

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO. 8509 OF 2024  
[@ SPECIAL LEAVE PETITION (CIVIL) NO.22278 OF 2011]****RAJASTHAN AGRICULTURAL UNIVERSITY,  
BIKANER, THROUGH ITS REGISTRAR****...APPELLANT****VERSUS****DR. ZABAR SINGH SOLANKI AND ORS.****...RESPONDENTS****R1: Dr. Zabar Singh Solanki****R2: Dr. Shea Dutt Singh (*Dead*)****Represented By:****(i) Smt. Nilam Singh****(ii) Mrs. Sunita Singh****R3: Dr. Ravi Prakash Nandwana****R4: Dr. Nand Kishore Rajora****R5: Dr. Hanuman Singh****R6: Dr. S.M. Singhi****R7: Dr. B. Prasad Singh****R8: Moti Lal Jalora****R9: Dr. S.N. Yadav****R10: Dr. Champa Lal Nagda****R11: Dr. Kusum Mathur****R12: Shri M.S. Bhatnagar****R13: Dr. Jaswant Singh Chundawat****R14: Shri Mahavir Verma****R15: Dr. Shiv Charan Lal Chaudhary**

Signature Not Verified

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Nirmala Negi  
Date: 2024.08.07  
16:40:55 IST  
Reason:

**R16: Dr.Girdhari Lal Pathak**

**R17: Dr. M. Prasad Shrama**

**R18: Dr. Devi Lal Lavti (*Dead*)**

**Represented By:**

**(i) Smt. Chandra Kala,**

**(ii) Mrs. Neeta Somani,**

**(iii) Mrs. Neena Jhanwar**

**(iv) Sushma Maheshwari**

**R19: Dr. P. Vallabh Dave**

**R20: Dr. R. Kumar Mehra**

**R21: Dr. L.N. Dadheech**

**R22: Dr. Ashok Kumar**

**R23: Dr. Fateh Lal Joshi**

**R24: Dr. S.L. Mehta**

**R25: Shri Jaidrath Sharma**

**R26: Dr. P.C. Paliwal**

**R27: Dr. Bhanwar Lal Pareek**

**R28: Dr. Sita Ram Dadhich**

**R29: Dr. Jugal Kishore Sharma**

**R30: Dr. Shiv Dayal Singh (*Dead*)**

**Represented By:**

**(i) Mrs. Geeta Devi**

**(ii) Devi Singh**

**R31: Shri Hansraj Agrawal (*Dead*)**

**Represented By:**

**(i) Smt. Sita Devi Agarwal**

**(ii) Rakesh Agarwal**

**(iii) Somdutt Agarwal**

**R32: Dr. Ganesh Ram Chaudhary**

**R33: Shri M. Prasad Jain**

**R34: Shri B.S. Verma**

**R35: Shyam Ram Chandra Sule**

**R36: Dr. Bhanu Pratap Singh**

**R37: Dr. Vithal Sharma**

**R38: Dr. (Mrs.) Vijay Laxmi Mathur**

**R39: Dr. Mansoor Ali Sham**

**R40: Dr. Faquir Mohd. Quareshi**

**R41: Dr. Udai Singh Nanda**

**R42: Dr. M.C. Saraswati**

**R43: Dr. K.P. Sharma (*Dead*)**

**Represented By:**

**(i) Mr. Bhavender Tiwari**

**(ii) Mr. Tribhuvan Narayan Tiwari**

**R44: Dr. Sita Ram Chaudhary**

**R45: Dr. Manak Chand Jain**

**R46: Dr. Allah Noor**

**R47: Dr. Juhar Singh**

**R48: Dr. P.K.S. Kushwaha**

**R49: Dr. Nihal Singh**

**R50: Dr. Upendra Singh Rawat**

**R51: Shri Abdul Gaffar**

**R52: Dr. N.K. Babel**

**R53: Dr. D.K. Jain**

**R54: Shri P.P. Bajpai**

**R55: State of Rajasthan, *through* Secretary, Agriculture Department, Government of Rajasthan, Jaipur**

**R56: Maharana Pratap University of Agricultural and Technology, Udaipur *through* its Registrar**

WITH

**CIVIL APPEAL NO. 8510 OF 2024**  
**[@ SPECIAL LEAVE PETITION (CIVIL) NO.22813 OF 2011]**

**RAJASTHAN AGRICULTURAL UNIVERSITY, BIKANER ...APPELLANT**

**VERSUS**

**DR. GITA BALI AND ORS.**

**...RESPONDENTS**

**R1: Dr. (Smt.) Gita Bali**

**R2: Dr. (Smt.) J.K. Jethra**

**R3: Dr. H.C. Sharma**

**R4: Shri S.R.S. Yadav**

**R5: Shri Ashok Bhatnagar**

**R6: Shri B.L. Tandi**

**R7: Shri R.S. Mahla**

**R8: Dr N.M. Mathur**

**R9: Shri N.S. Parihar**

**R10: Dr. (Mrs.) Kalpana Chitale**

**R11: Shri Qumrul Ghani Qureshi**

**R12: Dr. (Mrs.) Achla Bhatnagar**

**R13: Dr. (Mrs.) Banani Chakravarti**

**R14: Shri M.K. Puri**

**R15: Shri Harish Chandra Gupta**

**R16: State of Rajasthan, *through* Secretary, Agricultural Department,  
Government of Rajasthan, Jaipur**

**R17: Maharana Pratap University of Agriculture and Technology,  
Udaipur, *through* its Registrar**

WITH

**CIVIL APPEAL NO. 8491 OF 2024**  
**[@ SPECIAL LEAVE PETITION (CIVIL) NO.30963 OF 2018]**

**RAJASTHAN AGRICULTURAL UNIVERSITY**

**...APPELLANT**

**VERSUS**

**DR. MOHAN LAL GUPTA AND ORS.**

**...RESPONDENTS**

**R1: Dr. Mohan Lal Gupta**

**R2: Dr. A.K. Gupta**

**R3: Dr. A.U. Siddiquie**

**R4: Dr. M.S. Rathore**

**R5: Dr. R.S. Gupta**

**R6: Shri O.P. Bohara**

**R7: Shri M.L. Joshi**

**R8: P.C. Mundra**

**R9: Dr. T.S. Rajpurohit**

**J U D G M E N T**

**AHSANUDDIN AMANULLAH, J.**

Heard learned counsel for the parties.

2. Leave granted in all the petitions.

3. Civil Appeals arising from Special Leave Petitions (Civil)<sup>1</sup> No.22278/2011 and 22813/2011 are directed against the common Judgment and Order dated 20.01.2011, passed by the High Court of Judicature for Rajasthan at Jodhpur<sup>2</sup> in D.B. Civil Special Appeals No.382/2002 and 470/2002 respectively, whereby the writ appeals filed by the appellant were dismissed. The Civil Appeal emanating from SLP (C) No.30963/2018 is directed against the Judgment and Order dated 04.05.2018, passed by the High Court in D.B. Special Appeal Writ No.714/2018, whereby another appeal filed by the appellant came to be dismissed.

BRIEF FACTUAL OVERVIEW:

4. We propose to deal, first, with the challenge to the order dated 20.01.2011. For the sake of convenience, the factual background, details and status of the parties shall be with reference to the Civil Appeal emerging from SLP (C) No.22278/2011.

5. Respondents No.1 to 54 were appointed as Research Assistants in the erstwhile University of Udaipur, renamed as Mohan Lal Sukhadia University and later on, post-bifurcation, named as the

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<sup>1</sup> hereinafter referred to as the 'SLP(C)'.  
<sup>2</sup> hereinafter referred to as the 'High Court'.

Rajasthan Agricultural University, Bikaner <sup>3</sup>(appellant) in the University Grants Commission<sup>4</sup>-recommended Pay-Scale of Rs.300-600 prevailing at the time. On 07.09.1977, the University of Udaipur proceeded to designate Research Assistants as Lecturers in terms of a Notification dated 02.07.1974, where the term “*Junior Lecturer*” was substituted by the term “*Lecturer*”. It was notified that teachers holding the post of Junior Lecturers or equivalent post are designated as Lecturers. Consequently, Respondents No.1 to 54 came to be designated as Lecturers. They were also designated as Assistant Professors later on and began drawing the same pay-scale as admissible to other Lecturers/Assistant Professors.

6. The Government of India, Ministry of Human Resource Development, Department of Education *vide* Communication dated 22.07.1988 decided to implement a Career Advancement Scheme<sup>5</sup> to make the revision of pay-scale of teachers in Universities and Colleges with effect from 01.01.1986, such that every Lecturer was to be placed in a senior scale of Rs.3000-5000 if the person had completed eight years of service after regular appointment.

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<sup>3</sup> hereinafter referred to as the ‘University’.

<sup>4</sup> hereinafter referred to as the ‘UGC’.

<sup>5</sup> hereinafter referred to as the ‘CAS’.

7. The Government of Rajasthan<sup>6</sup> decided to implement CAS. Consequent thereto, the Board of Management<sup>7</sup> of the appellant in its Meeting held on 24.11.1988 resolved to give the revised UGC pay-scales to Lecturers and Research Assistants. The Board further resolved to designate Lecturers/Research Assistants as Assistant Professors. However, it was decided that persons appointed as Assistant Professors directly, will rank senior to the Lecturers/Research Assistants, so designated as Assistant Professors. The Board Resolution dated 24.11.1988 was again reviewed by the Board in its Meeting held on 28.01.1989 and the same was confirmed. Notification dated 04/06.05.1989 was issued by the appellant to the effect that all duly selected Lecturers/Research Assistants will be designated as Assistant Professors with effect from 01.01.1973.

8. The appellant *vide* Letter dated 22.11.1990 notified Rules for implementing the CAS for Assistant Professors in the University. However, on request being made to the State Government to grant approval to the Resolution dated 24.11.1988 of the Board, the State Government requested the Vice-Chancellor of the appellant that the Resolution of the Board dated 24.11.1988 be rescinded. However, fact

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<sup>6</sup> hereinafter referred to as the 'State Government'.

<sup>7</sup> hereinafter referred to as the 'Board'.



remained that in anticipation of the approval, the appellant had already issued the requisite orders. Thereafter, the Board in its Meeting dated 29.07.1991, resolved that if any Research Assistant or Lecturer had been selected as Assistant Professor by the Statutory Selection Committee<sup>8</sup>, then his service period shall be counted from the date when he was duly selected by the SSC as Assistant Professor.

9. Later, the Deputy Secretary (AP), Government of Rajasthan, Agriculture (Gr.2A) Department, Jaipur on 27.03.1991 wrote a Letter requesting the University to amend the Resolution of the Board dated 24.11.1988. It was requested that the order by which Research Assistants/Lecturers were designated as Assistant Professors be rescinded and the benefit of CAS be extended only to those Assistant Professors, who were directly selected after regular selection by the SSC and not to those who were designated as Assistant Professors. The recommendations which were made by the University as well as by the Board were, thus, not accepted by the State Government. Hence, the Research Assistants, who were designated as Lecturers and later re-designated as Assistant Professors were deprived of the benefit of the CAS. Respondents No. 1 to 54 preferred writ petitions assailing such action(s) and the learned Single Judge allowed their writ petitions.

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<sup>8</sup> hereinafter referred to as the 'SSC'.

The learned Single Judge's judgment(s) were affirmed by the Division Bench, which is impugned in the instant batch of appeals.

SUBMISSIONS BY THE APPELLANT(S):

10. The appellant submits that past service(s) as Lecturers/Research Assistants cannot be given the same weightage for *ex-cadre* promotion as services rendered in the capacity of Assistant Professors. The grade of Lecturers/Research Assistants is a separate grade, though the pay may be the same and, therefore, the services rendered in that grade cannot be considered at par with the services of Assistant Professors. It was urged that as per the CAS, those Lecturers/Assistant Professors are eligible for grant of senior scale, who have completed 8 years of service after regular appointment and that period of service has to be reckoned from the date of regular appointment. It was advanced that, admittedly, respondents No.1 to 54 were not appointed as Assistant Professors on a regular basis.

11. The appellant has submitted that merely by re-designating Research Assistants as Lecturers and thereafter as Assistant Professors, they could not have been granted the benefit of CAS. This benefit was available only to Lecturers, who were directly appointed on

the posts of Assistant Professors under the Rajasthan Universities Teachers and Officers (Selection for Appointment) Act, 1974<sup>9</sup> and had completed eight years of service. Further, it was stated that the definition of the word “*teacher*” as contained in Section 2(ix) of the 1974 Act cannot be said to be applicable to Research Assistants. and considering the *non-obstante* clause contained in Sections 3 and 12 of the 1974 Act, the relief of CAS could not have been accorded to the Respondents No.1 to 54 by granting similar pay-scales.

SUBMISSIONS BY THE RESPONDENTS NO.1 TO 54:

12. Learned counsel for the Respondents submitted that a “*Research Assistant*” is also a teacher under the 1974 Act and in the previous round of litigation, it has already been held that they are Lecturers under Section 2(j), Udaipur University Act, 1962 and in view of the clarification issued by the UGC on 27.11.1990, there was not an iota of doubt that the persons serving as Lecturers or on other equivalent posts, were also entitled to the benefit of CAS.

13. When the Research Assistants have been re-designated as Lecturers and thereafter as Assistant Professors, it was submitted that they cannot be deprived of the benefit available to Lecturers. Learned

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<sup>9</sup> hereinafter referred to as the ‘1974 Act’.

counsel would canvass that the CAS does not provide that the benefit is not available to such incumbents, whose posts have been designated as Lecturers. The decision was rightly taken by the Board of the appellant to accord the benefit of CAS, which was unnecessarily objected to by the State Government. The submission was that such decision has been illegally reviewed by the appellant, under the directions of the State Government.

ANALYSIS, REASONING AND CONCLUSION:

14. Having perused the record and heard learned counsel for the parties, the Court finds that the order dated 20.01.2011 passed by the Division Bench needs interference. The basic premise for allowing the claim of the original writ petitioners/instant Respondents No.1 to 54 to the benefit of CAS is that when Research Assistants have been designated as Lecturers and thereafter as Assistant Professors, they cannot be deprived of the benefit(s) available to Lecturers.

15. At this stage, it is worthwhile to refer to the earlier order of this Court dated 25.04.1985 in Writ Petition No.9555/1984 and analogous cases, whereby it was clarified that the order passed by the High Court and summary dismissal of the SLP (C) thereagainst, "*had nothing to*

*do with amalgamation of cadres, a common seniority list or a feeder source for further promotions” and reiterated that “Research Assistants and Lecturers are separate and distinct cadres.” Further, the Court went on to state that the only thing common would be that both would enjoy the same pay-scale as recommended by the UGC. The Court also observed that “Research Assistants and Lecturers will form separate cadres” and that “they need not be brought on a common seniority list only on the ground that both enjoy the same pay scale as recommended by the University Grants Commission”.*

16. Subsequent to the Research Assistants (designated as teachers holding the post of Junior Lecturers or equivalent post) being designated as Lecturers, they were later re-designated as Assistant Professors, drawing the same pay-scale as admissible to other faculty members like Lecturers/Assistant professors. After this, the Government of India notified CAS *vide* Letter dated 22.07.1988 to make the revision of the pay-scales of teachers in universities and colleges. Every Lecturer was to be placed in a senior scale of Rs.3000-5000 if he had completed 8 years of service after regular appointment. In terms thereof, the Board in its Meeting held on 24.11.1988, resolved to give the revised UGC pay-scales to Lecturers

and Research Assistants. The Board further resolved to designate Research Assistants and Lecturers as Assistant Professors. However, it was decided that persons duly/directly appointed as Assistant Professors would rank senior to the Lecturers/Research Assistants designated as Assistant Professors. This Resolution was again reviewed by the Board in its Meeting dated 28.01.1989 and was confirmed, followed by Notification dated 04/06.05.1989 to the effect that all duly selected Lecturers/Research Assistants will be designated as Assistant Professors with effect from 01.01.1973. The Board under Resolution No.245 dated 08.08.1990 approved the rules for implementing CAS for Assistant Professors and, finally, by way of the Letter dated 22.11.1990, the appellant notified the said rules. At this stage, when the appellant requested the State Government to grant approval to the Board's Resolution dated 24.11.1988, the Vice-Chancellor was approached by the State Government to rescind the said Resolution. Meanwhile, in anticipation of approval by the State Government, the appellant had already issued the requisite orders.

17. Thereafter, the Board in its Meeting dated 29.07.1991 resolved that if any Research Assistant/Lecturer had been selected as Assistant Professor by the SSC, then his/her service period shall be counted

from the date when he was duly selected by the SSC as Assistant Professor. Once again, under Letter dated 27.05.1992 of the Deputy Secretary, Agricultural Department, Government of Rajasthan requested the University to amend the Board's Resolution dated 29.07.1991, stating that the order, by which the Research Assistants/Lecturers were designated as Assistant Professors, be withdrawn and benefit of CAS be extended only to those Assistant Professors who were directly/regularly selected by the SSC and not to those who were designated as Assistant Professors. The recommendations which were made by the University as well as its Board were, thus, not accepted by the State Government. This prompted filing of various Writ Petitions in the High Court assailing such action(s).

18. It transpires that earlier also, the matter of these Research Assistants was before the High Court, where the claim was that Research Assistants were employed for the purpose of conducting and guiding research and must therefore be regarded as teachers for the purposes of Section 2(j), Udaipur University Act, 1962. The said relief was granted by the learned Single Bench of the High Court, whereupon the State of Rajasthan preferred an intra-Court appeal

before the Division Bench, where it did not succeed. The learned Single Judge allowed the respondents' writ petitions and held that the period of service rendered by the respondents as Lecturers/Assistant Professors after re-designation as such, can also be counted while counting the period of 8 years for availing the benefit of CAS. The learned Single Judge also took the view that the respondents shall be entitled to consequential benefits with the rider that seniority shall not be given to them over the Assistant Professors appointed directly and that the respondents would rank junior to the direct appointees. The Division Bench held that as the post of Research Assistant was included in the post of Lecturer, a Research Assistant must be held to be entitled for the same revision of pay-scale which has been extended to a Lecturer of the University, which was so done. Taking exception to the Division Bench agreeing with the learned Single Judge, the State of Rajasthan petitioned this Court too, which again did not bear fruit for the State.

19. From the above discussion, it is clear that the learned Single Judge erred in making a fine distinction that the order of this Court in Writ Petition No.9555/1984 and analogous cases dated 25.04.1985



was only with regard to the seniority and the existence of a distinct cadre. Significantly, this order had nothing to do with pay-scales.

20. We find that such a view is justified only to the extent of granting the respondents pay-scales/revised pay-scales as per the UGC recommendations. However, the CAS was distinct to a general increase or revision in pay-scales. The CAS was intended for a specific purpose i.e., to encourage the teaching staff by offering a higher pay-scale, subject to various conditions. This distinction unfortunately has been lost sight of by the learned Single Judge, which, in our considered opinion, was a vital factor to be considered. Whenever a Scheme/Policy is brought into force, *ceteris paribus*, the Court could not and would not import something which is not present therein and which may not be proper to be interfered with, especially when it relates to financial matters where primacy is required to be granted to the pay-master as to what scale was to be granted to the category of staff concerned. By its very nature, such exercise would fall under the realm of policy-formulation. In the present case, the CAS itself envisaged that it was meant for persons who were directly recruited as Assistant Professors. The CAS specifically provided that

every Lecturer was to be placed in a senior scale of Rs.3000-5000 if he/she had completed 8 years of service after regular appointment.

21. Pausing here for a moment, the very usage of the term/phrase “*regular appointment*” has to be given its proper interpretation and cannot be rendered redundant or superfluous. Here, there is a distinction between re-designation and regular appointment. Re-designation cannot be said to be a regular appointment as it is only that one post/category/cadre which is given equivalence with another existing post/category/cadre, but the basic distinction would still lie that the re-designated post/category/cadre would always be considered to be an equivalent post of Lecturer/Assistant Professor, whereas the other/mainline cadre would always be considered to comprise only of direct recruits. We find our understanding to be in conformity with the order of this Court dated 25.04.1985 (*supra*), where it has been clarified that the posts of Research Assistants and Lecturers will form separate cadres.

22. If at all, in law, it was the position that both the cadre of Research Assistants re-designated as Lecturers/Assistant Professors and the cadre of directly-recruited Lecturers/Assistant Professors was one and the same, there was no occasion for this Court to

categorically direct for maintaining separate cadre and the only clarification which would have been required would be as to how the persons coming from the two separate cadres would be placed in a common cadre. But there was no requirement of a common cadre as the cadres were different and distinct. Notably, the CAS itself restricts the benefits flowing therefrom to persons who had completed eight years of service “*after regular appointment*” – this shows the clear-cut intent as to which of the two cadres were the subject-matter of those benefits. Thus, there was no ambiguity in the CAS *per se*. If the intention was that the benefits should go across the board to both cadres, then there was no requirement to restrict it to persons who had completed eight years of service after regular appointment.

23. Significantly, it is not in dispute that the re-designated Research Assistants/Assistant Professors (respondents) were never directly appointed as Lecturers/Assistant Professors. This Court in ***State of Maharashtra v Tara Ashwin Patel, (2016) 15 SCC 717*** held:

*‘9. We have, therefore, examined the present appeals on first principles. We find from a bare reading of the two Resolutions dated 25-10-1977 and 27-2-1989 that for the purposes of career advancement the appellants had upgraded the post of Demonstrator/Tutor to the post of Lecturer and it appears that the respondents were also getting wages for the period of upgradation i.e.*

from 1-7-1975 to 25-10-1977. However, for the purposes of grant of senior scale and, subsequently, for the grant of selection grade, what was required in terms of the aforesaid resolutions was actual service or regular appointment in the post of Lecturer. Thus, the respondents did not have and they cannot get the benefit of the deemed status of upgradation from 1-7-1975 to 25-10-1977. The deemed status was apparently for the purposes of pay and other allowances and cannot be counted towards actual physical service rendered by the respondents in the post of Lecturer.'

(emphasis supplied)

24. Thus, on an overall circumspection of the facts and circumstances, it is clear that upon re-designation of the Research Assistants as Lecturers/Assistant Professors, they got what was due to them in the form of the same pay-scale as was applicable to the directly-recruited Lecturers, but once it came to the CAS, the CAS specifically envisaged that benefit thereunder was restricted to persons completing 8 years of service after regular appointment. Only by reason that the respondents were receiving the same pay-scale as the direct recruits, would not entitle them to get benefit of CAS as it was subject to fulfilment of certain conditions, including completion of certain years of service viz. 8 years. Till the time, the CAS as a scheme had not been interfered with, it was not proper for the learned Single Judge to interpret the same in a way which would obliterate the

distinction between the two separate cadres. We may also add that had the intention been that everybody comes on the same platform and gets all subsequent benefits, there was no requirement of having/maintaining two cadres. Further, there was no need for this Court to clarify that the re-designatees and direct appointees would have separate identities, if for all practical purposes, no distinction was to be made either on facts or in law. However, this Court clarified that there would be a segregation as the two cadres would remain, which is indicative of a difference between the two. *Ipsa facto*, benefits accorded to one would not accrue to the other unless so specified in the relevant Scheme, as may be framed by the employer i.e., State Government/University.

25. Accordingly, for the reasons aforesaid, these appeals succeed; the orders in question, passed by the learned Single Judge and affirmed by the Division Bench, are set aside. It is held that the writ petitioners/private respondents are not entitled to benefits under the CAS, as notified by the Government of India *vide* Letter dated 22.07.1988.

26. Needless to state, if the two cadres are given exactly similar benefits under orders of the Court, then it would amount to doing

something indirectly which cannot be done directly. Moreover, this was substantially negated in the earlier round of litigation, referred to above.

27. We may however clarify that to direct for any recovery of monies which may have already been disbursed to the Respondents No.1 to 54 would amount to inequity at this late stage. Hence, the same shall not be recovered, but all the pay and emoluments for the purposes of retiral/service conditions and for post-retiral benefits shall be reckoned notionally without granting any benefit under the CAS. Assuming that the respondents are otherwise entitled to any benefit under any other Scheme/Policy, it is directed that the State Government or the appellant will not deprive the respondents thereof by virtue of the instant judgment alone.

28. The Civil Appeals arising from SLP (C) Nos.22278/2011 and 22813/2011 are disposed of in the above fashion.

29. Onto the Civil Appeal arising from SLP (C) No.30963/2018, which traces its genesis to the order dated 04.05.2018, passed by the Division Bench. This was tagged with SLP (C) No.22813/2011 by order dated 30.11.2018 of this Court. In this case, respondents No.1 to

9, before their regular appointment as Assistant Professors in the **University**, served on an *ad-hoc* basis in other educational institutions and also in the **University**. These respondents preferred a writ petition with a prayer to reckon their services rendered in such *ad-hoc* capacity while determining their eligibility for the grant of senior pay-scale under the CAS. The relief claimed was granted by the learned Single Judge and affirmed by the Division Bench relying on the judgment in ***State of Rajasthan v Milap Chand Jain, (2013) 14 SCC 562***. This Court, while disposing of ***Milap Chand Jain (supra)***, relied on its earlier judgment dated 10.03.2011 in Civil Appeal No.469/2007 entitled ***State of Rajasthan v Dr Suresh Chand Agrawal***, which was dismissed *in limine*, leaving the question of law open. Review Petitions (Civil) No.2124-2125/2011 filed in ***Dr Suresh Chand Agrawal (supra)*** were also dismissed by this Court on 14.09.2011. In ***Milap Chand Jain (supra)***, the State of Rajasthan had moved this Court in respect of the same impugned order therein, against which appeals stood previously dismissed by this Court.

30. Notably, the State Government *vide* its Letter dated 20.09.1994, had specifically clarified that the period of *ad-hoc* service rendered by the respondents/Assistant Professors shall not be counted for giving

benefit of senior pay-scale under the CAS. We have already elaborated *supra*<sup>10</sup> that the CAS is essentially a policy, and as such, the respondents cannot claim, nor would they have any vested right for claiming that the clauses therein be interpreted in a particular manner. Such an interpretative exercise would have to be left, in the domain of the appellant, subject to the State Government's directives unless patently perverse or arbitrary. The High Court, hence, was not justified in counting of the *ad-hoc* service rendered by the respondents for reckoning the period of computation as required for applying the CAS.

31. However, it is directed that there shall not be any recoveries made from the respondents. The respondents shall be entitled to the notional benefit of the pay and emoluments for purposes of calculating their retiral/service conditions and for post-retiral benefits, but without grant of any benefit under the CAS. It is clarified that if the respondents are entitled to benefits under CAS after reckoning eight years of service from the date(s) of their regular appointment or to benefits under any other Scheme/Policy, the State Government or the appellant shall not deny such an advantage to them by virtue of this judgment alone.

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<sup>10</sup> In our discussion *re* the Civil Appeals arising from SLP (C) Nos.22278/2011 and 22813/2011.



32. Accordingly, for reasons aforesaid, the appeal<sup>11</sup> succeeds. The orders, as passed by the learned Single Judge and affirmed by the Division Bench, are hereby quashed and set aside.

33. Parties are left to bear their own costs. Pending applications are disposed of in light of the appeals being finally adjudicated on merits.

.....J.  
[HIMA KOHLI]

.....J.  
[AHSANUDDIN AMANULLAH]

**NEW DELHI  
AUGUST 06, 2024**

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<sup>11</sup> Civil Appeal arising out of SLP(C) No.30963/2018.