



2026:DHC:1655-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 18.02.2026*  
*Judgment pronounced on: 25.02.2026*  
*Judgment uploaded on: 25.02.2026*

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W.P.(C) 14081/2023

VIMLA SINGH EX PGT HISTORY

.....Petitioner

Through: Mr. P. V. Singh and Mr. Ashok  
Kumar Panigrahi, Adv.

versus

COMMISSIONER  
SANGHATHAN

KENDRIYA

VIDYALAYA

.....Respondent

Through: Mr. S. Rajappa, Mr.R.  
Gowrishankar and Ms. G.  
Dhivyasri, Adv.

**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T****ANIL KSHETARPAL, J.:**

1. Through the present Writ Petition, the Petitioner seeks issuance of a writ of *certiorari* for quashing the Impugned Orders dated 30.05.2023 and 17.07.2023 [hereinafter referred to as 'Impugned Orders'] passed in O.A. No.81/2018 and R.A. No.97/2023, respectively, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi [hereinafter referred to as 'the Tribunal'], whereby her claim for gratuity came to be rejected. The Petitioner further challenges the correctness of the Tribunal's view in declining to examine the validity of Rule 26 of the Central Civil Services (Pension) Rules, 1972 [hereinafter referred to as 'CCSP Rules'],



which, according to her, was erroneously treated as determinative of her entitlement.

2. The solitary issue which arises for consideration is whether the Petitioner, having resigned from service, is entitled to gratuity under the Payment of Gratuity Act, 1972 [hereinafter referred to as 'the PG Act'], or whether her claim stands defeated by virtue of Rule 26 of the CCSP Rules, which provides for forfeiture of past service upon resignation.

**FACTUAL MATRIX:**

3. In order to appreciate the controversy, it is necessary to briefly advert to the relevant facts.

4. The Petitioner was appointed as Post Graduate Teacher (History) in a school run by the Kendriya Vidyalaya Sanghathan [hereinafter referred to as 'KVS'] on 09.07.1995. She continued to serve in the said capacity without interruption. It is not in dispute that the Petitioner rendered service from 09.07.1995 till 18.08.2008. On 18.08.2008, she tendered her resignation. According to the Petitioner, the resignation was compelled by chronic back pain and prolonged ill health, which made it difficult for her to continue in service.

5. The resignation was accepted by the Respondent on 23.04.2009 with effect from 18.08.2008. Consequently, the Petitioner completed 13 years and 1 month of qualifying service.

6. At the time of entering service, the Petitioner had opted for the GPF-cum-pension scheme. The service conditions of employees of the



Respondent were regulated by its bye-laws, and the Respondent had adopted the provisions of the CCSP Rules.

7. After acceptance of her resignation, the Petitioner sought release of retiral benefits, including gratuity and pension. The Respondent declined the same on the ground that resignation entails forfeiture of past service in terms of Bye-law No.26, which is *pari materia* to Rule 26 of the CCSP Rules.

8. Aggrieved by the denial of gratuity, the Petitioner approached the Controlling Authority under the PG Act. By order dated 05.09.2012, the Controlling Authority directed payment of gratuity to the Petitioner, placing reliance upon the law laid down by the Supreme Court that any provision inconsistent with Section 4 of the PG Act would be inoperative.

9. The Respondent challenged the said order by filing W.P.(C) No.2771/2015 before this Court and obtained an interim stay against the recovery of the gratuity amount. In the said proceedings, the Respondent reiterated its stand that on account of resignation, the Petitioner was not entitled to gratuity or pension. The said Writ Petition is pending before this Court.

10. Thereafter, the Petitioner filed W.P.(C) No.11329/2016 before the Division Bench of this Court, *inter alia*, challenging the validity of Bye-law No.26. By order dated 14.12.2017, the said Writ Petition was permitted to be withdrawn with liberty to approach the Tribunal in respect of her claim for pension.



11. Pursuant to the liberty so granted, the Petitioner filed O.A. No.81/2018 before the Tribunal. In the said OA, she questioned the validity of Bye-law No.26 and sought the grant of pension and consequential benefits. The Tribunal *vide* Impugned Order dated 30.05.2023, dismissed O.A. No.81/2018. The Tribunal held that in view of Rule 26 of the CCSP Rules, resignation results in forfeiture of past service and, therefore, the Petitioner was not entitled to pensionary benefits.

12. The Petitioner thereafter filed R.A. No.97/2023, contending that the Tribunal had proceeded on an erroneous factual premise, as she had challenged the Bye-law of the KVS and not Rule 26 of the CCSP Rules. The Review Application was dismissed *vide* Impugned Order dated 17.07.2023.

13. It is in these circumstances that the present Writ Petition has been filed, assailing the Impugned Orders dated 30.05.2023 and 17.07.2023 passed by the Tribunal.

#### **CONTENTIONS OF THE PARTIES:**

14. Heard learned Counsel for the parties and, with their able assistance, perused the paperbook.

15. Learned counsel appearing for the Petitioner submits as under:

i. That Section 4 of the PG Act mandates payment of gratuity to an employee who has rendered continuous service for not less than five years, even in cases of resignation, and the Petitioner, having



completed more than 13 years of service, squarely falls within its ambit.

ii. That the Respondent, being a Society registered under the Societies Registration Act, 1860, is governed by the PG Act, and its bye-laws cannot defeat statutory rights conferred by parliamentary legislation.

iii. That the provisions of the CCSP Rules cannot override an Act of Parliament. It is contended that Rule 26 of the CCSP Rules, insofar as it provides for forfeiture of past service upon resignation, is inconsistent with Section 4 of the PG Act and, therefore, cannot be made applicable to the employees of the Respondent-Society.

iv. That Rule 26 of the CCSP Rules has the effect of divesting an employee of accrued and vested rights upon completion of qualifying service and such deprivation is impermissible in law. In support of this submission, reliance has been placed upon the judgment of the Five-Judges Bench of the Supreme Court in ***Chairman, Railway Board & Ors. v. C.R Rangadhamaiah & Ors.***<sup>1</sup>

16. *Per contra*, learned counsel appearing for the Respondent submits as under:

i. That at the time of entering service, the Petitioner accepted the applicability of the CCSP Rules and, therefore, is bound by Rule 26 thereof, which clearly stipulates forfeiture of past service upon resignation.

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<sup>1</sup> (1996) 6 SCC 623



ii. That the PG Act is not applicable in the facts of the present case, and the Tribunal has rightly relied upon Rule 26 of the CCSP Rules while declining relief.

iii. Reliance is placed upon the judgments of the Supreme Court in *Union of India & Ors. v. Braj Nandan Singh*<sup>2</sup> and *N. Manoharan, etc. v. The Administrative Officer & Anr.*<sup>3</sup>

17. No other submissions have been made by the learned Counsel representing the parties.

### **ANALYSIS AND FINDINGS:**

18. The principal question which arises for determination is whether the Petitioner is entitled to invoke the provisions of the PG Act.

19. For applicability of payment under the PG Act, the Petitioner must first establish that she falls within the definition of “employee” as defined under Section 2(e) of the Act. The unamended and amended definitions of Section 2(e) read as under:

<i>Pre-Amendment</i>	<i>Post Amendment</i>
<i>“employee” means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such</i>	<i>“employee” means any person (other than an apprentice) who is employed for wages, whether the term such employment are express or implied, in any; kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation port, railway company, shop or other establishment to which this Act applies, but does not include</i>

<sup>2</sup> (2005) 8 SCC 325

<sup>3</sup> 2026 INSC 143



<i>employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.”</i>	<i>any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.”</i>
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20. A careful reading of Section 2(e) of the PG Act shows that the exclusion clause is structured in two parts. It excludes a person who:

- i. holds a post under the Central Government or a State Government; and
- ii. is governed by any other Act or by any rules providing for payment of gratuity.

The legislative intent is clear that where gratuity is regulated by a distinct statutory or rule-based framework applicable to such an employee, the PG Act would not operate. The exclusion is substantive and not merely procedural.

21. In the present case, it is not in dispute that the service conditions of the Petitioner were governed by the CCSP Rules as adopted by the Respondent-Society. The Petitioner, at the time of entering service, opted for the GPF-cum-pension scheme and accepted applicability of the said Rules. The entitlement to pension and gratuity thus flowed from the CCSP Rules and not independently under the PG Act.



22. Though the Respondent is a Society registered under the Societies Registration Act, 1860, its service conditions are wholly regulated by the CCSP Rules as adopted. Gratuity is specifically provided for within that statutory framework. Therefore, the Petitioner is an employee governed by rules providing for payment of gratuity within the meaning of the exclusion clause contained in Section 2(e) of the PG Act. Once such statutory rules occupy the field, the employee cannot simultaneously invoke a parallel statutory regime under the PG Act.

23. Further, in *N. Manoharan v. Administrative Officer (supra)*, the Supreme Court has authoritatively considered the scope of the definition of “employee” under Section 2(e) of the PG Act and clarified that where an employee is governed by statutory rules providing for gratuity, such an employee would stand excluded from the ambit of the PG Act. The ratio of the said judgment squarely applies to the present case.

24. In this context, it is also apposite to reproduce Section 14 of the PG Act:

*“14. Act to override other enactments, etc.—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.”*

25. Section 14 gives overriding effect to the PG Act in case of inconsistency. However, the applicability of Section 14 presupposes that the employee falls within the ambit of the PG Act. The overriding clause operates only where the Act otherwise applies. Where an



employee stands excluded from the definition under Section 2(e) of the PG Act, the question of invoking Section 14 does not arise. In the present case, once it is held that the Petitioner is governed by statutory rules providing for gratuity and therefore does not fall within the definition of “employee” under Section 2(e), the PG Act itself has no application. Consequently, the issue of inconsistency between Rule 26 of the CCSP Rules and Section 4 of the PG Act does not survive.

26. Moreover, the Supreme Court in *Braj Nandan Singh* (*supra*) has examined Rule 26 of the CCSP Rules and held that the language of the Rule is mandatory, clear and unambiguous. Upon resignation, past service stands forfeited and no qualifying service survives for the purpose of pensionary benefits. The effect of resignation, therefore, is automatic and leaves no scope for retaining benefits linked to qualifying service.

27. In the present case, the Petitioner resigned after rendering 13 years and 1 month of service. However, once resignation is accepted, Rule 26 of the CCSP Rules operates and the past service stands forfeited. The consequence flows directly from the statutory rule which governed her service conditions from inception.

28. It may also be noted that the reliance placed upon the judgment by the Five-Judges Bench of the Supreme Court in *Chairman, Railway Board* (*supra*) is misplaced. In that case, the Supreme Court was concerned with retrospective amendments to service rules affecting vested or accrued rights of the government employees. In the present case, there is no retrospective amendment. Rule 26 of the



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CCSP Rules existed at the time of appointment and resignation. The forfeiture is not the result of any subsequent legislative change but flows from an existing statutory rule.

29. Viewed cumulatively, the challenge to Rule 26 of the CCSP Rules lacks merit. The validity of the Rule has been questioned solely on the premise that it is contrary to the PG Act. Once it is held that the PG Act is not applicable to the Petitioner by virtue of Section 2(e), the foundation of the challenge disappears.

**CONCLUSION:**

30. Keeping in view the aforesaid discussion, the conclusion is inevitable. The Tribunal committed no error in applying Rule 26 of the CCSP Rules and in rejecting the claim of the Petitioner.

31. Accordingly, the Impugned Orders are upheld.

32. The present Petition is dismissed.

**ANIL KSHETARPAL, J.**

**AMIT MAHAJAN, J.**

**FEBRUARY 25, 2026**

*s.godara/shah*