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

% **Judgment reserved on: 18 April 2023**
Judgment pronounced on: 25 April 2023

\+ LPA 304/2023 & CM APPL. 18859/2023, CAV 195/2023

D.A.V. COLLEGE MANAGING COMMITTEE, THROUGH ITS GENERAL SECRETARY ..... Appellant

Through: Ms. Pinky Anand, Sr. Advocate with Ms. Saudamini Sharma, Mr. Anurag Lakhotia and Mr. Udit Dwivedi, Advocates.

versus

SEEMA ANIL KAPOOR & ANR. ..... Respondents

Through: Mr. Sermon Rawat, Mr. Vikas Rathee and Ms. Aastha Vishwakarma, Advocates.

Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi and Ms. Manisha, Advocates for Respondent/DOE.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE YASHWANT VARMA

J U D G M E N T

1. The Managing Committee of the D.A.V. College has approached this Court assailing the validity of an interim direction dated 02 March 2023 framed by the learned Single Judge in a pending writ petition. In terms of the order impugned the learned Single Judge taking note of the claim of the petitioners who were seeking benefits

of pay revision under the 6th and 7th **Central Pay Commission**[1] along with other benefits, has called upon the appellant to refix the pay band of the petitioners in accordance with the 6th CPC and to release arrears within four weeks. It has been further observed that it would be open for the appellant while disbursing arrears to make appropriate adjustments bearing in mind any amounts that may have already been released while implementing the recommendations of the CPC.

2. The aforesaid interim order is assailed solely on the ground of the claim raised in the writ petition being barred by delay and laches. The writ petition was filed originally in April 2021 seeking the absorption of the petitioners in a recognised school run by the D.A.V. College Managing Committee as well as for the release of arrears of salaries and other dues as flowing from the 6th and 7th CPCs'. As per the appellants, the school in question had sought closure permission in 2014. That permission was not granted. It is further disclosed in the appeal that while initially the writ petition had dealt with the validity of a transfer order dated 26 March 2021, ultimately the issue of asserted arrears payable in terms of the 6th and 7th CPCs came to be raised. It was while dealing with the aforesaid issue that the impugned order of 02 March 2023 came to be passed.

3. Ms. Anand, learned senior counsel appearing in support of the appeal has questioned the validity of the aforesaid order contending that the claim as raised is clearly hit by laches, a principle which must necessarily be recognised to apply bearing in mind the principles enunciated by the Supreme Court in **Rushibhai Jagdishchandra**

[1] CPC

Pathak v. Bhavnagar Municipal Corporation[2]. According to Ms. Anand, *Rushibhai* reiterates the salient principles which were propounded by the Supreme Court in **Union of India v. Tarsem Singh**[3] and which had held that stale claims should not be countenanced by High Courts in exercise of their writ jurisdiction. Ms. Anand further submitted that even if the question of arrears were to be considered, the claim could have at best been entertained for the period of three years immediately preceding institution of proceedings before this Court. According to learned senior counsel, the interim directions, if permitted to hold the field, would place a huge financial burden upon the appellant and in any case amount to the recognition of a claim which is clearly barred by laches.

4. It is pertinent to note that the sheet anchor of the challenge raised in the appeal rests on *Rushibhai* and on the strength of which, Ms. Anand had sought to contend that the principle of laches would clearly apply and that the learned Single Judge should have at best restricted the claim of the writ petitioners to a period of three years prior to the initiation of proceedings before this Court. The decision in *Rushibhai* was essentially dealing with the correctness of a decision of the Gujarat High Court which had proceeded to partially allow an appeal preferred by the Bhavnagar Municipal Corporation accepting its challenge to the grant of a higher pay scale to the appellants there as being barred by delay and laches. As the Supreme Court records in *Rushibhai***,** the appellants there were essentially aggrieved by the

[2] 2022 SCC OnLine SC 641
[3] (2008) 8 SCC 648

refixation of their pay scales in terms of an order dated 28 October 2010. It was that order which was assailed before the Gujarat High Court by way of a writ petition preferred in September 2017. While dealing with the issue of delay and laches which arose, the Supreme Court in *Rushibhai* had observed as follows:-

> "**9.** The doctrine of delay and laches, or for that matter statutes of limitation, are considered to be statutes of repose and statutes of peace, though some contrary opinions have been expressed. The courts have expressed the view that the law of limitation rests on the foundations of greater public interest for three reasons, namely, (a) that long dormant claims have more of cruelty than justice in them; (b) that a defendant might have lost the evidence to disapprove a stale claim; and (iii) that persons with good causes of action (who are able to enforce them) should pursue them with reasonable diligence. Equally, change in *de facto* position or character, creation of third party rights over a period of time, waiver, acquiesce, and need to ensure certitude in dealings, are equitable public policy considerations why period of limitation is prescribed by law. Law of limitation does not apply to writ petitions, *albeit* the discretion vested with a constitutional court is exercised with caution as delay and laches principle is applied with the aim to secure the quiet of the community, suppress fraud and perjury, quicken diligence, and prevent oppression. Therefore, some decisions and judgments do not look upon pleas of delay and laches with favour, especially and rightly in cases where the persons suffer from adeptness, or incapacity to approach the courts for relief. However, other decisions, while accepting the rules of limitation as well as delay and laches, have observed that such rules are not meant to destroy the rights of the parties but serve a larger public interest and are founded on public policy. There must be a lifespan during which a person must approach the court for their remedy. Otherwise, there would be unending uncertainty as to the rights and obligations of the parties. Referring to the principle of delay and laches, this Court, way back in *Moons Mills Ltd.* v. *M.R. Mehar, President, Industrial Court, Bombay*, had referred to the view expressed by Sir Barnes Peacock in *The Lindsay Petroleum Company* AND. *Prosper Armstrong Hurd, Abram Farewell, and John Kemp*, in the following words:
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> > "Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the

> party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

10. At the same time, the law recognises a 'continuing' cause of action which may give rise to a 'recurring' cause of action as in the case of salary or pension. This Court in *M.R. Gupta* v. *Union of India*, has held that so long as the employee is in service, a fresh cause of action would arise every month when they are paid their salary on the basis of a wrong computation made contrary to the rules. If the employee's claim is found to be correct on merits, they would be entitled to be paid according to the properly fixed pay-scale in future and the question of limitation would arise for recovery of the arrears for the past period. The Court held that the arrears should be calculated and paid as long as they have not become time-barred. The entire claim for the past period should not be rejected.

11. Relying upon the aforesaid ratio, this Court in the case of *Union of India* v. *Tarsem Singh*, while referring to the decision in *Shiv Dass* v. *Union of India*, quoted the following passages from the latter decision:

> "8…The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an

important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

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10. In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. … If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years."

12. In *Tarsem Singh* (supra), reference was also made to Section 22 of the Limitation Act, 1963, and the following passage from *Balakrishna Savalram Pujari Waghmare* v. *Shree Dhyaneshwar Maharaj Sansthan*, which had explained the concept of continuing wrong in the context of Section 23 of the Limitation Act, 1908, corresponding to Section 22 of the Limitation Act, 1963, observing that:

"31…It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself continues, then the act constitutes a continuing wrong. In this connection, it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury."

13. Accordingly, in *Tarsem Singh* (supra) it has been held that principles underlying 'continuing wrongs' and 'recurring/successive wrongs' have been applied to service law disputes. A 'continuing wrong' refers to a single wrongful act which causes a continuing injury. 'Recurring/successive wrongs' are those which occur periodically, each wrong giving rise to a distinct and separate cause of action. Having held so, this Court in *Tarsem Singh* (supra) had further elucidated some exceptions to the aforesaid rule in the following words:

"To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the

> Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition."

14. In *Tarsem Singh* (supra), the delay of 16 years in approaching the courts affected the consequential claim for arrears and thus, this Court set aside the direction to pay arrears for 16 years with interest. The Court restricted "*the relief relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser*". Further, the grant of interest on arrears was also denied.

16. In the facts of the present case, it is accepted that the respondent-Corporation had accepted the interpretation rendered by the High Court of Gujarat to the Scheme whereby the appellants, on financial upgradation, would be entitled to the higher grade pay-scale of the next promotional post, which is Rs. 5,000-8,000/- in the present case. As noted above, the impugned judgment of the Division Bench accepts the said position and grants the appellants the said pay-scale but restricts the benefit from the date of the judgment of the Single Judge in the Writ Petitions filed by the appellants, that is, with effect from 31st July 2018. The Division Bench should not have taken the date of the decision/judgment of the Single Judge for grant of the said benefit in view of the decision and ratio in *Tarsem Singh* (supra) which has been followed in

> several other decisions. That apart, the date of the decision of the Single Judge is a fortuitous circumstance. Only the date of filing of the writ petition is relevant while examining the question of delay and laches or limitation. The appellants would, in consonance with the case law referred to above, be entitled to the arrears for three years before the date of filing of the Writ Petitions.
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> **18.** In view of the aforesaid discussion, the prayer of the appellants that they should be given arrears right from 2010 has to be rejected. We also reject the prayer of the appellants that they should be refunded the entire amount which had been collected by the respondent-Corporation in terms of the order dated 28th October 2010.
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> **19.** Recording the aforesaid, we partly allow the present appeals with a direction that the appellants would be entitled to arrears in the pre-revised pay-scale of Rs. 5,000-8,000/- for three years prior to the date of filing of the Writ Petitions along with interest at the rate of 7% per annum with effect from 1st September 2017. The arrears, with interest, would be paid within a period of four months from the date of pronouncement of this judgment. A computation sheet/statement of accounts on the basis of which payment is made by the respondent-Corporation shall be furnished to the appellants. The impugned judgment is, accordingly, partly set aside and the Writ Petitions filed by the appellants would be treated as allowed in the aforesaid terms. There would be no order as to costs."

5. As is evident from the aforesaid passages, *Rushibhai* reiterates the principles which were enunciated in *Tarsem Singh*. *Tarsem Singh* was a judgment which arose out of a claim for grant of disability pension. The respondent in that matter who had been relieved from service on 13 November 1983 had approached the High Court in 1999 praying for the grant of disability pension. The said writ petition came to be allowed by a learned Single Judge of the High Court upholding the claim for grant of disability pension. However, arrears were restricted to a period of 38 months prior to the filing of the writ petition. Dissatisfied with the aforesaid judgment, the respondent there preferred a Letters Patent Appeal before the Division Bench of

that High Court. That appeal came to be allowed in toto with the Division Bench holding that he would be entitled to disability pension from the date it had fallen due. While dealing with the correctness of that judgment rendered by the Division Bench, the Supreme Court in *Tarsem Singh* observed as follows: -

> **"7.** To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.
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> **8.** In this case, the delay of sixteen years would affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to sixteen years, and that too with interest. It ought to have restricted the relief relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances."

6. Ms. Anand further submitted that this Court too has frowned upon belated claims being raised in relation to pay and other allowances. Ms. Anand submitted that in **Prem Thakran v. Govt.**

(NCT of Delhi)[4] a prayer for release of arrears of the 6th CPC came to be negatived on the ground of delay by the learned Judge, as would be evident from the following extracts of that decision:-

> **"5.** Upon hearing and on perusal of material on record and the decision cited, I find that the application of *doctrine of delay and laches* in a writ petition is to be considered in a liberal manner. That is to say, if there is any ground for extension of limitation, it has to be considered liberally.
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> **6.** In the instant case, respondent-School in its communication of 5th February, 2011 (Annexure P-4) had undertaken to pay the arrears of Sixth Pay Commission to the regular staff with effect from 1st January, 2006. On the strength of that undertaking, petitioner ought to have approached the Court within three years i.e. in the year 2014. The lack of diligence is apparent from the fact that petitioner had not even made a Representation in the year 2014 to seek the arrears of Sixth Pay Commission with effect from 1st January, 2006 and only in the year 2017, writ petition has been filed. Therefore, in view of the decision in *Preeti Sharma* (Supra), the benefit of Sixth Pay Commission to petitioner prior to 2013 cannot be extended."

7. It was pointed out that the aforesaid judgment was ultimately upheld by the Division Bench which had proceeded to dismiss the Letters Patent Appeal. Ms. Anand pointed out that the view as expressed by the Court in *Prem Thakran* was approved and attained finality consequent to the dismissal of the Special Leave Petition taken against the same.

8. Having heard learned senior counsels, we find ourselves unable to sustain the challenge raised in the present appeal for the following reasons.

9. It must at the outset be noticed that neither *Rushibhai* nor *Tarsem Singh* were dealing with benefits claimed as flowing from

[4] 2018 SCC OnLine Del 9446

recommendations made by a Pay Commission. In *Rushibhai*, the writ petitioners had questioned the validity of the pay fixation order after almost seven years. *Tarsem Singh* was dealing with a claim for payment of disability pension along with arrears. The employee there had raised the aforesaid issue for the first time by filing a writ petition in 1999 even though he stood relieved from service in 1983. Both *Rushibhai* and *Tarsem Singh* were therefore decisions rendered in the backdrop of individual claims raised by employees in respect of benefits asserted to have become due and payable while they were in service. Those employees essentially sought to raise claims with respect to benefits which according to them were due and payable while they were still in employment. While in *Tarsem Singh*, a claim for disability pension was raised long after the employee had been relieved from service, in *Rushibhai* the challenge to an order by which the claim stood decided was assailed after long delay. It was in the aforesaid backdrop that the Supreme Court observed that even if those claims fell in the genre of a continuing wrong, it was incumbent upon the employee to claim those benefits with due dispatch. It was in the that context that the Supreme Court had proceeded to frame the principle of arrears being restricted to a period of three years, the generally understood period of limitation for a money claim, prior to the initiation of action before a court.

10. In the considered opinion of this Court such claims clearly stand on a pedestal distinct and different from benefits which are stated to flow from recommendations made by a CPC. It would be pertinent to note that the salary of employees working in schools governed by the

Delhi School Education Act, 1973[5] is governed by Section 10 thereof. The said provision reads thus: -

> **"10. Salaries of employees.-**
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> (1) The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.
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> Provided that where the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of any recognised private school are less than those of the employees of the corresponding status in the schools run by the appropriate authority, the appropriate authority shall direct, in writing, the managing committee of such school to bring the same up to the level of those of the employees of the corresponding status in schools run by the appropriate authority:
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> Provided further that the failure to comply with such direction shall be deemed to be non-compliance with the conditions for continuing recognition of an existing school and the provisions of section 4 shall apply accordingly.
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> (2) The managing committee of every aided school shall deposit, every month, its share towards pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits with the Administrator and the Administrator shall disburse, or cause to be disbursed, within the first week of every month, the salaries and allowances to the employees of the aided schools."

11. It is manifest from a reading of the aforesaid provision that the obligation to release pay and allowances on terms and at par with those paid to teachers and staff employed in schools run by the Central Government, State Government or a Municipal Corporation is essentially placed upon the employer. Recommendations of a CPC

[5] 1973 Act

once accepted are liable to be factored in by the employer itself. Those benefits are not dependent upon an assertion of a right by the employee but are those which must automatically be implemented once those recommendations come to be accepted by the competent authority. Viewed in that light, it is evident that benefits flowing from a CPC report are not dependent upon a claim being raised but are those which must necessarily be implemented and released by an employer of its own volition. It is this feature which distinguishes claims flowing from the recommendations made by a CPC from individual assertions that may be raised by an employee with respect to salary or other allowances.

12. This aspect has been duly noticed by a Division Bench of our Court in **Vidya Bharati School v. Directorate of Education & Ors.**[6] where the following observations came to be made: -

> "**5**. The limitation of claim to arrears of three years is untenable in view of the dicta of the Supreme Court in *Keraleeya Samajam & Anr. Vs Pratibha Dattatray Kulkarni (Dead) Lrs & Ors. 2021 SCC OnLine SC 853:*
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> > "……4. Therefore the entitlement of the teacher's salaries as per the 5th and 6th Pay Commission to the teaching and non-teaching staff of the second petitioner – school is not required to gone into and only issue which is required to be considered is whether the arrears ought to have been restricted to three years preceding the filing of the writ petition?
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> > 5. Having heard Shri Shekhar Naphade, learned Senior Advocate appearing on behalf of the petitioners and learned counsel appearing on behalf of the respondents and considering orders passed in earlier round of litigations which ended

[6] 2022/DHC/004536

up to this court the liability of the management to pay the salaries to the teaching and nonteaching staff as per the 4th Pay Commission and 5th Pay Commission ended in favour of the teaching and nonteaching staff working with the petitioners. Therefore as and when the 6th Pay Commission recommendations was made applicable as such it was the duty case upon the petitioners' institution to pay the salary/wages to the teaching and nonteaching staff as per the applicable pay scale as per the 6th Pay Commission recommendation and for which the staff was not required to move before the Deputy Director (Education) again and again. Therefore, the submissions on behalf of the petitioners that as the respondents approached the Deputy Director (Education) subsequently and therefore the question with respect to the limitation will come into play and therefore the respondents shall be entitled to the arrears of last three years preceding the filing of the writ petitions cannot be accepted.

6. The respondents were compelled to approach the Deputy Director only when the petitioners though were required to pay the wages as per the applicable rules and as per the recommendation of the 6th Pay Commission, failed to make the payment, the respondents were compelled to approach the Deputy Director (Education) thereafter. Therefore for the lapse and inaction on the part of the petitioners, the respondents cannot be made to suffer and deny the arrears of the salaries as per the 6th Pay Commission recommendation, which otherwise they are entitled to. Every time the teachers were not supposed to approach the appropriate authority for getting the benefit as and when there is a revision of pay as per the pay commission recommendations…."

6. In the present case, the school was to pay monies/salaries in terms of the salary fixation done by DOE way back on 11.02.2009. The school kept pursuing its position and understanding of the law before the DOE, avoiding the statutorily mandated payment, on the basis of a purported waiver by the teachers' association. In compliance with the

directions issued on 21.12.2015 in W.P.(C) 11800/2015, the DOE's order directing the school to pay salary and arrears to the teachers was passed on 10.10.2016. The school did not comply with the directions: Now, due to lapse of time, it cannot take any benefit because of its own recalcitrance to comply with the Government's directions and statutory obligations. Its non-compliance over a long period would not create any special equities in its favour and it does not get absolved of the statutory obligation to pay the salary fixed by the government in terms of the 6th Pay Commission Recommendation. The so-called collective waiver by the teachers of their respective statutory dues can hardly be given cognizance because the nature of employment puts the teachers of a private school on a weaker footing vis-à-vis the school management. What was the nature of the teacher's association meeting, thereby rendering the purported resolution untenable. Pay revision in terms of the Pay Commission Recommendations is a matter of public policy, with objective of ensuring that with the passage of time the purchasing power of the government employee is not denuded by inflation and other related factors. It can hardly be anyone's case and will be against public policy that the remuneration of teachers and employees of a school be, for all times, below the standard fixed by the government. The after-effects of such monetary relinquishment on the employees, their families and their financial planning would be dire. Nobody would ordinarily volunteer for such financial deprivation and yet be expected to discharge their duties as teachers with the same devotion and dedication as before the pay revision. The individual remuneration and relinquishment of rights by each teacher, for all times, is not evidenced. The school's contentions were rightly rejected in the impugned order. We find no reason to differ."

13. It becomes pertinent to note that in *Vidya Bharati School***,** the Division Bench had an occasion to notice the judgment rendered by the Supreme Court in **Keraleeya Samajam and Another v. Pratibha Dattatray Kulkarni (Dead) Through LRs and Others**[7]**.** *Keraleeya Samajam* too was a judgment which was rendered in the context of a claim for the payment of arrears as flowing from the 6th CPC. In

[7] 2021 SCC OnLine SC 853

Keraleeya Samajam the Supreme Court laid emphasis upon the obligation of the employer to implement the recommendations of the 6th CPC and the duties cast upon it in this respect. It was held that once the employer itself had faulted in implementing the recommendations of the CPC, the claim could not have been denied on the ground of delay or laches. We deem it apposite to extract the following paragraphs from the decision of the Supreme Court in *Keraleeya Samajam*:-

> **"5.** Having heard Shri Shekhar Naphade, learned Senior Advocate appearing on behalf of the petitioners and learned counsel appearing on behalf of the respondents and considering orders passed in earlier round of litigations which ended up to this court the liability of the management to pay the salaries to the teaching and non-teaching staff as per the 4th Pay Commission and 5th Pay Commission ended in favour of the teaching and non-teaching staff working with the petitioners. Therefore as and when the 6th Pay Commission recommendations was made applicable as such it was the duty cast upon the petitioners' institution to pay the salary/wages to the teaching and non-teaching staff as per the applicable pay scale as per the 6th Pay Commission recommendation and for which the staff was not required to move before the Deputy Director (Education) again and again. Therefore, the submissions on behalf of the petitioners that as the respondents approached the Deputy Director (Education) subsequently and therefore the question with respect to the limitation will come into play and therefore the respondents shall be entitled to the arrears of last three years preceding the filing of the writ petitions cannot be accepted.
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> **6.** The respondents were compelled to approach the Deputy Director only when the petitioners though were required to pay the wages as per the applicable rules and as per the recommendation of 6th Pay Commission, failed to make the payment, the respondents were compelled to approach the Deputy Director (Education) thereafter. Therefore for the lapse and inaction on the part of the petitioners, the respondents cannot be made to suffer and deny the arrears of the salaries as per the 6th Pay Commission recommendation, which otherwise they are entitled to. Every time the teachers were not supposed to approach the appropriate

> authority for getting the benefit as and when there is a revision of pay as per the pay commission recommendations.
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> **7.** In view of the above and for the reasons stated above both these special leave petitions deserve to be dismissed and accordingly dismissed.
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> **8.** It is directed to the petitioners to clear the arrears within a period of eight weeks from today failing which it shall carry interest at 9%. The Deputy Director (Education), Nasik Division is hereby directed to see that the present order is complied with by the petitioners and the amount is disbursed to the respective respondents by account payee cheques."

14. Accordingly, and for all the aforesaid reasons, we find no merit in the instant appeal. It shall, consequently, stand dismissed.

SATISH CHANDRA SHARMA, CJ.

YASHWANT VARMA, J.

APRIL 25, 2023/SU