



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**1. Reserved On :23.01.2026
CWP-2465-2017 (O&M)
Pronounced on: 17.02.2026
Uploaded on: 17.02.2026**

Whether only operative part of the judgment is pronounced or the full judgment is pronounced: operative part/full Judgment

Gurudev and others ...Petitioners

VERSUS

State of Haryana and another ...Respondents

2. CWP-2466-2017 (O&M)

Mehar Chand and others ...Petitioners

VERSUS

State of Haryana and another ...Respondents

3. CWP-2468-2017 (O&M)

Bharat Singh Beniwal and others ...Petitioners

VERSUS

State of Haryana and another ...Respondents

4. CWP-2470-2017 (O&M)

Satish Kumar and others ...Petitioners

VERSUS

Board of School Education, Bhiwani ...Respondents

5. CWP-23320-2017 (O&M)

Pale Ram ...Petitioner

VERSUS

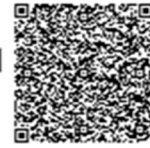
State of Haryana and another ...Respondents

6. CWP-3896-2018(O&M)

Ramesh Chand Garg and another ...Petitioners

VERSUS

State of Haryana and others ...Respondents

*CWP-2465-2017 (O&M) and connected cases***7. CWP-11025-2016 (O&M)**

Gurraj Singh and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

8. CWP-4949-2016(O&M)

Mahipal and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

9. CWP-6693-2016(O&M)

Kashmira Singh @ Kashmir Singh Rattan ...Petitioner

VERSUS

State of Haryana and others ...Respondents

10. CWP-6824-2016(O&M)

Amar Singh and others ...Petitioners

VERSUS

Haryana Vidyut Prasaran Nigam and others ...Respondents

11. CWP-18882-2016(O&M)

Ram Niwas Garg ...Petitioner

VERSUS

Uttar Haryana Bijli Vitran Nigam and others ...Respondents

12. CWP-7218-2016(O&M)

Chakarvarti Garg ...Petitioner

VERSUS

Dakshin Haryana Bijli Vitran Nigam and another ...Respondents



CWP-2465-2017 (O&M) and connected cases

13. CWP-27126-2016(O&M)

Rajender Singh Dalal and another ...Petitioners

VERSUS

Haryana Power Generation Corporation Ltd. & Ors. ...Respondents

14. CWP-37165-2019(O&M)

Satyavir Singh ...Petitioner

VERSUS

Haryana State Agriculture Marketing Board and another ...Respondents

15. CWP-19417-2016(O&M)

Harbans Lal Luthra and others ...Petitioners

VERSUS

Haryana Power Generating Corp. Ltd. and ors. ...Respondents

16. CWP-28608-2022 (O&M)

Dalip Singh ...Petitioner

VERSUS

State of Haryana and others ...Respondents

17. LPA-2289-2016(O&M)

Sukhraj and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

**CORAM : HON'BLE MR. JUSTICE SHEEL NAGU
HON'BLE MR. JUSTICE VINOD S. BHARDWAJ
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present :- Mr. R.K. Malik, Sr. Advocate (arguing counsel) with
Mr. Sandeep Dhull, Advocate for the petitioners



CWP-2465-2017 (O&M) and connected cases

in CWP-2465-2017, CWP-2466-2017, CWP-2468-2017, CWP-2470-2017 and CWP-23320-2017.

Mr. Rajesh K. Kataria, Advocate (arguing counsel) and Ms. Parul Chaudhary, Advocate for the petitioners in CWP-3896-2018.

Mr. Raman B. Garg, Advocate (arguing counsel) and Mr. Mayank Garg, Advocate for the petitioner(s) in CWP-4949-2016, CWP-11025-2016, CWP-6693-2016, CWP-6824-2016, CWP-19417-2016 and CWP-7218-2016.

Mr. S.K. Hooda, Advocate for the petitioner(s) in CWP-27126-2016 and CWP-37165-2019.

Mr. Sanjeev Kaushik, Addl. AG Haryana (arguing counsel) with Mr. Ravi Pratap Singh, DAG Haryana, and Mr. Divanshu Kaushik, Advocate in CWP-2465-2017 and CWP-2466-2017.

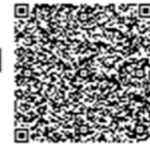
Mr. Baldev Raj Mahajan, Sr. Advocate (arguing counsel) with Ms. Nikita Goel, Advocate, and Mr. Prateek Mahajan, Advocate for the respondent(s)- HPGCL, UHBVNL, DHBVNL, HVPNL and HSAMB.

Mr. Pritam Singh Saini, Advocate (arguing counsel) for respondent No.2-HSMITC in CWP-7218-2016, CWP-18882-2016, CWP-23320-2017 and CWP-37165-2019.

VINOD S. BHARDWAJ, J.

1. Reference order dated 06.02.2020 passed by the learned Single Judge, to be answered by the Full Bench, reads thus:-

“The petitioners, herein, are praying for counting of their service rendered by them in Haryana State Minor Irrigation Tubewell Corporation for the purpose of retiral benefits. Reliance is placed on the judgment rendered by Hon'ble Division Bench of this Court in the case of Haryana State Agricultural Marketing Board and another Vs. Prem



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Parkash Gupta and others, LPA No.1805 of 2016, decided on 05.10.2016 as well as number of other connected LPA's including Haryana State Agricultural Marketing Board and another Vs. Suresh Chand and others. Thus, the SLP against the said judgment too stands dismissed. The said judgment has attained finality.

On the other hand, learned counsel for the respondents/State has brought to the notice of this Court the judgment rendered by Hon'ble Division Bench of this Court in the case of The State of Haryana and others Vs. Nathu Singh, LPA No.1105 of 2017, decided on 29.05.2018, vide which, the benefits of service rendered by the employees in the Corporation before re-employment qua the pensionary benefits has been denied. The SLP against the said judgment too has been dismissed.

In view of the contradictory judgments on the same issue and on almost identical facts, this Court deems it proper to refer the same to the Larger Bench.

To be put up before Hon'ble the Chief Justice for appropriate orders.

A photocopy of this order be placed on the files of other connected cases.”

2. The point for consideration, thus, before the Full Bench is as to whether there is any contradiction between the judgments rendered by

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two Division Benches of this Court i.e. the judgment in LPA No. 1805 of 2016, decided on 05.10.2016 titled as '*Haryana State Agricultural Marketing Board and another v. Prem Parkash Gupta and others*', and the judgment of the Division Bench in LPA No. 1105 of 2017, decided on 29.05.2018 titled as '*State of Haryana and others v. Nathu Singh*', and if so, which of the two views is correct.

FACTS IN BRIEF:

3. For answering the reference, a brief reference to the facts is considered apposite. The facts are drawn from ***CWP-2465-2017*** titled as '***Gurudev and others Vs. State of Haryana and another***'.

4. The petitioners therein were originally employed with the Haryana State Minor Irrigation and Tubewells Corporation (herein after referred to as '***the HSMITC***'). The said employees were retrenched in the month of July-2002 and were later re-appointed, under the reservation policy framed by the State Government for retrenched employees. The claim of the petitioners in the writ petition is that the services rendered by them with the HSMITC, prior to their re-employment with other departments of the State Government, ought to be counted towards pension. In support of this contention, reliance was placed upon the judgments of the Division Bench in *Prem Parkash Gupta and others* (supra)/*Suresh Chander and others* (supra). Reliance was also placed upon the policy dated 07.01.2002, issued by the Finance Department vide Circular No. 1/2(4)96-2FR-II, on the subject of counting of past service for pensionary benefits in cases where an employee of the State Government is appointed to or seeks absorption in an Autonomous Body or a Statutory Body under the

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Government of Haryana, or vice versa, as well as in cases of appointment from one Autonomous Body to another Statutory Body, both being under the Government of Haryana.

5. Au contraire, the stand taken by the respondents is that the petitioners are not entitled to the aforesaid benefit since they had been given fresh appointment orders after incorporating a specific condition to that effect therein. It is further stated that there has been no challenge to the letter of appointment or any of the terms & conditions mentioned therein. Additionally, it was contended that a statutory notification regarding **'Scheme for re-employment of Regular Retrenched Group-C & D employees in the State'** had been published under Article 309 of the Constitution of India on 21.06.2006. The beneficiaries thereunder were denied any right to seek the benefit of counting of their past service for pensionary benefits. An objection was also raised that in the absence of any challenge to the notification dated 21.06.2006, the conditions prescribed under the statutory scheme governing the petitioners are binding on them. Reliance was placed by the counsel on the judgments in the matter of *Nathu Singh* (supra).

6. In order to examine the issues, brief reference also needs to be made to the Division Bench judgments that have given rise to the present reference.

LPA-1805-2016 titled as 'Prem Parkash Gupta and others'

7. The aforesaid Letters Patent Appeal had been preferred against the judgment dated 14.01.2016 passed by the Single Judge in CWP No. 3792 of 2012. The petitioners therein were employees of HSMITC and had



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sought the benefit of counting of their past service towards qualifying service for pension relying upon the policy instructions dated 07.02.2002. The learned Single Judge allowed the writ petition by referring to paragraph No.7 of the Policy instructions dated 07.02.2002 and thereby extended the benefit. Aggrieved thereof, the L.P.A. was filed before the Division Bench.

8. The Division Bench, while adjudicating the Appeal preferred by the Statutory Boards/Corporations, formulated the issue for its consideration. The same is extracted as under:-

“The question which fell for consideration of learned Single Judge and re-agitated before us, is whether the respondent’s claim falls within the four-corners of the Government Memorandum dated 07.01.2002 (P8)?”

9. The only ground raised before the Division Bench was that the Single Judge had failed to consider Clause 9 of the Circular dated 07.01.2002 whereunder an employee was required to exercise an option within the prescribed period, and that, in the event of the option having not been exercised, the service rendered in the erstwhile organisation could not be computed as a qualifying service for the purposes of pension. The argument was rejected by the Division Bench on the ground that once the petitioners were not in service as on the date of issuance of the circular and that the said clause was applicable only to the employees who were in service as on the date of circular. Hence, the benefit could not be denied to them on the ground of failure to exercise the option especially when they were appointed after expiry of the period of 06 months from the date of



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circular dated 07.01.2002. The operative part of the said judgment reads thus:-

“(8) *The only plea raised before us is that learned Single Judge has overlooked clause 9 of the Government Circular dated 07.01.2002 whereunder the employee concerned was required to exercise option within a stipulated period. Before advertng to the contention, we may extract clause 9 of the Circular which reads as follows:-*

“9. ***Option for employees who are at present in service:*** *In order to get the benefit for the qualifying service rendered in an Autonomous/Statutory Body, subject to fulfilment of the criteria contained above, the employee should make request to that effect within a period of six months from the date of issue of this office memorandum. As a onetime facility for the employees at present in service, they may be permitted to exercise their option within a period of six months from the date of the issue of this office memorandum either to get pensionary benefits in respect of the past qualifying service rendered by them in pensionable or non-pensionable organization failing which it will be presumed that they are not interested in availing the benefit of past service rendered for the purposes of pensionary benefits...”*

(9) *Having referred to clause 9 (relevant extracts only), we do not find any substance in the appellant’s contention. The period of six months within which an employee was required to exercise option was with reference*



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to those employees only who were in the service of pensionable establishment as on 07.01.2002 when the circular came into force and they were obligated to exercise option within six months “from the date of issue of this office memorandum”.

(10) *The first respondent admittedly joined the appellant-Board on 06.07.2002 and was not in its service on the date of issue of memorandum. It is also an admitted fact that the HSMITC was a non-pensionable establishment where also he had no occasion to exercise such option.*

(11) *There is no other circular issued by State Government or the Board obliging the employees to exercise option within a specified period. In this view of the matter, Clause 9 cannot be invoked to defeat the legitimate claim of first respondent.*

(12) *Learned counsel then referred to a Division Bench judgment of this Court dated 04.02.2014 rendered in a batch of appeals, with lead case in **LPA No.570 of 2012 (Jai Narain Kaushik & Ors. vs. State of Haryana & Anr.)**. There the benefit of “past service” on appointment of surplus employees of HSMITC in different Government organizations was declined. The cited decision, in our considered opinion, does not throw any light on the issue raised in the instant cases, the benefit of past service, if claimed towards seniority or pay fixation, has to be*



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ordinarily rejected, in the case of a fresh appointment in a new establishment. However, the benefit of such service towards 'pension' or other 'retiral benefits' having been expressly conferred under the Government Memorandum which is binding on both the past and present organizations, the claim of the respondent has rightly been accepted."

LPA No.1105 of 2017 titled as 'State of Haryana and others v. Nathu Singh'

10. The above LPA had been preferred against the judgment dated 27.09.2016 passed by the Single Judge in CWP No. 26716 of 2014. The petitioner therein was working as a Driver with the HSMITC and his services were terminated by way of retrenchment on 30.06.2002. Thereafter, in terms of the Government policy, he was re-adjusted and appointed as a Driver on 18.09.2006 in the office of the Superintendent, District Jail, Bhiwani, wherefrom he ultimately retired. A prayer was thus made to count the service rendered by him in HSMITC as qualifying service for the purposes of pension. The said claim was allowed relying on the earlier judgment of the Division Bench in the matter of ***Prem Parkash Gupta and others*** (supra). Aggrieved thereof, the above Letter Patent Appeal was preferred.

11. The plea taken by the State was that after the winding up of the HSMITC on 30.07.2002, all retrenchment benefits were paid to the employees thereby resulting in the cessation of the employer–employee relationship. Eventually, the State Government notified a scheme on 21.06.2006, under Article 309 of the Constitution of India, paving way for



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the re-employment of regular retrenched Group ‘C’ and ‘D’ employees of Boards/Corporations/Public Undertakings who had been retrenched during the period from 01.03.2002 to 01.03.2005. Under the said scheme, re-employment was to be effected against the vacancies of direct recruitment to Group C & D posts and as per the conditions laid down in scheme. One of the essential conditions of the scheme prescribed that the adjustment of the retrenched employees would be subject to submission of an affidavit accepting that such re-appointment/adjustment would be treated as a fresh appointment and no benefit of past service would be claimed.

12. The argument thus raised was that the employees who were being adjusted/appointed/absorbed, in terms of the policy dated 21.06.2006, were disentitled from claiming the benefit of their past service as qualifying service for the purposes of computation of pensionary benefits. The Division Bench of this Court took note of certain Clauses of the statutory Scheme dated 21.06.2006, which read thus:-

“The scheme is regarding re-employment of regular retrenched Group C and D employees of Board/Corporations/Public Sector Undertakings etc., who were retrenched during the period from 1.3.2000 to 1.3.2005 against the vacancies of direct recruitment of Group C and D available in the Boards/Corporations/Public Sector Undertakings/Confederations/Urban Local Bodies/Panchayati Raj including the departments of the State Government within a period of six months taking into consideration the following provisions:-



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1. *The State Public Enterprises and Apex Cooperative Federations, which have been closed, shall not be re-opened.*
2. *The regular employees of the Boards/Corporations/Co-operative Federations and other Public Sector Undertakings who have been retrenched on account of closure or restructuring of these organizations between 1st March, 2000 to 1st March, 2005, shall be considered for adjustment.*
3. *The employees who are less than or 55 years of age as on 18.05.2006 shall be considered for adjustment.*

xxxx

8. *The adjustment would be subject to the submission by the retrenched employee of an affidavit declaring that the adjustment so provided would be considered as a fresh appointment and he/she would not claim benefit of past service for the period prior to retrenchment or for the period he/she remained out of service as a result of retrenchment in any manner.*

xxxx

10. *This policy is in supersession of any other policy in existence and shall come into effect from 18th May, 2006.”*

(emphasis supplied)

13. It was also noticed that a similar clause was even incorporated in the letter of appointment which was offered to the employees. The conditions incorporated in the letter of appointment read thus:-



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“In terms of Government Haryana, General Administration Department Notification No. GSR 13/Const./Art. 309/2006, dated 21st June, 2006 and recommendations made vide Memo No.23/23/2005-2GS-III dated 14.08.2006. You are hereby offered an appointment against a temporary post of Driver in the office of Director General of Prisons, Haryana, 3-4 Bays Building, Sector-14, Panchkula, in the pay scale of Rs.4000-100-4800-EB100-6000+Special Pay Rs.200/- plus usual allowances as may be sanctioned by the Haryana Government from time to time.

2. *Your appointment is made afresh on available Group 'C' post and you will be entitled to draw minimum pay of the post being offered. Accordingly, you will not claim any benefit of the past service for the period prior to retrenchment as per your declaration on oath or for the period you remained out of services as result of retrenchment in any manner.*

xxxxxx

4. *You will be placed junior in seniority list in the cadre below the members of the services already working in the department and your seniority will be in order of the recommendation made by the Chief Secretary to Government of Haryana in view of your age.*

5. *You will be on probation for a period of two years, which may further be extended for a period of one year. In case your work or conduct is not found satisfactory during*



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the period of probation, your services are liable to be terminated forthwith without assigning any reason.

xxxx

14. If you are willing to accept this offer on the conditions mentioned above, you should report yourself for duty to this office within 15 days from the date of receipt of this letter. If you fail to join by this date, your name will be removed from the selection list.”

(emphasis supplied)

14. The employees therein are stated to have joined thereafter. The Division Bench discussed the judgment passed in the matter of **Suresh Chand and others** (supra)/**Prem Parkash Gupta and others** (supra) which was relied upon by the Single Judge, and held that the said Division Bench judgment was not applicable and was distinguishable on facts. The paragraph No.16 of the judgment reads thus:-

“16. Order passed by the Division Bench of this Court in Suresh Chand's case (supra) is also not relevant and is distinguishable on facts for the reason that the employees therein were working with the Corporation who were to be declared surplus on account of the Corporation running into loss. The incumbent therein was already working with the Haryana State Agricultural Marketing Board as Junior Engineer on deputation basis and was absorbed therein on 06.07.2002 before even the Corporation closed its operation. It was not the case where the employee was retrenched on



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account of the closure of the Corporation and had taken all his service benefits. Rather, it was a case of continuity in employment. Thus, Suresh Chand's case (supra) has also been wrongly relied upon by the learned Single Judge.”

15. Reference was also made to the office memorandum dated 07.01.2002, which is being relied upon by the petitioners herein, and it was observed that the such reference is misplaced. The relevant extract of the judgment reads thus:-

“17. Reliance on the Office Memorandum dated 07.01.2002 by learned counsel for the respondent is equally misplaced. The aforesaid Memorandum was issued on the following subject:-

“Counting of service for the purpose of pension of the employees of State Government on their appointment in an Autonomous Body (Statutory Body) under Haryana Government or on seeking absorption in a State Autonomous Body or vice versa and also on appointment from one Autonomous Body to another (Statutory Body) both under Government of Haryana.

18. *Para 4 of the aforesaid Office Memorandum provided the scope of its application. It applies in the cases of the employees, who are appointed from one organization to another on an application forwarded through proper channel and are absorbed in service with consent of the parent employer or are appointed on transfer basis. The*



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Memorandum is not applicable in case of the employees who had already retired or have been re-employed after retirement.

Relevant paras thereof are extracted below:-

“4. Scope of the Office Memorandum: This O.M. would apply to the employees who are in service and have not been retired from service on the date of issue of this O.M. and also subject to the condition that such employees applied for the job from one organization to the other through proper channel or should have been absorbed in the service with the prior consent of parent employer of the employee concerned or appointed on transfer basis.

5. Exclusion: This O.M. shall not apply in the case of employees already retired or who have been reemployed after retirement and in case where the selection/appointment in the other entity is not through proper channel. This O.M. shall not be applicable in the case of employee coming over to the Government from Public Sector Undertakings/Societies/Private Managements and such of the statutory bodies, which are not wholly/substantially funded by the State Government/Central Government.”

16. After considering the judgment by the Division Bench in ***Suresh Chand and others*** (supra)/***Prem Parkash Gupta and others*** (supra) as also the Policy dated 07.01.2002, the Division Bench in ***Nathu Singh***



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(supra) allowed appeals preferred by the HSAMB and held that the employees were not entitled to claim computation of their past services towards qualifying service for pension. The judgment passed by the learned Single Judge was set aside.

ARGUMENTS:

17. Counsel for the petitioners have argued that the judgment in the matter of ***Prem Parkash Gupta and others*** (supra) is applicable to their case. The petitioners were the employees of HSMITC and have been subsequently appointed to other government departments. The office memo dated 07.01.2002 mandates counting of past service, for the purpose of pension, for the employees on their subsequent appointment. He contends that merely because they could not apply for absorption through proper channel, because of winding up of HSMITC, should not be read against them since it was on account of circumstances beyond their control. Further, the appointment being under the statutory scheme, the requirement of application to be submitted through proper channel needs to be waived off and the petitioners should not be deprived of the benefit of the welfare scheme. He submits that considering the salutary object, the Division Bench in ***Prem Parkash Gupta and others*** (supra) rightly granted the benefit. The petitioners being similarly placed are hence entitled to the said benefit.

ARGUMENTS BY RESPONDENTS

18. Counsel for the respondents however contends that the judgment in ***Prem Parkash Gupta and others*** (supra) is *per incuriam* and cannot be applied as a binding precedent on the facts of the case. He submits that the said judgment was in the context of applicability of Clause 9 of the



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circular dated 07.01.2002. It did not discuss either the scope of the said office memorandum or the exclusion Clause 5. There was further no discussion about the notification dated 21.06.2006 and the clauses thereunder. All the said aspects were dealt with in the judgment of **Nathu Singh** (supra). The same is thus applicable to the facts of the cases under consideration.

Consideration:

19. We have heard counsel for the parties and have gone through the documents, policies, circulars and judgments relied upon by the respective parties.

20. In so far as the question as to which of the judgment being applicable to the case is concerned, the same is a matter reflecting on merits of the writ petition. The said issue is to be decided by the learned Single Judge and we do not intend to delve into the same. The consideration is thus confined to contradictions, if any, in two Division Bench judgments.

21. In order to understand the same, the ‘Doctrine of Precedents’ has to be examined to understand the scope and precedential value of each of the judgments and ascertain whether they advert to the same factual and legal matters or not.

22. A judgment has to be read for the law as it lays down, by reference to the given factual matrix. Lines or sentences here and there, should not be read in absolute terms ex-hors the factual matrix, in context of which, the observation has been made. These foundational guidelines for determining a precedential value of a judgment were provided by the



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Hon'ble Supreme Court in the matter of '***L.I.C. Vs. Shree Lal Meena***' reported as ***(2019) 4 SCC 479***.

23. It was also held by the Hon'ble Supreme Court, in the matter of '***U.P. State Elec. Board Vs. Pooran Chandra Pandey***' reported as ***2008(1) RSJ 304 (SC)***, that circumstantial flexibility has to be taken into consideration while relying on a decision. One additional or different fact may make a world of difference between final conclusions in two cases. It would thus be improper to decide a case by placing a blind reliance on a decision.

24. The position in law needs no reiteration to the effect that a decision of the Court is not to be read like a statute, out of context or in ignorance of the requisite provisions. The above foundational guidelines and aspects are thus required to be kept in mind while applying the 'Doctrine of Precedent'.

25. In the matter of '***U.O.I Vs. Dhanwanti Devi***' arising out of ***C.A. No. 11359 of 1996*** and decided on 21.08.1996, the Hon'ble Supreme Court said that the only thing binding in a Judge's decision is the principle upon which a case is decided. Hence, it is important to analyse a decision and isolate from it, the *ratio decidendi*. The three basic postulates of a decision are:-

- (i) Findings of material facts, direct and inferential;
- (ii) Statements of the principles of law applicable to the legal problem emerging from the fact; and
- (iii) Judgment based on the combined effect of the above.



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26. Where the issues involved are at variance and where the adjudication proceeds on the basis of different policies, instructions or statutory schemes, the judgments rendered thereunder cannot thus be construed as laying down conflicting or contradictory propositions of law.

27. An alleged conflict between judgments must be real, direct and irreconcilable on a question of law arising from comparable facts and governed by the same legal regime. A divergence in outcome or reference to a policy or instruction in different factual or statutory contexts, does not ipso facto constitute a conflict. Artificial inconsistencies must not be created by reading judgments dehors the issues framed, the statutory framework applicable or the precise relief sought.

28. Needless to mention that policies, executive instructions and statutory schemes do not operate in abstraction and their interpretation cannot be divorced from the purpose they seek to achieve or the class of cases they are intended to govern. When judgments interpret different policies or statutory schemes, even if overlapping factual backgrounds exist, they cannot be said to be in conflict so long as each is confined to its own contextual and legal framework.

29. In light of the above guidelines, both the Division Bench judgments have been examined.

30. The salient aspects which emerge are tabulated as under:-

<i>Prem Parkash Gupta and others</i> (supra)	<i>Nathu Singh</i> (supra)
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1. Judgment is only in the context of circular dated 07.01.2002.	1. The judgment takes note of the circular dated 07.01.2002 as well as statutory scheme dated 21.06.2006 notified under Article 309 of the Constitution of India.
2. There is only a limited consideration of Clause 7 and Clause 9 of the circular dated 07.01.2002.	2. There is an additional consideration of Clauses 4 and 5 of the circular dated 07.01.2002 alongwith the subject.
3. No reference to statutory scheme of 2006 under Article 309 of the Constitution of India.	3. Considers the effect of the statutory scheme dated 21.06.2006 against circular dated 07.01.2002.
4. No reference to letter of appointment and terms and conditions incorporated therein.	4. Specifically notices the conditions in the appointment letter governing the employment.
	5. Notices that there is no challenge to appointment letter or conditions therein.
	6. Judgment of Prem Parkash Gupta and others (supra) considered and distinguished.

31. It is thus evident that there is a material distinction between the polices under consideration in both the judgments. Factually, the conditions of appointment letter reflect a changed factual consideration.



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Once the factual matrices and polices/instructions under consideration become distinct, the judgments based upon distinct polices cannot be said to be contradictory merely because they also happen to refer to a common policy.

32. In the present case, the reference by the Single Judge, in our opinion, has thus arisen on an erroneous assumption of a conflict between two judgments by Benches of Co-equal strength even though there exists none since the judgments are delivered in the context of different policies/instructions.

33. Ordered accordingly.

34. All other pending misc. application, if any, shall also stand disposed of accordingly.

(SHEEL NAGU)
CHIEF JUSTICE

(VINOD S. BHARDWAJ)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

17.02.2026
Mangal Singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No