



2026:DHC:4560-DB



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

+ W.P.(C) 2946/2026 & CM APPL. 14200/2026

PRADEEP KUMAR KAPOOR AND ORS. ....Petitioners  
Through: Mr. Sourabh Ahuja and Mr.  
Keshav Singh, Advs.

versus

MUNICIPAL CORPORATION OF DELHI ....Respondent  
Through: Dr. Divya Swamy, SC with Ms.  
Akriti Singh, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

**JUDGMENT (ORAL)**

**19.05.2026**

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**OM PRAKASH SHUKLA, J.**

1. The present writ petition arises out of order dated 31.01.2025<sup>1</sup> passed in Original Application<sup>2</sup> No. 3834/2017, whereby the learned Central Administrative Tribunal<sup>3</sup> had allowed the aforesaid O.A. and directed the Respondent to re-fix the Grade Pay of the Petitioners on notional basis and pension order but restricted the arrears to only for three years preceding the date of filing of the said O.A. in light of the decision of the Hon'ble Supreme Court in *Union of India and Others v. Tarsem Singh*<sup>4</sup>.

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<sup>1</sup> "Impugned order", hereinafter

<sup>2</sup> "OA", hereinafter

<sup>3</sup> "Tribunal", hereinafter

<sup>4</sup> (2008) 8 SCC 648



2026:DHC:4560-DB



2. The Petitioners have assailed the Impugned Order only to the extent of the direction passed by the learned Tribunal of restricting the benefit to only three years preceding the filing of the underlying O.A.
3. The facts leading to the filing of the O.A. No. 3834/2017 are set out below.
4. The Petitioners were initially appointed as Vaccinators, the post which was subsequently re-designated as Public Health Inspectors<sup>5</sup> in the office of the Respondent.
5. As per the office order dated 31.05.2005 issued by the Respondent, the pay scales of the supervisory staff stood revised in terms of the recommendations of the 5<sup>th</sup> Central Pay Commission<sup>6</sup> with effect from 01.01.1996. In pursuance thereof, the posts of Vaccination Inspector (now PHIs) and Vaccinator (now PHIs) were placed in the pay scale of Rs. 5000-8000.
6. Before filing the underlying O.A., the Petitioners had earlier approached the learned Tribunal by way of O.A. No. 3783/2012 seeking implementation of the aforesaid revised pay scale with effect from 01.01.1996 and challenged the action of the Respondent in refixing their pay and effecting recovery from their salaries.
7. The earlier O.A. came to be allowed *vide* the order dated 17.02.2015, directing the Respondent to restore the pay scale of the

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<sup>5</sup> "PHIs", hereinafter

<sup>6</sup> "CPC", hereinafter



2026:DHC:4560-DB



Petitioners to the Rs. 5000-8000, refund the amounts already recovered from their salaries and grant all consequential benefits arising therefrom.

**8.** However, due to non-compliance of the directions contained in order dated 17.02.2015 passed in the earlier O.A. No. 3783/2012, the Petitioners were constrained to initiate contempt proceedings before the learned Tribunal.

**9.** During the pendency of the said contempt, the Respondent issued office order dated 03.05.2016, whereby, the Grade Pay of the Petitioners was revised from Rs. 4200/- to Rs. 4600/- with effect from 01.01.2006/08.09.2006 and thereafter to Rs. 4800/- with effect from 01.09.2008/08.09.2012 under the ACP/MACP Scheme. In view of the said compliance, the contempt petition came to be disposed of *vide* order dated 18.1.2017.

**10.** However, the matter did not rest there for the Petitioners. Their grievance arose again when they came to know, that although their Grade Pay had been fixed at Rs. 4800/- and their pensionary and terminal benefits had been worked out on that basis, similarly situated employees and even juniors to them had been granted Grade Pay of Rs. 5400/-. It is this alleged anomaly, which gave rise to the present round of litigation.

**11.** Being aggrieved by the aforesaid action, the Petitioners submitted representations dated 08.08.2017 and 10.08.2017 seeking re-fixation of their Grade Pay and pensionary benefits.



2026:DHC:4560-DB



**12.** Petitioners' specific grievance was that they had been granted Grade Pay of Rs. 4600/- and thereafter Rs. 4800/- under the ACP/MACP Scheme. However, they were, in fact, entitled to Grade Pay of Rs. 4800/- towards the first and second financial upgradations under the ACP Scheme and further Grade Pay of Rs. 5400/- upon grant of the third financial upgradation under the MACP Scheme on completion of the requisite period of service.

**13.** According to the Petitioners, by restricting their Grade Pay only up to Rs. 4800/-, the Respondent had adversely affected not only their pay fixation but also their retiral and pensionary benefits, despite their juniors to them drawing higher Grade Pay.

**14.** When no action was taken on the aforesaid representations, the Petitioners filed the O.A. No. 3834/2017, the decision of which is challenged before us.

**15.** In the said O.A., the Petitioners sought directions to the Respondent to grant them Grade Pay of Rs. 5400/- upon completion of thirty years of service under the MACP Scheme and accordingly re-fixation of their pay, pension and terminal dues by treating Grade Pay of Rs. 5400/- as their last drawn Grade Pay, along with consequential arrears and interest thereon.

**16.** The learned Tribunal, *vide* order dated 31.01.2025, allowed the aforesaid O.A. by observing that the Petitioners had not been granted Grade Pay of Rs. 5400/-, whereas, similarly situated employees and



2026:DHC:4560-DB



even juniors to them had already been extended the said benefit and, therefore, the Petitioners, being seniors, could not be denied similar treatment.

**17.** The learned Tribunal, accordingly, directed the Respondent to re-fix the Grade Pay of the Petitioners on notional basis and revise their pensionary benefits accordingly.

**18.** However, while granting the aforesaid relief, the learned Tribunal while relying upon the judgment in *Tarsem Singh (supra)* observed that since the Petitioners had approached the learned Tribunal only in the year 2017, the consequential arrears deserved to be restricted to a period of three years prior to filing of O.A. No. 3834/2017. In other words, although the entitlement of the Petitioners to the higher Grade Pay stood recognised, the monetary benefits flowing therefrom were curtailed on the ground of alleged delay.

**19.** Being aggrieved by the restriction of benefits to only three years preceding to filing of the said O.A., the Petitioners have approached this Court by means of the present writ petition.

**20.** Mr. Ahuja, learned Counsel appearing on behalf of the Petitioners, submits that the learned Tribunal erred in restricting the arrears to a period of three years prior to filing of the O.A. despite having returned a categorical finding that the Petitioners were entitled to the higher Grade Pay and consequential revision of pensionary benefits. Reliance is placed upon the decision of the Hon'ble Supreme



2026:DHC:4560-DB



Court in *Keraleeya Samajam v. Pratibha Dattatray Kulkarni*<sup>7</sup>, particularly paragraphs 4 to 6 thereof, wherein it was observed that once entitlement to revised pay is established, it becomes the obligation of the employer to extend the said benefit and employees cannot be compelled to repeatedly approach the authorities for grant of lawful dues.

**21.** It is further submitted that the learned Tribunal erred in placing reliance upon *Tarsem Singh (supra)*, as there was no delay on the part of the Petitioners in approaching the learned Tribunal. It is pointed out that the benefits were granted *vide* order dated 03.05.2016 and, upon noticing the discrepancy in fixation of Grade Pay and pensionary benefits, the Petitioners promptly submitted representations, and thereafter, approached the learned Tribunal in the year 2017 itself.

**22.** *Per contra*, learned counsel appearing on behalf of the Respondent submits that the claims raised by the Petitioners essentially pertained to implementation of benefits arising out of the 6th CPC with effect from 01.01.2006, whereas the Petitioners chose to agitate the issue only in the year 2017 i.e. after a delay of 11 years. According to the Respondent, the Petitioners accepted the fixation granted by office order dated 03.05.2016 and sought further enhancement after a delay of a year in 2017, and therefore had acquiesced in the earlier fixation for a considerable period of time.

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<sup>7</sup> 2021 SCC OnLine SC 853



23. It is further submitted that the learned Tribunal had rightly applied the principle laid down in *Tarsem Singh (supra)*, which permits grant of relief in matters relating to pay fixation and pension despite delay, while restricting consequential arrears to a period of three years preceding the proceedings.

24. We have heard the learned counsel for the parties and perused the material on record.

25. In light of the rival submissions advanced before us, the only issue which arises for our consideration is whether the learned Tribunal was justified in restricting the arrears payable to the Petitioners to three years prior to the filing of the O.A. before the learned Tribunal.

26. Mr. Ahuja essentially set up his case by placing reliance upon *Keraleeya Samajam (supra)*. Accordingly, the relevant paras of the said decision are noted hereunder for our consideration-

*“4. Therefore the entitlement of the teacher's salaries as per the 5<sup>th</sup> and 6<sup>th</sup> 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?”*

*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 4<sup>th</sup> Pay Commission and 5<sup>th</sup> Pay Commission ended in favour of the teaching and non-teaching staff working with the petitioners. Therefore as and when the 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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.”

(emphasis supplied)

27. Our reading of the aforesaid decision indicates that the same was rendered in the context of a claim relating to arrears flowing from implementation of the 6th CPC. The principal issue before the Hon'ble Supreme Court was similar to the present case i.e. whether the arrears could be restricted to three years on the ground that the employees had approached the authorities belatedly.

28. While dealing with the said issue, the Hon'ble Supreme Court, in clear terms, emphasised that once the revised pay scales under the 6th CPC became applicable, the obligation to correctly implement the same was upon the employer itself and the employees were not expected to run from pillar to post seeking implementation of benefits which were



otherwise payable in law. Therefore, it was observed that the employees could not be made to suffer on account of lapse or inaction on the part of the employer itself.

29. In the above noted context, the restriction of arrears to three years was, therefore, disapproved since the default was on the part of the employer itself in its failure to extend the benefits which were otherwise automatically payable.

30. We also note that the aforesaid aspect has been duly noticed by a Division Bench of this Court in *Vidya Bharati School v. Directorate of Education*<sup>8</sup>, where the following observations came to be made after considering *Keraleeya Samajam (supra)*:-

*“6. The limitation of claim to arrears of three years is untenable in view of the dicta of the Supreme Court in Keraleeya Samajam v. Pratibha Dattatray Kulkarni (Dead) Lrs, 2021 SCC OnLine SC 853:*

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*7. 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 and 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 6<sup>th</sup> 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*

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<sup>8</sup> 2022 SCC OnLine Del 4968



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."

(emphasis supplied)

**31.** The above aspect also stands followed by another Division Bench of this Court in *D.A.V. College Managing Committee, Through Its General Secretary v. Seema Anil Kapoor and Another*<sup>9</sup>.

**32.** Adverting to the facts of the present case, we find that the claims raised by the Petitioners essentially pertain to proper implementation of the benefits flowing from the 6th CPC and the ACP/MACP Scheme. It was the case of the Petitioners that upon completion of the requisite period of service, they were entitled to Grade Pay of Rs. 5400/-. However, despite completing the requisite service period, the Respondent restricted the Petitioners to Grade Pay of Rs. 4800/-, while similarly situated employees and even juniors to the Petitioners were granted Grade Pay of Rs. 5400/-.

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<sup>9</sup> 2023 SCC OnLine Del 2314



2026:DHC:4560-DB



**33.** The learned Tribunal accepted this claim and granted relief to the Petitioners. It is to be noted that the said finding on entitlement is not challenged before us. Thus, the controversy before us survives only with respect to the period for which the consequential arrears are liable to be granted.

**34.** In our considered view, once the learned Tribunal itself came to the conclusion that the Petitioners were entitled to higher Grade Pay of Rs. 5400/-, the principles laid down in *Keraleeya Samajam (supra)*, as followed in *Vidya Bharati School (supra) and D.A.V. College Managing Committee (supra)*, squarely apply to the facts of the present case, and therefore, the consequences flowing from determination of entitlement could not have been artificially truncated by the learned Tribunal.

**35.** This becomes all the more significant when one keeps in mind the nature and effect of pay fixation itself. To our mind, pay revision and financial upgradations under the ACP/MACP Scheme are intended to ensure that employees receive the emoluments and retiral benefits lawfully attached to their service progression and, therefore, correct pay fixation flows directly from the applicable service rules and pay structure.

**36.** Once that be the position, the effect of an incorrect Grade Pay as well is not confined merely to monthly salary but extends to pension, retiral dues and all consequential emoluments payable to the employee. Therefore, once the foundational pay fixation itself is found to be incorrect, all consequential benefits necessarily require correction.



**37.** The sequence of events in the present case also assumes significance in this regard. It is to be noted that it was only after issuance of the office order dated 03.05.2016 and the consequential fixation of pensionary benefits that the Petitioners came to know that despite similarly situated juniors having been granted Grade Pay of Rs. 5400/, their own Grade Pay had been calculated to Rs. 4800/-. Thereafter, the Petitioners submitted representations seeking correction of the said anomaly and, finding no redressal, were ultimately constrained to approach the learned Tribunal.

**38.** Thus, the above clearly indicates that the Petitioners were compelled to litigate only because the benefits flowing from the 6th CPC and the ACP/MACP Scheme were not correctly extended to them by the Respondent itself in the first instance by order dated 03.05.2016.

**39.** When viewed in that light, the accumulation of arrears was itself a consequence of the Respondent not correctly implementing the applicable pay structure at the relevant stage.

**40.** Therefore, at this stage, the Respondent cannot now be permitted to take advantage of their own wrong by first continuing an incorrect pay grade and thereafter seeking to rely upon the passage of time to curtail the financial consequences flowing from correction of that very error.

**41.** Once the entitlement of the Petitioners to the higher Grade Pay and consequential revision of pensionary benefits stood recognised,



there remains no justification for us to deny them the full arrears flowing therefrom.

**42.** Thus, in light of the legal principles laid down in *Keraleeya Samajam (supra)*, as followed in *Vidya Bharati School (supra)* and *D.A.V. College Managing Committee (supra)*, we find that the Petitioners cannot be made to suffer by denial of the full arrears of pay and pensionary benefits to which they were otherwise lawfully entitled for the errors made on the part of the Respondent.

**43.** As far as applicability of *Tarsem Singh (supra)* is concerned as sought by the Respondent, we find that the said decision arose out of a claim relating to disability pension in which the claim for disability pension was made after an inordinate delay of about sixteen years after being invalidated from Army service. It was in that factual backdrop that the Hon'ble Supreme Court observed that although such claims may constitute a continuing wrong, the consequential arrears could be restricted to three years prior to institution of proceedings.

**44.** The present case, in our view, stands on an altogether different footing. The grievance of the Petitioners pertains to not an isolated individual claim relating to any personal allowance, but pertains to proper implementation of the benefits directly flowing from the 6th CPC and ACP/MACP Scheme. It is this distinction which clearly separates the present case from the factual situation considered in *Tarsem Singh (supra)*.



45. The applicability of *Tarsem Singh (supra)*, particularly to examine whether the said decision would justify restricting the arrears payable to an employee to a period of three years, has also been considered by this Court in *DDA v. Krishan Kant Sharma*<sup>10</sup>, authored by one of us (C. Hari Shankar, J.), wherein this Court distinguished the said decision and following observations came to be made:-

15. Nonetheless, to satisfy ourselves, we have perused the judgment of the Supreme Court in *Tarsem Singh* to examine whether the said decision would justify restricting the arrears payable to the respondent for a period of three years.

16. *Tarsem Singh* was a case which dealt with disability pension. In that case, the respondent Tarsem Singh was invalidated out of Army service on 13-11-1983. It was 16 years thereafter, in 1999, that he sought disability pension. It was in these circumstances that the Supreme Court observed that the entitlement to disability pension would be restricted for a period of three years prior to *Tarsem Singh* approaching the court.

17. Besides, *Tarsem Singh* now stands revisited by the Supreme Court recently in its judgment in *Union of India v. Sgt Girish Kumar* 2026 SCC OnLine SC 194, rendered on 12-2-2026. We may reproduce, from the said judgment, paras, 15, 16, 20 and 22 thus:

15. Pension, as authoritatively settled by this Court, is neither a bounty nor an *ex gratia* payment dependent upon the grace of the State. It is a deferred portion of compensation for past service and, upon fulfilment of the governing conditions, matures into a vested and enforceable right. Pensionary entitlements, therefore, partake the character of property, and cannot be withheld, reduced, or extinguished except by authority of law. This principle applies with full vigour to disability pension, which is grounded not merely in length of service, but in the impairment suffered by a member of the Armed Forces in the course of, or attributable to, the service rendered to the nation. The disability pension is not a matter of largesse, but a recognition of sacrifice made in service of the nation.

16. The Union of India, as a model employer, is expected to act with fairness, consistency and even-handedness in the administration of benefits conferred upon those who have served the nation. When a benefit is recognised by a policy and affirmed by

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<sup>10</sup> 2026 SCC OnLine Del 3309



judicial pronouncement, its application cannot be selective or uneven. The judgment rendered by a three-Judge Bench of this Court in **Ram Avtar's** case 2014 SCC OnLine SC 1761 (*supra*) was a judgment in rem and, therefore, the benefit of same ought to have been extended by Union of India to the eligible ex-servicemen instead of requiring them to file original applications before the Tribunal seeking their entitlement.

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20. This Court has, in a consistent line of decisions, recognised that right to receive disability pension is a valuable right and once found due, the benefit of the same has to be given from the date it became due. The same cannot be curtailed by restricting the benefit to a period of three years preceding the filing of the original application. In the absence of any compelling reason to take a different view, we find no justification to depart from the view consistently taken by this Court.

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22. The reliance placed by the appellant on the decision of a two-Judge Bench of this Court in **Tarsem Singh** (*supra*) is of no assistance to it, as the legal landscape did not remain static after decision in **Tarsem Singh**. Subsequently, a three-Judge Bench of this Court in **Ram Avtar** (*supra*), decided the issue of applicability of instruction dated 31-1-2001 and the aforesaid decision is in rem. For, yet another reason, the decision in **Tarsem Singh** (*supra*) has no application to the case in hand as ex-servicemen in the instant appeals are already in receipt of disability pension and are only seeking re-computation of the disability pension. The right to approach the Tribunal accrued to ex-servicemen only on 10-12-2014 i.e. when the decision in **Ram Avtar** (*supra*) was rendered by this Court. Therefore, the bar contained in Section 22(1)(c) of the Act has no application to the claims filed by the ex-servicemen before the Tribunal. In the facts and circumstances of the case, we find that the original applications filed by the ex-servicemen do not suffer from any delay or laches disentitling them from claiming the relief of arrears of disability pension. Thus, the objections founded on the delay and limitation are without any merit.”

(Emphasis supplied)

18. In para 15, the Supreme Court has clearly held that pension is neither a bounty nor an ex gratia payment dependent upon the grace of the State, and is a deferred portion of compensation for past service. On fulfilment of the governing conditions, it matures into a vested and enforceable right. The Supreme Court has further observed, in clear and unequivocal terms that “pensionary



entitlements .... partake the character of property”, and “cannot be withheld, reduced, or extinguished except by authority of law”.

19. There can, therefore, be no justification for the petitioner withholding the pensionary benefits of the respondent though he was compulsorily retired from service in 1991.

(emphasis supplied)

46. The aforesaid observations in *Krishan Kant Sharma (supra)*, in our view, further fortify the distinction between stale individual service claims and claims arising out of proper implementation of pay revision and consequential pensionary benefits.

47. Even otherwise, on facts as well, we do not find any such inordinate or unexplained delay on the part of the Petitioners so as to attract the principles noticed in *Tarsem Singh (supra)*. In our view, the Petitioners cannot by any stretch be described as indolent or non-vigilant litigants so as to warrant curtailment of arrears by applying the three years restriction laid down in *Tarsem Singh (supra)*, particularly when the Petitioners submitted representations immediately after noticing the anomaly pursuant to the office order dated 03.05.2016 and thereafter approached the learned Tribunal in the year 2017 itself.

48. In view of the aforesaid discussion, we are of the considered opinion that the learned Tribunal erred in relying upon *Tarsem Singh (supra)* for restricting the consequential benefits to a period of three years preceding the filing of the O.A.

49. For the aforesaid reasons, we set aside the decision of the learned Tribunal to restrict the arrears available to the Petitioner from three



2026:DHC:4560-DB



years prior preceding the filing of the O.A. No. 3834/2017 and hold that the Petitioner would be entitled to arrears from 1.09.2008, on which date, according to the Petitioners, the juniors were granted Grade Pay of Rs. 5400/-.

**50.** Let the arrears computed in the aforesaid terms be disbursed to the Petitioners within twelve weeks from today.

**51.** The petition is disposed of in the aforesaid terms.

**OM PRAKASH SHUKLA, J.**

**C. HARI SHANKAR, J.**

**MAY 19, 2026/ss**