- [30] D.B. Civil Special Appeal [W] No.703/2012
State of Rajasthan Vs. K.P. Alexander & Anr.
..

Date of Judgment :: 19th July 2012.

PRESENT

HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN-II

Mr. G.R. Punia, Senior Advocate & AAG with
Mr. Mahendra Choudhary]
Mr. Rajesh Punia], for the appellants.

Mr. V.K. Mathur]
Mr. R.S. Choudhary], for the respondents.

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BY THE COURT: (*Per Dinesh Maheshwari, J.*)

These intra-court appeals, 15 each by Maharana Pratap University of Agriculture & Technology, Udaipur and by the State of Rajasthan, arising out of 15 similar nature writ petitions and involving identical questions, have been considered together; and are taken up for disposal by this common Judgment.

The writ petitions leading to these appeals were filed either by the retired employees or the retiring employees or the family members of deceased employees of the appellant Maharana Pratap University of Agriculture & Technology, Udaipur [hereinafter referred to as 'the appellant University' or, in short, as 'MPUAT'] on their grievance against the order dated 03.06.2011 issued by the Deputy Secretary to the Government of Rajasthan in its Agriculture Department expressing disagreement with the resolutions adopted by the appellant University whereby, an opportunity was extended to its employees of stating re-option for the retiral benefits so as to switch over from the Contributory Provident Fund ['CPF'] Scheme to the Pension Scheme. The writ petitioners also stated their grievance against the consequential resolution dated 30.11.2011 whereby, the appellant University reversed its earlier decisions and withdrew the resolutions dated 07.12.2000 and 18.12.2009 giving such chance, of stating re-option, to its employees.

By the orders impugned in these appeals, the learned Single Judge of this Court has allowed the respective writ petitions and, while quashing the impugned orders and resolution, has directed, inter alia, that the appellant University shall continue with the pension/family pension to the respective writ petitioners. The learned Single Judge, in the impugned order dated 05.04.2012 has ordered and directed as under:-

“18. Consequently, the present writ petitions deserve to be allowed and same are accordingly allowed. The impugned orders dated 3/6/2011 of the Deputy Secretary, Agriculture Department (Group III), Government of Rajasthan, impugned resolution No. MPUAT/BOM-31/2011-03/15 taken by the Board of Management of the respondent University on 30/11/2011 as a consequence of State Government order dated 3/6/2011 & subsequent communication dated 5/7.1.2012 passed by the Comptroller of the Maharana Pratap University of Agriculture & Technology, Udaipur are liable to be quashed and same are accordingly quashed. The respondent University shall continue to pay pension/family pension to the petitioners/their family members in accordance with the Pension Rules in pursuance of re-option already exercised by them and it is further directed that the petitioners, who are going to retire from the service of respondent University, now, their cases will also be considered accordingly for the pension.”

The order so passed by the learned Single Judge of this Court is questioned by the appellants, MPUAT and the State, essentially on the ground that the Pension Rules, 1990 [hereinafter referred to as the 'Pension Rules'] do not provide for submission of any re-option for the pensionary benefits; and hence, the State Government was justified in asking the appellant University to withdraw such decision of taking re-option and, consequently, the appellant University was also

justified in withdrawing its earlier questioned resolutions.

For the questions arising in these matters on the rival submissions, the relevant facts and background aspects could be noticed in the following:

A brief sketch of the formation and naming of the appellant University could be drawn with reference to the facts that in the year 1962, a University in the name of Rajasthan Agricultural University was established that was later on transformed to multi-faculty University in the name of Udaipur University, Udaipur that was, in turn renamed as Mohan Lal Sukhadiya University, Udaipur in the year 1984. Then, in the year 1987, the Government of Rajasthan separated the agricultural wing of Mohan Lal Sukhadiya University, Udaipur and re-established Rajasthan Agricultural University with its headquarters at Bikaner. However, with reference to the need and requirements of the south-eastern part of the State, another agricultural University was established in the year 1999 that was, later on named as "Maharana Pratap Agricultural University, Udaipur." Yet further, looking to the fact that 7 of its degree programmes belonged to the technological aspects, the word "Technology" was incorporated in the name of the University in the month of October 2000 and that is how the appellant University acquired its name as "Maharana Pratap University of Agriculture & Technology, Udaipur" ['MPUAT'].

The first meeting of the Board of Management of the appellant University was held on 07.12.2000 wherein, various decisions were taken in regard to the academic and administrative matters. In this meeting, it appears that a request made by the employees, who were earlier the employees of the Agricultural University, Udaipur to allow them to exercise re-option for the retiral benefit schemes was also considered; and the Board of Management accepted this request while permitting the employees to state their revised options by 31.03.2001. The relevant part of this resolution reads as under:-

"Resolved that the existing employees of this university who exercised their option for PF/Pension scheme as the case may be in the year 1990 in accordance with the Notification No.Pension/RAJAU/C/91/F.75/3668-768 dt. 17.8.91, are allowed to exercise their revised options upto March 31, 2001. This facility is provided one time being the new university."

Pursuant to the resolution aforesaid, the appellant-University issued a notification dated 22/25.01.2001 informing its existing employees to exercise the revised options by 31.03.2001. It may also be noticed that the option to the employees to switch over from CPF to Pension Scheme was further given under the resolution dated 18.12.2009, as referred in some of the writ petitions, wherein it was resolved as under:-

"RESOLVED that the minutes of the Finance Committee, meeting held on 18th December, 2009, be approved with the condition that the cut-off date for options from the employees (other than retired persons) for opting pension is 31st January, 2010."

It has been the case of the petitioners that the requisite re-options were given in time and the same were duly accepted. It was also averred by some of the writ petitioners that while they were drawing their pension, the appellant University stopped payment of pension for want of funds; and the matter was considered by Division Bench of this Court after taking suo motu cognizance on news paper reports on the grievance of the retired employees in D.B. Civil Writ Petition (PIL) No.1914/2010; and a Division Bench of this Court, by the order dated 24.09.2010, directed the present appellant to make payment of pension with interest. The petitioners pointed out that after a few months of the aforesaid order dated 24.09.2010, the payment of pension was again stopped and upon inquiry, they were informed that the Government had issued an order dated 03.06.2011 stating that the persons who had once exercised their option and were clubbed in the CPF Scheme were not allowed to switch over to the Pension Scheme by re-exercising their options. The said order dated 03.06.2011 is the bone of contention in this matter and its contents could be noticed as under: -

"उपरोक्त विषयान्तर्गत संदर्भित पत्र के क्रम में निर्देशानुसार लेख हैं कि आपने अपने पत्र द्वारा यह अवगत कराया है कि जो अधिकारी/कर्मचारी स्वामी केशवानन्द कृषि विश्वविद्यालय, बीकानेर से हस्तान्तरित हुए उनके द्वारा दिये गये विकल्प से संबंधित 'कोई जानकारी उपलब्ध न होने के फलस्वरूप' आ रही समस्याओं के कारण विश्वविद्यालय के प्रबन्ध मण्डल द्वारा दिनांक 07.12.2000 को निर्णय लिया गया कि पी.एफ./पेंशन हेतु पुनः विकल्प लिये जायें।

प्रशासनिक विभाग आपके इस मत से सहमत नहीं है क्योंकि पेंशन संबंधी विकल्प भरे जाने बाबत अधिकारियों/कर्मचारियों की व्यक्तिगत पत्रावली/सर्विस बुक में अंकन किया जाता है। यदि अंकन नहीं किया गया था तो इस संबंध में स्वामी केशवानन्द कृषि विश्वविद्यालय, बीकानेर से जानकारी प्राप्त की जा सकती थी। इससे ऐसा प्रतीत होता है कि उक्त अधिकारियों/कर्मचारियों को पेंशन लाभ देने हेतु पुनःविकल्प भरने का अवसर दिया गया। जो कि राज्य सरकार को पेंशन नियम 1990 के विरुद्ध है।

अतः इस संबंध में पुनःपेंशन विकल्प परिवर्तन को दिये जाने में दोषी अधिकारियों/कर्मचारियों की जिम्मेदारी ठहराते हुए उनके विरुद्ध अनुशासनात्मक कार्यवाही कर एवं साथ ही जिन अधिकारियों/कर्मचारियों को पुनःपेंशन विकल्प परिवर्तन का अवसर दिया गया था। उन्हें पुनःपरिवर्तन कर वर्ष 2001 से पूर्व की अवस्था में लाया जाकर तत्काल कार्यवाही कर अविलम्ब इस विभाग को अवगत कराने का श्रम करें।"

It was further submitted by the petitioners that several representations were made against the stoppage of pension and ultimately, the Comptroller of the appellant University sent a communication dated 16.08.2011-seeking regularization of the matter relating to re-option. However, the Government did not agree with the same and rather, in its communication dated 17.11.2011, asked the appellant University to act according to the aforesaid letter dated 03.06.2011 while stating as under: -

"उपरोक्त विषयान्तर्गत कृषि विश्वविद्यालय के अधिकारी एवं कर्मचारियों को पेंशन विकल्प पुनःप्रस्तुत करने का अवसर दिये जाने के संबंध में वित्त विभाग से राय प्राप्त की गयी। पेंशन योजना, 1990 के अन्तर्गत निर्धारित समयावधि के पश्चात पुनःविकल्प प्रस्तुत करने का कोई प्रावधान नहीं होने के कारण अब विकल्प बदलने का अवसर प्रदान करना संभव नहीं है। अतः निर्देशानुसार लेख है कि भविष्य निधि/पेंशन पुनः(Re-option) विकल्प प्रस्तुत किये जाने हेतु, अपने स्तर से लिये गये निर्णय/आदेशों को निरस्त करावे तथा विभाग के समसंख्यक पत्र दिनांक 03.06.2011 के अनुसार कार्यवाही करावें।

यहां यह भी उल्लेखनीय है कि उच्च शिक्षा विभाग ने भी अवगत कराया है कि उनके अधीन अन्य किसी भी विश्वविद्यालयों को पेंशन/भविष्यनिधि का re-option का अवसर नहीं दिया गया है।"

Ultimately, the appellant University succumbed to the directions of the Government and its Board of Management adopted the resolution on 30.11.2011 so as to withdraw the earlier resolutions dated 07.12.2000 and 18.12.2009. The relevant resolution dated 30.11.2011 reads as under: -

"To discuss Government Order No.प (33)कृषि-3/2010 dated 17.11.2011, issued with regard to Pension/PF re-option provided to our employees vide various decisions of Board of Management and which is received in pursuance of BOM's directions vide its decision No.MPUAT/BOM-30/2011/02/12 dated 25.06.2011

RESOLVED to approve as under: -

1. All orders/circulars etc., issued in compliance of decision of Board of Management, taken vide Resolution No.MPUAT/BOM/BOM-1/2000-1/8 dated 07.12.2000 and No.MPUAT/BOM-25/2009-02/14 dated 18.12.2009, which allow or accept re-option for pension, stands withdrawn and further action be taken accordingly.
2. All such pensioners shall be dealt as per the options exercised by them in the year 1991 in RAU, Bikaner, under Pension Scheme, 1990. All the concerned pensioners and the employees, who are still in service, be informed about this decision.
3. The pensioners, who have moved in High Court against earlier decision of Board of Management dated 25.06.2011, stopping the payment of their monthly pension, shall be governed as per the court directives. Meanwhile efforts be made to vacate the stay granted in the matter."

Having failed to get redressal of their grievances and payment of pension and processing of the matters for pension of the employees about to retire with reference to the revised

options having been stopped, different writ petitions leading to these appeals were filed in this Court.

Questioning the orders and resolutions aforesaid, it was contended on behalf of the writ petitioners before the learned Single Judge that the State Government had no jurisdiction to direct the appellant University to withdraw such opportunity of re-option given to its employees under validly taken resolutions in terms of Section 37 of the Maharana Pratap University of Agriculture and Technology Udaipur Act, 2000 [‘the Act of 2000’]. It was also submitted that the State Government had not given any cogent reason in its communication dated 03.06.2011 to show as to how giving of such re-option was contrary to the Pension Rules; and the Government could not have issued such directions merely on the ground of lack of finances.

The writ petitioners referred to an order dated 18.09.2007 as passed by another learned Single Judge of this Court in the case of Dr.G.D.Sharma Vs. Rajasthan Agriculture University, Bikaner & Ors.: SB CWP No. 1738/2003 and submitted that it had clearly been noticed by this Court that all other similarly situated Universities in the State of Rajasthan had given such opportunities to its employees for exercising re-option for pension and their employees were, accordingly, availing the benefit of Pension Scheme. The writ petitioners also referred to the order dated 24.09.2010 as passed by a Division Bench of in

the aforementioned PIL petition (No. 1914/2010), registered on suo motu cognizance by the Court on the grievance of the retired employees of the Universities against denial of pension payments and submitted that this Court had already given directions to the State Government and concerned Universities for making payment of all pensionary benefits including those payable consequent to the recommendations of the 6th Pay Commission.

The writ petitioners submitted that they could not have been deprived of the pensionary benefits already being received; and the questioned orders and resolutions as issued and adopted without even an opportunity of hearing to them were required to be quashed.

In opposition to the writ petitions, it was contended on behalf of the present appellants, MPUAT and the State, that the chance for stating re-option was given without any sanction of law behind the same for there being no specific rule in this regard in the Pension Rules; and hence, the State Government was justified in asking the appellant University to withdraw such decisions whereby the chance for stating re-option for pension was given to its employees; and the employees of MPUAT were entitled only to CPF benefit as per their original option given by them while serving in Rajasthan Agriculture University, Bikaner.

While rejecting the contentions of the present appellants, the learned Single Judge held that the resolutions dated

07.12.2000 and 18.12.2009 were not *de hors* the statutory powers of MPUAT to take such resolutions and to allow its employees to switch over to Pension Scheme from CPF Scheme; and observed that under clause (7) of Section 38 of the Act of 2000, the appellant University was empowered to provide for any matter connected with establishment of pension and insurance schemes for the benefit of its officers, teachers and other employees.

The learned Single Judge also observed that upon giving the benefit of pension scheme to the employees and upon exercise of re-option, as provided to them in pursuance of the resolution dated 07.12.2000 and the subsequent resolution dated 18.12.2009, a vested right accrued to the writ petitioners; and sudden withdrawal of such resolutions without any valid reason and without any opportunity of hearing was not sustainable.

The learned Single Judge further observed that the reasons assigned in the impugned order dated 03.06.2011 were only to the effect that the Administrative Department of the State Government was not agreeable to such resolution; and that the resolution was contrary to the Pension Rules. However, the learned Judge observed, as to how such resolution was contrary to Pension Rules or why the Administrative Department of the State Government was not agreeable to same was not explained,

whether in the said communication or even in the pleadings taken by the respondents of the writ petition (the appellants herein).

The learned Single Judge referred to the stand of the present appellants that there was no specific provision in the Pension Rules for giving such option or re-option and, therefore, the withdrawal of the same, even after 10 years was valid; and found the same untenable while referring to the aforementioned decision in G. D. Sharma's case and the directions in the PIL petition. The learned Judge, inter alia, observed as under:-

14. There is no answer from the side of respondent State or the University as to how when in pursuance of the directions of Division Bench and learned Single Judge of this Court other similarly created Universities are giving benefit of Pension Scheme to similarly situated employees of independent and autonomous Universities of the State, then why the State Government is not agreeable to switching over from CPF Scheme to Pension Scheme in the case of respondent no.2 University alone. Such singling out of respondent no.2 University, MPUAT alone and denying the benefit of Pension Scheme to its employees upon exercise of re-option in pursuance of the resolutions dated 7/12/2000 & 18/12/2009 is not at all explained by the State Government. The only stand taken by the State is that there is no provision for giving such chance of re-option and, therefore, switching over from CPF Scheme to Pension Scheme was not permissible, is an argument without substance and the same deserves to be rejected and is accordingly rejected.

15. The respondent no.2 University is created by the Act of State Legislature and is governed by the Act of 2000 and Section 38(7) empowers the said University to provide for any matter connected with respect to establishment of pension and insurance schemes for the benefit of its officers/teachers and other employees. Therefore, passing of resolution dated 7/12/2000 and 18/12/2009 cannot be said to be de hors the statutory powers of the University to take such resolution and allow its employees to switch over to Pension Scheme from CPF

Scheme and more so in consonance with the directions of this court in the case of its parent University – Rajasthan Agriculture University, Bikaner itself, this Court does not see any justification to countenance the stand that in the absence of any statutory provisions no such re-option opportunity could be given to the employees or lecturers of the MPUAT University.”

The learned Single Judge further observed that besides lacking in the statutory foundation, the impugned order dated 03.06.2011 also suffered from violation of principles of natural justice when the affected persons were not afforded even an opportunity of hearing before attempting to take away their vested rights. The learned Judge observed,-

“.....In fact, the concerned authority of the State Government, namely; Deputy Secretary of the Agriculture Department nor any competent authority of the respondent University gave any such prior show cause notice or opportunity of hearing to the petitioners in the present case. In fact passing of such orders after a lapse of long period without cogent reasons and without complying with the principles of natural justice is like a shock to the present petitioners and some of them are widows of the deceased employees, who had faithfully served the respondent University and its parent University earlier and passed away from this world & they were getting their family pension which was suddenly stopped on account of such unthoughtful & illegal order like the one dated 3/6/2011 impugned in the present writ petitions.”

The learned Single Judge also accepted the submission of the petitioners that the alleged lack of finance could not be a ground to deny such re-option because the resolution dated 07.12.2000 was passed by the Board of Management of the respondent University, which included the Secretary to the

Government, Finance Department besides the Secretary to the Government, Agriculture Department as member and Comptroller as Ex-Officio Secretary. The learned Judge concluded that at the subsequent point of time, the State Government was not entitled to express a contrary view nor the earlier option given by the employees for CPF when they were employees of Rajasthan Agriculture University, Bikaner, could have been a bar for such employees to switchover to Pension Scheme when such re-option opportunity was made available to them pursuant to the resolutions dated 07.12.2000 and 18.12.2009.

In view of the above, the learned Single Judge accepted the writ petitions and issued the directions as noticed at the outset.

Questioning the orders so passed and direction so issued by the learned Single Judge of this Court, the learned Senior Counsel and Additional Advocate General Mr. G.R. Punia appearing for both the appellants in these appeals, i.e., MPUAT and the State, has strenuously contended that the pension is granted to the University employees under the Pension Scheme of 1990 and there being no provision for re-option, such a decision could not have been taken by the appellant University nor any re-option could have been invited. It is submitted that the employer cannot be saddled with the additional financial

burden *de hors* the rules and contrary to the law applicable; and the order impugned, if enforced, would cause heavy and unnecessary financial burden on the State and the employer. The learned counsel also attempted to suggest that the decision in Dr. G.D. Sharma's case does not have a direct application to the facts of the present case.

Per contra, the learned counsel for the respondents-writ petitioners has duly supported the order impugned and contended that there remains no justification in the proposition as suggested on behalf of the appellants particularly when all other Universities in the State are allowing pension to their employees. It is submitted that the decision as referred by the learned Single Judge of this Court in Dr. G.D. Sharma's case has since been approved by the Division Bench of this Court; and on the applicable principles, the present appeals deserve to be dismissed.

After having given thoughtful consideration to the rival submissions and having examined the record, we are not persuaded to consider interference in the just and proper orders as passed by the learned Single Judge in these cases.

The learned Single Judge has rightly observed, and we concur, that upon giving the benefit of pension scheme to the employees by the appellant University and upon exercise of re-option as provided pursuant to the resolutions dated 07.12.2000

and 18.12.2009, a vested right accrued to the petitioners; and it was too late in the day that the Government attempted to question such resolutions by the communication dated 03.06.2011.

Moreover, if at all the existing rights of the employees were sought to be interfered with, it could not have been done without a proper opportunity to the affected persons. On this count alone, the impugned orders and the forced resolution deserve to be set aside.

The suggestion as made on behalf of the appellants about want of provision in the Pension Rules of exercising re-option is of little avail particularly when examined in the light of the above referred decisions rendered by this Court. A brief reference may be made to the background aspects of Dr. G.D. Sharma's case (supra) and the considerations of this Court therein. The said writ petitioner Dr. G.D. Sharma, who took voluntary retirement from the services of the Government of Rajasthan and joined the services in Mohan Lal Sukhadiya University, Udaipur, went to Rajasthan Agricultural University in the year 1987 at the college of Veterinary and Animal Science, Bikaner. The said writ petitioner retired on 30.06.1997. Earlier, he had opted for CPF and not for pension but in view of the circular of the Government dated 25.03.1995, wherein it was stated that in the case of the employee who had taken voluntary retirement and, thereafter,

joined the services of the University, the services rendered by him in the Government will not be counted for pension by the Universities, made a request to revise his option. Such a request was declined on the ground that as per the Pension Regulations, the option once exercised was final and irrevocable. While considering the writ petition, the learned Single Judge of this Court took note of the past history of formation of Rajasthan Agricultural University and so also of MPUAT and noticed, inter alia, the fact that an opportunity of re-option was given to the employees of Mohan Lal Sukhadiya University, Udaipur and MPUAT but the same was not given to the employees of Rajasthan Agricultural University, Bikaner. The learned Judge proceeded to consider if such a position was discriminatory; and answered in the affirmative while observing as under:-

“The resultant position that emerges out from the admitted facts is that all the employees of the Mohanlal Sukhadia University, Udaipur had an opportunity to revise their options, the employees of the Maharana Pratap University of Agriculture and Technology, Udaipur, who were initially employees of the Mohanlal Sukhadia University, Udaipur and were also employees of the Rajasthan Agriculture University, Bikaner before creation of Maharana Pratap University of Agriculture and Technology, Udaipur also had an opportunity to review their options. Even the employees of the Maharana Pratap University of Agriculture and Technology, Udaipur who at one point of time were employees of the Rajasthan Agriculture University, Bikaner but not of the Mohanlal Sukhadia University, Udaipur had a chance to revise their options but the employees of the Rajasthan Agriculture University, irrespective of their source of inclusion in service of Rajasthan Agriculture University, Bikaner are/were not having any such opportunity. The employees of the Rajasthan Agriculture University, Bikaner who were earlier in service of the Mohanlal Sukhadia University, Udaipur suffered denial of re-option

only because of a peculiar circumstance that they remained in service of Rajasthan Agriculture University. Had they been not absorbed with the services of the Rajasthan Agriculture University or had they been absorbed in services of the Maharana Pratap University of Agriculture and Technology, Udaipur in the year 2002, they would have availed an opportunity of re-option. In the present case if the petitioner would have remained in service of the Mohanlal Sukhadia University, Udaipur the opportunity to revise option regarding pension was available to him. Even if the college of Veterinary and Animal Science, Bikaner would have been kept under the control of the Maharana Pratap University of Agriculture and Technology, Udaipur as happened in the case of number of other colleges in South-East Rajasthan, the petitioner would have been entitled for exercising re-option. The unfortunate event for the petitioner is that he stood absorbed in services of the Rajasthan Agriculture University, Bikaner and also that the college of Veterinary and Animal Science, Bikaner has been kept under the control of Rajasthan Agriculture University, Bikaner and that deprived him from an opportunity to revise the option. As a matter of fact in the set of facts as available, it can be very well said that all the employees who were at one point of time in employment of the Mohanlal Sukhadia University, Udaipur and subsequently absorbed in services of the Rajasthan Agriculture University, Bikaner or the Maharana Pratap University of Agriculture and Technology, Udaipur constitute one class and no discrimination in these employees can be made relating to grant of opportunity to exercise option for pension specifically in the circumstances that the pension regulations in all these universities are analogous."

The intra-court appeals against the aforesaid order were dismissed by the Division Bench of this Court on 20.01.2011 after noticing, inter alia, the indisputable facts that in various Universities including the parent University of the said writ petitioner, such option has been permitted to be exercised. The Division Bench, thus, concluded that the just decision rendered by the learned Single Judge called for no interference.

Noteworthy further it is that upon noticing the reports about the sufferings of the retired employees for non-payment of pension, a Division Bench of this Court took suo motu cognizance; and in the order dated 24.09.2010, as passed in the aforesaid PIL petition (No. 1914/2010), specifically the directions were issued for payments of pension and arrears thereof while taking note of the admitted position that the retired employees were entitled to pension. The observations and directions of the Division Bench in the said PIL petition have been referred by the learned Single Judge in the order impugned and it appears just and proper to reproduce the same for ready reference as under:-

“From perusal of that news item it appears that 1100 personnel of various categories such as Lecturers and other employees, who retired from service of Swami Keshvanand Rajasthan Agriculture University, Bikaner and Maharana Pratap Technical & Agriculture University, Udaipur were not being paid pension for last two months whereas, this was the only source of income and despite number of representations made, the Universities/State of Rajasthan have not taken any action in the matter.....”

“ Having regard to nature of controversy and keeping in view of the fact that it has not been disputed by respondents that retired employees are entitled to pension as also arrears thereof, the respondents Universities and the State of Rajasthan are directed to pay them all arrears including all benefits payable to them consequent upon implementation of recommendation of 6th Pay Commission together with interest at the rate of 6% per annum, within a period of three months.”

The resultant position is that in the case of Dr. G.D. Sharma, the fact was noticed that re-option was being permitted

in MPUAT and this was one of the reasons in holding that there had been discrimination with the said writ petitioner. In this state of affairs, we find no reason to countenance now the propositions on behalf of the appellant University and the State so as to allow them to withdraw and annul the decisions already taken for giving a chance of re-option to the employees of the appellant University.

The fact does not go unnoticed that for the first time, the objection as regards re-option in the appellant University was raised by the Government in the communication dated 03.06.2011. This communication, obviously, came up after the concluded decision in Dr.G.D. Sharma's case and so also the concluded order in the aforesaid PIL petition wherein specifically the directions were issued by a Division Bench of this Court for payment of pension and arrears thereof to the persons related with the appellant University. Dr. G.D. Sharma's petition was decided by the learned Single Judge of this Court on 18.09.2007; the PIL order was passed on 24.09.2010; and the intra-court appeals in Dr. G.D. Sharma's case were dismissed on 20.01.2011. Until all these decisions, the appellants did not come up with any objection against giving of the chance for re-option and exercise of re-option.

We cannot help deducing and commenting that the communication dated 03.06.2011 had only been that of a late

attempt on the part of the Government to somehow undo the existing position whereby the pensionary benefits were being given to the concerned employees/dependents; and the Government chose to come out with such an order only after definite writs in the nature of mandamus were issued by this Court in G.D.Sharma's case and so also in the PIL on suo motu cognizance. Such an attempt can only be said to be lacking in bonafide apart from being replete with all infirmities and illegalities.

It has been consistently noticed that all the other Universities have given a chance to their employees for option afresh towards pension/CPF; and all such Universities have implemented Pension Scheme under the instructions of the Government. We find no justification that the Government forced the appellant University to withdraw its resolutions dated 07.12.2000 and 18.12.2009; and the appellant University succumb to such unwarranted pressure, even in disregard to the order passed by the Division Bench of this Court.

The impugned orders and resolution, issued and adopted in a baseless attempt to annul the re-option already given, have rightly been disapproved and quashed by the learned Single Judge of this Court. We find no reason to interfere. These appeals are, therefore, required to be dismissed.

However, before parting, it appears appropriate to put a comment on the submission as made by the learned counsel for the appellants that the interest of the State and the University be safeguarded to the extent that by virtue of the orders as passed in these and akin matters, somebody else may not claim the right of re-option hereafter. Though this apprehension is practically unfounded because one of the considerations with the Court in these matters had been that the writ petitioners or their predecessors had, in fact, submitted the option/re-option pursuant to the resolution adopted about a decade back and in some of the cases, pursuant to the resolution adopted in the Year 2009. The consideration herein had essentially been in relation to the persons who had already exercised the option and suddenly, the position was sought to be altered to their prejudice under the orders impugned. Such orders have been found not sustainable and have been set aside. Obviously, in this order, this Court has not extended liberty to anyone else to seek submission of re-option now and hereafter.

Subject to observations foregoing, these appeals stand dismissed. No costs.

(NARENDRA KUMAR JAIN-II),J. (DINESH MAHESHWARI), J