



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL**  
**PRADESH)**  
**KOHIMA BENCH**

**Case No. : WP(C)/117/2025**

SMTI. RUGUOMENUO AND 83 ORS  
D/O SHRI. LT. KHRIESAVILIE ANGAMI,  
BAYAVU, KOHIMA, NAGALAND.  
GHS PWD, KOHIMA.

2: SMTI. NOUNE-U  
GHS RUSOMA  
KOHIMA.AGE(39)

3: SMTI. WATIENLA  
GHS PWD  
KOHIMA.AGE(39)

4: SMTI. TAYONGCHILA JAMIR  
  
GHS PWD  
KOHIMA.AGE(40)

5: SMTI.PUOTUONGUNO  
GHSS SECHU ZUBZA  
KOHIMA.AGE(35)

6: SMTI. KELEZHONU  
GHS KHUZAMA  
KOHIMA.AGE(39)

7: SHRI. SETO NEIKHA  
GHS KEZOCHA  
KOHIMA.AGE(37)

8: SMTI. NOKULE KISO  
GHS KEZOCHA  
KOHIMA.AGE(39)

9: SMTI. KEVITSOSIENO  
GHSS CHIECHAMA  
KOHIMA.AGE(33)

10: SMTI. VITHONEINUO  
GHSS CHIECHAMA  
KOHIMA.AGE(39)

11: SMTI. AOTULA AO  
GHS NEW MARKET  
KOHIMA.AGE(38)

12: SMTI. KALIHO SEMA  
GHS NAHARBARI  
DIMAPUR.AGE(40)

13: SMTI. SATEMLILA  
GHS NAGA UNITED  
DIMAPUR.AGE(35)

14: SMTI. LOVIKA SEMA  
GHS ZELIANGRONG  
DIMAPUR.AGE(37)

15: SMTI. MICHELLE MURRY  
GHS SARBURA  
DIMAPUR.AGE(36)

16: SMTI. AMEN JAMIR  
GHS KUSHIABILL  
DIMAPUR.AGE(37)

17: SMTI.PETEKHRIENUO  
GHSCHUMOUKEDIMA  
VILLAGE.AGE(40)

18: SMTI.LAMHOIKIMKIM

GHSCHUMOUKEDIMA VILLAGE.AGE(35)

19: SMTI. HATKHOLHING

GHS MOLVOM  
CHUMOUKEDIMA.AGE(39)

20: SMTI. POONAM  
GHS MOLVOM  
CHUMOUKEDIMA.AGE(43)

21: SMTI. ELIO S. SUMI  
GHSS DIPHUPAR A.AGE(37)

22: SMTI. VITOKALIK.JIMO  
GHSS DIPHUPAR A.AGE(38)

23: SMTI. CHIPIKALI  
GHSS DIPHUPAR A.AGE(38)

24: SMTI.TONGPANGMONGLA

GHSLONGCHEM  
MOKOCHUG.AGE(40)

25: SMTI. TIALILA  
GHS KANGTSUNG  
MOKOKCHUNG.AGE(37)

26: SMTI. MERENLILAPONGEN  
GHS MANGMETONG.AGE(37)

27: SMTI. AJUNGLA S  
GHS ALONGKIMA  
MOKOKCHUNG.AGE(40)

28: SMTI. LIMALA S JAMIR  
GHS YAJANG  
MOKOKCHUNG.AGE(39)

29: SMTI. S.IMTIPOKYIMLA  
GHSYAJANG  
MOKOKCHUNG.AGE(38)

30: SMTI. TEMSULILA  
GHS KANGTSUNG  
MOKOKCHUNG.AGE(44)

31: SHRI. YANLUBA

GHS PUNGRO  
KIPHIRE.AGE(39)

32: SMTI. C. THERILA  
GMS LONGYA WARD  
KIPHIRE.AGE(34)

33: SMTI. MOABENLAAIER  
GHS KICHANG  
KIPHIRE.AGE(34)

34: SHRI. S. KUMTSU

GHSS BURANAMSANG  
LONGLENG.AGE(34)

35: SMTI.S.KATISENLA

GHSYAONGYIMCHEN  
LONGLENG.AGE(40)

36: SMTI. HENSHU AEIHLY

GHS YACHEM  
LONGLENG.AGE(33)

37: SMTI. SUNGJEMNARO  
GHS YACHEM  
LONGLENG.AGE(37)

38: SHRI. ANGTONG KONYAK

GHSCHEN  
MON.AGE(35)

39: SMTI. NASEN MOUNG  
GHS YAONGYIMCHEN  
MON.AGE(34)

40: SMTI. TEMSUTOLA  
GHS LONGCHING  
MON.AGE(35)

41: SHRI. YANGANG KONYAK

GHS ANJANGYANG  
MON.AGE(33)

42: SMTI. YANGERMENLA JAMIR

GHS BUMEI  
MON.AGE(34)

43: SMTI. BENDANGNARO

GHSS TOBU  
MON.AGE(42)

44: SHRI. G. TEMJAI  
GHSS MON TOWN D AGE(35)

45: SHRI. MANLIP KONYAK

GHS CHEN TOWN  
MON.AGE(34)

46: SHRI. NYANBEMO PATTON

GMS ZUTOI  
NIULAND.AGE(39)

47: SMTI. LIKA Y. SWU

GHS KUHUBOTO  
NIULAND.AGE(36)

48: SMTI. NAONG

GHS THONOKNYU  
NOKLAK.AGE(40)

49: SHRI. KEBABE

GHS DUNGKI  
PEREN.AGE(34)

50: SMTI. INGANGDAILIE

GHS MBAULWA  
PEREN.AGE(37)

51: SMTI. KEYININGLENDANG  
GHSS PEREN.AGE(40)

52: SMTI. IBASILE MERU

GHS DC COLONY  
PEREN.AGE(44)

53: SMTI. WIJIUDINLIU

GHSS TENING  
PEREN.AGE(37)

54: SMTI. AHUNGLE

GHS NSONG  
PEREN.AGE(36)

55: SMTI. I SUNGJEMSENLA

GHSBONGKOLONG  
PEREN.AGE(38)

56: SMTI. TEMJENMENLA

GHS YORUBA  
PHEK.AGE(44)

57: SHRI. PETER K ACHUMI

GHS YORUBA  
PHEK.AGE(37)

58: SHRI. AMO TEMI

GHS SAKRABA  
PHEK.AGE(37)

59: SHRI. VIVOTUO MEDOM

GHS PHEK TOWN  
PHEKAGE(45).

60: SHRI. VEKEDU RESU

GHS CHESEZU  
PHEK.AGE(37)

61: SMTI. ZHOTALU CHIZO

GHS CHETHEBA  
PHEK.AGE(38)

62: SHRI. KEZUWEWETSAH

GHS ZUKETSA  
PHEK.AGE(35)

63: SMTI.NEIKHROTSOU

GHS JAPAN RIBA CHOZUBA  
PHEK.AGE(45)

64: SHRI. SHEKUVO

GHS JAPAN RIBA  
CHOZUBA.AGE(36)

65: SHRI. SAO VENUH

GHS PHEK VILLAGE.AGE(39)

66: SMTI.KUGHAHOLI A

GHS THETSUMI  
PFUTSERO  
PHEK.AGE(38)

67: SMTI. KEPELHOUBEINUO  
GHS SENDENYU  
TSEMINYU.AGE(44)

68: SMTI. THEJANGUSANO

GHS SENDENYU  
TSEMINYU.AGE(39)

69: SHRI. AYHUNLO TEP

GMS TSOSINYU  
TSEMINYU.AGE(41)

70: SMTI. MECIESENUSEZO

GHSS TSEMINYU.AGE(40)

71: SMTI. VITUONUO KIRE

GHS TESOPHENYU  
TSEMINYU.AGE(39)

72: SMTI. BETHEL SEB

GHS KASHA  
TSEMINYU.AGE(43)

73: SMTI. ZENI KHING

GHS KASHA  
TSEMINYU.AGE(36)

74: SHRI. SHURHOVOTUO ANGAMI

GHS PHENSHUNYU.AGE(39)

75: SMTI. L NAROLA

GHSS HAKUSHANG  
TUENSANG.AGE(38)

76: SMTI. KIJAENLA

GHS SOTOKUR  
SHAMATOR  
TUENSANG.AGE(45)

77: SMTI.SUHDILA SANGTAM

GHSCHIMONGER  
TUENSANG.AGE(36)

78: SMTI.CHEMLILA SANGTAM

GHSCHIMONGER

TUENSAN.AGE(45)

79: SMTI. ZUTHUNGLO C

GHS CHUGTOR  
TUENSANG.AGE(38)

80: SMTI. LICHANBENIEZUNG

GHSSBHANDARI  
WOKHA.AGE(37)

81: SMTI. ZUCHANBENI R

GHS ENGLAN  
WOKHA.AGE(38)

82: SMTI. AKAHOLI Z

GHS XAMUNUBOTO  
ZUNHEBOTO.AGE(38)

83: SMTI. ILOLIAYEMI  
GMS SATOI  
ZUNHEBOTO.AGE(38)

84: SMTI. KALIVI K. ZHIMO  
GHS VK TOWN.AGE(37)

VERSUS

STATE OF NAGALAND AND 5 ORS  
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF NAGALAND

2:THE COMMISSIONER AND SECRETARY  
P AND AR DEPT. NAGALAND KOHIMA

3:THE COMMISSIONER AND SECRETARY  
DEPT. OF SCHOOL EDUCATION  
NAGALAND KOHIMA

4:THE PRINCIPAL DIRECTOR  
DEPT. OF SCHOOL EDUCATION  
NAGALAND KOHIMA

5:THE STATE MISSION DIRECTOR  
SAMAGRA SHIKSHA  
NAGALAND

6:THE UNION OF INDIA  
REPRESENTED BY THE SECRETARY (SE AND L) MINISTRY OF HUMAN  
RESOURCE DEVELOPMENT  
DEPT. OF SCHOOL EDUCATION AND LITERACY  
SHASTRI BHAWAN  
NEW DELHI-11011

**Advocate for the Petitioner** : Z. ZHIMOMI, LOVIKATO SWU,KUPULI  
SWU,NEWTON ZHIMOMI

**Advocate for the Respondent** : GOVT ADV NL,

**:::BEFORE:::**

**HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

Date on which judgment is reserved : 12/02/2026

Date of pronouncement of judgment : 27/02/2026

Whether the pronouncement is of the : No

operative part of the judgment ?

Whether the full judgment has been : Yes

pronounced?

### **JUDGEMENT AND ORDER (CAV)**

1. Heard Ms. Z. Zhimomi, learned counsel for the petitioners. Also heard Ms. Livika, learned Government Advocate, Nagaland, appearing for the State.

2. The petitioners' case is that they are working as graduate teachers and they should be given their Post Creation Pay Band of Rs. 9300-34800/- with Grade Pay of

Rs. 4200/- per month, as has been given to their counterparts in terms of the judgement of the Division Bench of this Court in **WA No. 9/2020 (Amos Seb and 434 others Vs. the State of Nagaland and 6 others)**, which was disposed of vide order dated 16/03/2022. The petitioners' further case is that the order dated 16/03/2022 passed in WA 9/2020 was put to challenge before the Hon'ble Supreme Court by way of a SLP and a subsequent review, which was dismissed on 20/05/2025 and 15/01/2026 respectively.

3. The petitioners' counsel submits that as the petitioners are similarly situated as the appellants in WA 9/2020, they should also be given the Post Creation Pay Band, as has been given to the appellants in WA 9/2020. In this regard, the learned counsel for the petitioners has relied upon the decision of the Supreme Court rendered in the case of **State of Uttar Pradesh and others Vs. Arvind Kumar Srivastava and others** reported in **(2015) 1 SCC 347**, **Lt. Col. Suprita Chandel Vs. Union of India and others** reported in **2024 SCC OnLine SC 3664** and **Sanjay Kumar Upadhyay Vs. State of Jharkhand and others** reported in **2025 SCC OnLine SC 2820**.

4. The learned counsel for the petitioners submits that the only difference between the appellants in WA 9/2020 and the present writ petitioners is that the appellants in WA 9/2020 had been appointed by the State Mission Director as Graduate Teachers under RMSA on contract basis with fixed pay, while the writ petitioners herein were appointed by the Director of School Education, to work under the RMSA on contract basis with fixed pay. She submits that the judgement passed by the Division Bench of this Court in WA 9/2020 had its genesis in the reduction of the fixed pay of the appellants in WA 9/2020 from Rs. 31,315/- to 25,000/-, while there was no reduction of the fixed pay of the writ petitioners herein, which was also Rs. 31,315/-.

5. The petitioners' counsel submits that as the writ petitioners have filed the present writ petition claiming a similar regular pay scale, as they had been appointed on contractual basis against regular sanctioned posts, in terms of the judgement of the Division Bench of this Court in WA 9/2020, which was a judgement passed in rem and not in personam, the regular pay scale would also have to be given to the writ

petitioners herein.

6. Ms. Livika, learned Government Advocate, Nagaland, fairly submits that the petitioners are entitled to be given the post creation pay band of Rs. 9300-34800/- with grade pay of Rs. 4200/- per month, as has been given to the appellants in WA 9/2020 and as per the letter No. ED/CON/HC-23/2025/09 dated 09/02/2026, issued by the Principal Director, Directorate of School Education, Government of Nagaland. She, however, submits that the benefit of the post creation pay band should be given to the present writ petitioners, only from the date of the judgement and order passed in this writ petition, as they have filed this writ petition only after the Hon'ble Supreme Court had dismissed the SLP on 20/05/2025, which challenged the order dated 16/03/2022 passed by the Division Bench of this Court in WA 9/2020. She submits that the petitioners are fence-sitters, as their claim for regular pay scale has only been made after the appellants claim in WA 9/2020 had crystalised by dismissal of the SLP by the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 19524/2022. She also submits that the review petition filed by the State of Nagaland, vide Diary No. 45646/2025, has also been dismissed by the Supreme Court on 15/01/2026.

7. The learned Government Advocate, Nagaland submits that a perusal of para 11 of the writ petition, shows that the writ petitioners were aware that they had been appointed against sanctioned posts on contractual basis on fixed pay in the year 2018. Despite the same, the petitioners chose not to claim any regular scale of pay against the post to which they had been appointed. However, another set of graduate teachers, whose fixed pay had been reduced and who also became aware in 2018 that their posts were regular sanctioned posts, chose to file a writ petition vide WP(C) 174(K)/2018. She submits that the para 11 thus clearly shows that the writ petitioners herein, who are fence sitters are now trying to ride piggyback on the orders passed by the Division Bench of this Court in WA 9/2020, which has been upheld by the Supreme Court.

8. I have heard the learned counsels for the parties.

9. The brief facts of the case is that the petitioners herein and the appellants

(numbering 435) in WA 9/2020 had all been appointed as Graduate Teachers on a fixed pay of Rs. 31,315/- per month sometime in the year 2016. They had all been appointed on the basis of the same advertisement. The 435 appellants were first given appointments as Graduate Teachers, while the present petitioners, who were a part of 111 persons in the Waiting List, were appointed a few months later. The fixed pay of the appellants in WA 9/2020 was reduced to Rs. 25,000/- vide Office Memorandum No.NLD/RMSA/ISSE-1/2018/104 dated 17/08/2018. Interestingly, the fixed pay of the petitioners, i.e. Rs. 31,315/-, was not reduced by the State respondents. Thereafter, the respondents issued corrigendum dated 18/08/2018 directing the appellants to submit their acceptance of the new reduced salary. The respondents also issued a notification dated 27/08/2018 threatening the appellants with action under Rule 22 & 25 of the Nagaland Service Rules, 1968 on failure to comply with the notice. The appellants in WA 9/2020 and the petitioners herein also came to learn in the year 2018 that the posts in which they had been appointed on contractual basis on a fixed pay of Rs. 31,315/-, consequent to an advertisement and a selection process, had been created on 28/10/2015, with the Pay Band of Rs. 9300 – 34800 and Grade Pay of Rs. 4200/-.

10. The appellants in WA 9/2020 thus put to challenge the reduction of their fixed pay from Rs. 31,315/- to Rs. 25000/- in WP(C) 174(K)/2018, besides making a prayer for grant of a regular pay scale. The prayers of the 435 appellants in WP(C) No. 174(K)/2018 was to set aside :-

- "(A) the impugned Office Memorandum bearing No., NLD/RMSA/ISSE-1/2018/104 dated Kohima 17<sup>th</sup> August 2018 reducing the salaries of the petitioners.*
- (B) The impugned Corrigendum bearing No. NLD/RMSA/ISSE-/2018 dated 18<sup>th</sup> August, 2018 directing the petitioners to submit their acceptance of the new salary within a months' time.*
- (C) The impugned Notification dated 27<sup>th</sup> August 2018 threatening the petitioners with action under Rule 22 and 25 of the Nagaland Service*

*Rules 1968 on failure to comply with notice.*

(D) *Direct the respondents to provide the petitioners their post creation pay band of Rs. 9300-34800 with Grade Pay of Rs. 4200/- p.m."*

11. WP(C) 174(K)/2018 was disposed of by judgement and order dated 20/05/2020, by allowing prayer A, B & C. However, the prayer 'D' of the appellants in WP(C) 174(K)/2018, i.e. for providing the post creation pay band of Rs. 9300-34800/- with grade pay of Rs. 4200/- per month, was rejected. The learned Single Judge had rejected the prayer 'D' of the appellants in WA 9/2020 on the following grounds, which is reflected in para 17 of the judgement and order dated 20/05/2020 passed in WP(C) 174(K)/2018, which is as follows :-

*"17. From the contents of the documents stated hereinabove and the undisputed documents particularly, the notification dated 28.10.2015, No. DSE/RMSA/UPGRADATION/2011, issued by the Commissioner & Secretary, Department of School Education, Nagaland, the post to which the petitioners were appointed were temporary post under the department of School Education (RMSA) created with a pay band of Rs. 9300-34800/- p.m. with Grade Pay of Rs. 4200/- but the petitioners were appointed with a monthly salary of Rs. 31,315/- p.m. on contract basis under the scheme and on acceptance of the conditions including the monthly salary given in the appointment order, the petitioners were allowed to join their respective post. To make it clear the post to which the petitioners were appointed were created with a Pay Band of Rs. 9300-34800/- with a Grade Pay of Rs. 4200/- but due to a change in the policy of the Government they were appointed with monthly salary of Rs. 31,315/- p.m. with their acceptance.*

*The question is whether, the petitioners, after having accepted the monthly pay of Rs. 31,315/- p.m. at the time of their appointment i.e. in the month of February, 2016 can wake up in September, 2018 and demand that they should be paid their salaries at the rate of Rs. 9300-34800/-, since that was the pay decided and notified at the time of creation of their post. This*

*Court is of the view that after having accepted the terms and conditions of the appointment as mentioned in the appointment order and, after having signed a contract/bond to that effect, they are bound by the same and therefore, stopped from claiming otherwise. The submission of the learned counsel of the petitioners that the petitioners were not aware of the pay scale prescribed for Graduate Teachers at the time of joining their post is something anybody would find difficult to accept since it was a Government notification and, since the petitioners were interested parties. Once they have accepted the terms of the appointment the petitioners are bound by the same. They have no right to ask for a change of the same that too after having slept over it for the last more than two years."*

12. The appellants in WA 9/2020 thereafter challenged the rejection of the prayer 'D' in WP(C) 174(K)/2018, vide WA 9/2020 and the Division Bench of this Court allowed the appeal, by holding that the appellants in WA 9/2020 were entitled to be given the benefit of post creation pay band of Rs. 9300-34800 with grade pay of Rs. 4200/- per month forthwith. The same had been done on the ground that the counterparts of the appellants in WA 9/2020 were also appointed as graduate teachers earlier under Sarva Shiksha Abhiyan (SSA) and Rashtriya Madhyamik Shiksha Abhiyan (RMSA). The State respondents then merged all the teachers under SSA and RMSA into one entity called "Samagra Shiksha" and included them as a State cadre vide Office Memorandum dated 05/10/2018. However, the appellants were left out. As the appellants and the Samagra Shiksha performed the same duties, having same qualification and mode of selection being the same, it was held in WA 9/2020 that similar pay scale should be given.

13. The decision of the Division Bench in WA 9/2020 was challenged before the Hon'ble Supreme Court by the respondents vide SLP(C) No. 19524/2022, which was dismissed on 20/05/2025. The State of Nagaland then filed Review Petition, vide Diary No. 45646/2025, challenging the dismissal of the SLP. However, the review petition was also dismissed by the Supreme Court on 15/01/2026.

14. The letter No. ED/CON/HC-23/2025/09 dated 09/02/2026 issued by the Principal Director, Directorate of School Education, Nagaland, which has been submitted by the learned counsel for the respondents, states as follows:-

*" To,  
The Commissioner & Secretary  
Department of School Education & SCERT  
Nagaland: Kohima.*

*Sub: W.P (C) No. 117/2025, Smti. Ruguomenuo & 83 Ors vs. State of N/L & 5 Ors.*

*Madam,*

*With reference to the subject cited above, it is respectfully submitted that the present writ petition relates to Graduate Teachers (G/Ts) appointed under SSA/RMSA-2016, wherein the petitioners seek a direction from the Hon'ble Court for grant of post-creation pay band by the State. It is submitted that the present writ petition is a covered case, as the Hon'ble High Court, by Judgment & Order dated 16.03.2022 passed in W.A No. 9/2020 has already directed the State to grant post-creation pay band to 435 similarly situated G/Ts. The said Judgment and Order was upheld by the Hon'ble Supreme Court in the recent review petition.*

*In view of the above settled position of law, the Department is not in a position to furnish para-wise comments on merits. However, the only limited submission that the Department seeks to place before the Hon'ble Court is that, while extending the benefit of post-creation pay band to the present petitioners, the same may be made effective from the date of issuance of the Judgment & Order in the present writ petition, and not retrospectively from the date of the Judgment & Order passed in W.A No. 9/2020.*

*Therefore, it is requested that necessary instructions may be issued to the learned Government Advocate to prepare and file the affidavit-in-opposition in the above terms."*

The above letter is made a part of the record and marked as Annexure 'X'.

15. The submissions made by the counsels for the parties, coupled with the contents of Annexure 'X', shows that the petitioners herein are also entitled to be given the post creation pay band, as is to be given to the appellants in WA 9/2020. The only issue to be decided is whether the writ petitioners herein would be entitled to be given the post creation pay band, from the date the appellants in WA 9/2020 are to be given the same or from the date of the present order.

16. In the case of **Arvind Kumar Srivastava (Supra)**, the Supreme Court held that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. The Hon'ble Supreme Court has further put a caveat on the above, by holding that the above principle is subject to well recognized exceptions in the form of laches and delays, as well as acquiescence. Those persons who do not challenge the wrongful action in their cases and have acquiesced into the same and woke up after a long delay, only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons should be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim. The Supreme Court then further held that the above exceptions may not apply in those cases where the judgement pronounced by the Court was a judgement in rem, with the intention to give the benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement, an obligation is cast upon the authorities to extend the benefit thereof to all similarly situated persons. Para 22 of the judgement of the Supreme Court in the case of **Arvind Kumar Srivastava (Supra)**, is reproduced herein below as follows :-

*"22. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be*

*summed up as under:*

(22.1) *The normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.*

(22.2) *However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.*

(22.3) *However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (K.C. Sharma & Ors. v. Union of India [(1997) 6 SCC 721]. On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the*

*judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."*

17. In the case of ***Lt. Col. Suprita Chandel (Supra)*** and in the case of ***Sanjay Kumar Upadhyay (Supra)***, the Supreme Court has held that similarly situated persons should be extended the benefit of judicial declarations without requiring them to approach the Court individually. To hold otherwise would be to encourage multiplicity of litigation and deny the beneficial effect of judicial pronouncement to those who are entitled to it. In the two decisions mentioned above, the decision of the Supreme Court in the case of ***Amrit Lal Berry Vs. Collector of Central Excise, New Delhi*** reported in ***(1975) 4 SCC 714*** was quoted, which states at para 14 as follows :-

*"14. It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court."*

18. What we can see from the above is that the issue of not being paid post creation pay band had been taken up by the appellants in WA 9/2020 in the year 2018 itself, when they filed WP(C) No. 174(K)/2018. On the other hand, the petitioners herein have filed this writ petition only on 26/06/2025 and the reasons for not making a claim for payment of a regular scale of pay is provided in para 11 of the writ petition, which states as follows:-

*"11. That the 528 G/T's and the petitioners jointly went for agitation for revocation of the O.M dated 17.8.18 and representations were submitted to the Respondents but no action was taken. Meanwhile, the aforesaid Corrigendum dated 5th Oct. 2015 was surprisingly discovered by chance showing that the 528 GT's and the petitioners who were appointed on 9.2.2016 and on 2.5.2016 respectively were appointed in the sanctioned post created by the State*

*government in the pay band of Rs.9300-34,800/- with grade pay of Rs.4200/- p.m. and legal entitlement. In the midst, the one month notice period was to expire on 17.9.18 and having no option, 435 (four hundred thirty five) GT's filed W.P.(C) NO.174(K)/2018 before this Hon'ble Court seeking direction to the respondents to provide post creation pay band to the petitioners. However, by Judgement and Order dated 20.05.2020, the learned Single Judge while retaining the fixed salary of Rs. 31,350/- p.m. of the 435 petitioners, rejected the prayer for post creation pay band.*

*It is pertinent to mention here that though the issues and grievances are common in nature, the present petitioners did not joined the 435 petitioners in W.P.(C) NO.174/2018 because the salary of the 111 waiting list/petitioners were not reduced by the respondents and excluded from O.M. dated 17.08.2018 that was under challenge and the petitioners were sandwiched in-between."*

19. A reading of para 11 of the writ petition shows that though the writ petitioners herein were aware that they had been appointed against regular sanctioned posts having a Pay Band of Rs. 9300-34800/- with grade pay of Rs. 4200/-, they did not choose to claim the said pay scale, as their fixed pay of Rs. 31,315/- had not been reduced by the respondents, as had been done in the case of the appellants in WA 9/2020. This shows their acquiescence to their appointments on contract basis and the fixed pay received by them.

20. The writ petitioners herein, who are similarly situated as the appellants in WA 9/2020, have approached this Court for grant of post creation pay band only after the Supreme Court had dismissed the SLP filed by the State of Nagaland on 20/05/2025. Thus, around 7 years have passed before the writ petitioners herein have followed the path of the appellants in WA 9/2020 and in that respect, it can be said that they are fence-sitters. Thus, there is a delay of 7 years, on the part of the writ petitioners herein, in approaching this Court with their claim for being paid the post creation pay band, though they were aware that they had been appointed on contractual basis, on a fixed pay, against posts which were created with a pay band/pay scale with grade

pay. In the case of ***Vidya Drolia and others Vs. Durga Trading Corporation*** reported in **(2021) 2 SCC 1**, the Supreme Court held that a judgement is a formal expression of conclusive adjudication of the rights and liabilities of the parties. The judgment may operate in two ways i.e. in rem or in personam. It held that the judgement in rem determines the status of a person or thing as distinct from the particular interest in it of a party to the litigation and as such, a judgement is conclusive evidence for and against all persons whether parties, privies or strangers of the matter actually decided. Para 48 of ***Vidya Drolia (Supra)*** is reproduced herein below as follows :-

*"48. A judgment in rem determines the status of a person or thing as distinct from the particular interest in it of a party to the litigation; and such a judgment is conclusive evidence for and against all persons whether parties, privies or strangers of the matter actually decided. Such a judgment "settles the destiny of the res itself" and binds all persons claiming an interest in the property Inconsistent with the judgment even though pronounced in their absence. 28 By contrast, a judgment in personam, "although it may concern a res, merely determines the rights of the litigants inter se to the res" [G.C. Cheshire & P.M. North, Private International Law, 12<sup>th</sup> Edn. By North & Fawcett (Eds) (London: Butterworths, 1992), p.362] Distinction between judgments in rem and judgments in personam turns on their power as res judicata, 29 i.e. judgment in rem would operate as res judicata against the world. and judgment in personam would operate as res judicata only against the parties in dispute. Use of expressions "rights in rem" and "rights in personam" may not be correct for determining non-arbitrability because of the interplay between rights in rem and rights in personam. Many a times, a right in rem results in an enforceable right in personam. Booz Allen & Hamilton Inc. refers to the statement by Mustill and Boyd that the subordinate rights in personam derived from rights in rem can be ruled upon by the arbitrators, which is apposite. Therefore, a claim for infringement of copyright against a particular person is arbitrable, though in some manner the arbitrator would examine the right to copyright, a right in*

*rem. Arbitration by necessary implication excludes actions in rem.”*

21. The question to be decided in the present case is whether the writ petitioners would be entitled to the benefits of the post creation pay band of Rs. 9300 – 34800/- with grade pay of Rs. 4200/- per month, on the date the appellants in WA 9/2020 are to be given the same or whether they should be given the same from a later date, keeping in view the fact that they are fence sitters and have made a claim for the same only after the appellants in WA 9/2020 have been granted regular pay scale.

22. As can be seen from the judgements of the Supreme Court mentioned above, all similar persons should be treated similarly even if some persons did not approach the Court earlier. In that respect, the writ petitioners are entitled to the same benefit as has been provided to the appellants in WA 9/2020. However, keeping in view the fact that the petitioners herein, who are fence sitters and have claimed regular scale of pay after considerable delay, laches and acquiescence, should not be given the benefits of regular pay scale, prior to making a claim for the same. This is also clear from para 22.3 in ***Arvind Kumar Srivastava (Supra)***, where it has been said that the exception regarding fence sitters, laches and delays and/or acquiescence may not apply in cases where the judgement pronounced by the Court was a judgement in rem. As the Supreme Court has clearly stated that the exception “may not apply” and as the appellants in WA 9/2020 have not been granted payment of regular pay scale from the date of appointment as contractual graduate teachers, this Court is also of the view that the writ petitioners cannot be given the benefit of regular pay scale for the period prior to making a claim by filing the present writ petition.

23. Accordingly, this Court is not inclined to grant the benefit of payment of post creation pay band of Rs. 9300-34800/- with Grade Pay of Rs. 4200/- for the period prior to the date of filing of the writ petition, due to the fact that though they were aware of the fact that their posts were regular sanctioned posts, they did not make a claim for the same for more than 7 (seven) years. Accordingly, this Court directs the State respondents to pay to the petitioners the post creation pay band of Rs. 9300 – 34800/- with Grade Pay of Rs. 4200/- per month notionally from the date the

appellants in WA 9/2020 are to be given the same and to make actual payment of the pay scale with effect from the date of filing of the writ petition i.e. 26/06/2025.

24. The writ petition is accordingly disposed of.

25. There shall be no order as to costs.

**JUDGE**

**Comparing Assistant**