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

Reserved on: 09th March, 2026
Pronounced on: 16th April, 2026
Uploaded on: 16th April, 2026

\+ **W.P.(C) 7270/2019**

RAM RATAN VERMA AND ORS. .....Petitioners

Through: Mr. Shailendra Singh and Mr. Abhyuday Dhasmana, Advocates.

versus

THE UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Manoj and Ms. Aparna Sinha, Advocates for R-2.
Dr. Monika Arora, CGSC with Mr. Prabhat Kumar, Advocate for R-1, 3, 4.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. This writ petition has been filed by retired direct recruits of the Food Corporation of India[1] seeking a mandamus directing the Respondents to grant them the benefit of pension on the footing that they were wrongly excluded from the regime available to the employees who had come into FCI from the erstwhile Food Department. The claim is founded essentially on parity and discrimination.

2. FCI was established in the year 1965. The FCI Staff Regulations came

[1] "FCI"

into force in the year 1971. According to the Petitioners, employees recruited prior to the coming into force of those Regulations were initially governed by the Central Civil Services Rules.[2] They further state that, till the year 1983, both the employees transferred from the erstwhile Food Department and the direct recruits of FCI continued on the Central Dearness Allowance pattern, with pay and allowances broadly aligned to those of Central Government employees.

3. The Petitioners who belong to the class of direct recruits have a grievance that, although they worked in the same establishment, under the same pay pattern for long periods, and within the same service structure as the transferred employees, they were denied the pensionary benefit that the latter were permitted to retain or elect. According to them, while the transferred employees had access to pension on the Central Government model, the direct recruits were continued under the FCI Contributory Provident Fund Regulations, 1967 and were never afforded any corresponding option to move to pension.

4. The Petitioners place reliance on the Office Memorandum dated 1st May, 1987, under which CPF beneficiaries in service on 1st January, 1986 were to be treated as having come over to pension unless they opted to remain under the CPF scheme. Their case is that a similar liberalised approach was adopted in several other public bodies and public sector institutions, including public sector insurance companies by instruction dated 2nd March, 2019, but no such benefit was ever extended to FCI direct recruits. The exclusion of that class is, therefore, assailed as arbitrary and discriminatory.

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[2] "CCS Rules"

5. The Respondents dispute the claim. Their case, in substance, is that the direct recruits and the transferred employees never formed one legal class in the matter of terminal benefits. According to them, the position of the transferred employees flowed from their antecedent status as Government employees and from the statutory arrangement governing their transfer to FCI, whereas the Petitioners, being direct recruits of the Corporation, were governed by FCI's own service and provident fund framework. It is, therefore, their case that the Office Memorandum dated 1st May, 1987 had no application to the Petitioners.

Issues

6. Having considered the submissions advanced on behalf of the parties, the pleadings, the statutory provisions, the office memoranda placed on record, the rejection order dated 30th June, 2015, and the authorities relied upon by both sides, the following issues arise for determination:

(i) whether the Petitioners, being direct recruits of FCI, can claim pensionary benefits at par with the food transferees as a matter of legal right;

(ii) whether the Office Memorandum dated 1st May, 1987 applies, either directly or by necessary implication, to FCI direct recruits;

(iii) whether the denial of such benefit to the Petitioners offends Article 14 of the Constitution; and

(iv) whether the rejection order dated 30th June, 2015 has any disabling effect on the present claim.

Analysis and findings

Whether the Petitioners can claim pensionary benefits at par with the food transferees as a matter of legal right

7. The Petitioners' case undoubtedly carries equitable appeal. One can

readily understand why a retired employee, who served in the same organisation, under the same pay pattern for long periods, and within the same service hierarchy as another class of employees, would regard a divergence in retiral benefits as unfair. However, perceived unfairness is not, by itself, a source of legal entitlement. A writ of mandamus does not issue merely because one service arrangement is more advantageous than another. The claimant must show a right recognised in law and enforceable against the Respondents. That foundation is absent here.

8. The position of the food transferees was anchored in the statutory scheme itself. Section 12 empowered the Corporation to frame service rules for its employees. Section 12A, however, was introduced specifically to facilitate the transfer of employees from the erstwhile Food Department of the Central Government and its attached or subordinate offices to FCI. Such employees entered the Corporation with antecedent Government service, and the option available to them in relation to pay and retirement or terminal benefits formed part of that special statutory arrangement.

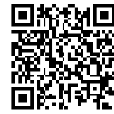
9. The direct recruits stood differently from the outset. They entered service as employees of the Corporation itself and were governed by the service framework framed for FCI employees, including the Food Corporation Rules and Regulations, 1965, the FCI Contributory Provident Fund Regulations, 1967, the FCI Staff Regulations, 1971, and the circulars and instructions issued by FCI from time to time. Under that framework, they were entitled to such retiral benefits as were admissible to direct recruits of FCI, including leave encashment, contributory provident fund and gratuity; their service was not pensionable. Their position cannot, therefore, be equated with that of transferred Government employees merely because

both classes later served in the same establishment, worked under the same employer, or remained on the same pay pattern for long periods.

10. The Petitioners place considerable emphasis on the functional similarities shared with the food transferees. They highlight that both groups served under the same employer, performed broadly similar duties, followed an identical pay pattern for extended periods, and progressed through a unified promotional structure. While these factors are certainly relevant in assessing claims of equality, they cannot, by themselves, establish a legal entitlement to pensionary benefits at par with the food transferees. In matters of service law, equality analysis requires more than merely comparing the situation of employees after years of working within the same establishment. It is essential to consider the circumstances and character with which each employee entered into service. The pensionary benefit in question extended to food transferees originated from antecedent Government service and was expressly preserved through a specific statutory arrangement. Consequently, this benefit cannot be detached from its statutory origin and extended as a general entitlement for all employees who under FCI. The Petitioners' argument, therefore, founded on functional similarity alone is insufficient to claim pensionary benefits as a matter of legal right.

Whether the Office Memorandum dated 1st May, 1987 applies to FCI direct recruits

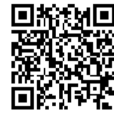
11. The Office Memorandum dated 1st May, 1987 marked an important shift in pension policy for Central Government employees under CPF. It declared that CPF beneficiaries in service on 1st January, 1986, and



continuing in service on the date of issue, would be deemed to have switched over to pension unless they opted to remain under the CPF scheme. It also dealt with specified categories of retirees and family cases.

12. The memorandum, however, also defined the limits of its own application. Paragraph 6.1 stipulated that the orders applied to civilian Central Government employees subscribing to the Contributory Provident Fund under the Contributory Provident Fund Rules (India), 1962. It further provided that, in the case of other contributory provident fund systems, the necessary orders would be issued by the respective administrative authorities. Paragraph 7.2 advised the administrative Ministries administering contributory provident fund rules other than the 1962 Rules to issue similar orders in consultation with the Department of Pension and Pensioners' Welfare.

13. The Petitioners have placed significant reliance on paragraph 3 of the Office Memorandum dated 1st May, 1987, particularly the deeming clause, in support of their claim. However, such reliance, when divorced from the context provided by paragraphs 6.1 and 7.2 of the memorandum, is misplaced. The deeming clause was not intended to serve as a blanket directive converting every Contributory Provident Fund (CPF) arrangement across the public sector into a pension scheme. Instead, the memorandum expressly limited its direct application to civilian Central Government employees who subscribed to the Contributory Provident Fund Rules (India), 1962. Furthermore, the memorandum anticipated that other contributory provident fund systems, those outside the Central Government CPF structure, would be governed by distinct or analogous orders issued by the respective administrative authorities. Therefore, the Petitioners cannot



claim automatic coverage under the deeming clause by isolating it from the provisions that delineate the scope and field of operation of the memorandum. When the memorandum is read holistically, it is evident that it was not self-executing for employees outside the Central Government CPF framework. Its direct effect was confined to a specific class, and for other CPF arrangements, further administrative action was contemplated and required.

14. That is the difficulty the Petitioners have not overcome. No order has been placed on record extending the 1st May, 1987 framework to FCI direct recruits. Their complaint, in substance, is that such an order should have been made. It does not establish that the memorandum automatically governed them as a matter of law.

15. The grievance-portal response dated 19th June, 2017, though not decisive in itself, reflected the same position. It stated that the Office Memorandum dated 1st May, 1987 was applicable to those Central Government employees governed by the Government of India CPF Rules, 1962, or other CPF rules administered by the concerned administrative ministries.

16. The subsequent instruction dated 2nd March, 2019, which was issued to public sector insurance companies, further reinforces this understanding. This instruction demonstrates that, even many years after the issuance of the 1987 Office Memorandum, it was necessary to undertake a new policy decision and to provide a fresh, sector-specific final option for a different class of employees who were not direct Central Government employees.

17. The Court, therefore, is unable to accept the Petitioners' submission that the Office Memorandum dated 1st May, 1987, by its own force, covered

FCI direct recruits.

Whether denial of such benefit violates Article 14

18. This is the core of the Petitioners' case. Their submission is that, even in the absence of an express order extending the pension-switch framework to FCI direct recruits, their exclusion from pension, despite long parity of work, pay pattern and service conditions with the food transferees, is arbitrary and violative of Article 14.

19. Article 14 of the Constitution of India is a safeguard against arbitrary State action. Courts, are empowered to examine whether a distinction drawn by the State is arbitrary or lacks a rational nexus to the objective sought to be achieved. However, it is equally important to recognise the limitations inherent in the application of Article 14. The constitutional guarantee of equality cannot be stretched to create a substantive benefit that is not otherwise conferred by the applicable statutory or regulatory framework. In other words, Article 14 is not a source of substantive rights in itself. The principle of equality cannot be invoked to rewrite the foundational legal source of a particular benefit. Nor can it invoke Article 14 to transplant the incidents or advantages of one service regime onto another, simply because the latter is perceived as more favourable to a particular group of employees. The scope of judicial review under Article 14 is to ensure that the existing regulatory or statutory provisions are applied without arbitrariness or irrational discrimination, rather than to create new entitlements or benefits where none exist under the law.

20. Here, the food transferees entered FCI with antecedent Government service and were dealt with under the special statutory arrangement governing such transfer. The Petitioners, by contrast, entered as direct

recruits under the Corporation's own service and provident fund framework. That difference goes to the root of the claim. It inheres in the legal origin of the two classes and bears directly upon the source of the pensionary benefit asserted.

21. Once the difference between direct recruits and food transferees of the Corporation is properly understood, the challenge under Article 14 largely loses its persuasive strength. The Petitioners' grievance is not that there has been unequal treatment within a single, homogenous legal class, but rather that the pension-switch benefit has not been extended to them. However, this benefit originated from a different legal source and applied only to a specific class of employees governed by the Central Government CPF Rules or similar frameworks issued by the relevant administrative authorities. Therefore, the claim is not one of discrimination within the same legal class, but of non-extension of a benefit to a class not originally contemplated within its scope.

22. Although the Petitioners have not relied on them, the discussion would remain incomplete without noticing the decision of the Supreme Court in ***Food Corporation of India v. Ashis Kumar Ganguly***[3] as well as the subsequent judgment of the Calcutta High Court in ***Abasarprapt Bhartiya Khadyanigam Karmachari Kalyan Samity and Another v. Food Corporation of India and Others***[4], both of which bear upon the service position of FCI employees in a related setting.

23. In ***Ashis Kumar Ganguly***, the Supreme Court was concerned with the grant of advance increments under Regulation 81 of the applicable FCI

[3] (2009) 7 SCC 734
[4] 2025 SCC OnLine Cal 6428

regulations. The said provision, on its plain terms, applied to employees drawn both from the Central Government and the State Government. However, the benefit had been extended only to one category, namely employees transferred from the Central Government. It was in that context that the Supreme Court held that a benefit traceable to the same regulatory source could not be denied to another class of employees equally within its fold. The decision thus proceeded on the footing of equal application of an existing benefit under a common regulatory regime.

24. The judgment of the Calcutta High Court proceeds on the same basis. It concerns parity between employees transferred from the Central Government, covered under Section 12A and those who had initially come on deputation from State Governments and were later absorbed. The extension of parity in that case rested on the same principle recognised in ***Ashis Kumar Ganguly***, namely, that where the governing framework itself covers both classes, the benefit available under that framework cannot be confined to one and withheld from the other.

25. The present case stands on a materially different footing. The Petitioners are direct recruits of the Corporation and do not share the same legal origin of service as employees transferred from the Central Government under Section 12A. The claim herein is not for equal application of any existing provision governing such categories, but for extension of a pensionary scheme which is not part of the regulatory framework applicable to the Petitioners. Accordingly, the aforesaid decisions, which address parity between categories of employees entering the Corporation through distinct governmental service channels, are distinguishable and do not advance the case of the Petitioners.

26. The reliance on ***Union of India v. S.L. Verma***,[5] is equally misplaced. In that case, the governing service regulations themselves provided that employees would be governed by the CCS (Pension) Rules, 1972, subject only to a specific election to continue under CPF. The Office Memorandum dated 1st May, 1987 operated within that framework by deeming CPF employees to have shifted to pension, unless they opted out. The Supreme Court, therefore, did not extend a pension regime to a new class of employees, but merely enforced a consequence flowing from an existing regulatory structure.

27. In the present case, no such incorporation of the CCS (Pension) Rules or any equivalent pension framework has been shown. The Petitioners are governed by the FCI CPF-based regime. The analogy to ***S.L. Verma*** thus fails, as it seeks to derive a right where none is shown to exist in the applicable service framework.

28. Nor does ***Pradeep Kumar Biswas v. Indian Institute of Chemical Biology,***[6] advance the Petitioners' claim. At the highest, that decision strengthens the position that FCI, having been constituted under statute and discharging functions of public importance, is amenable to writ jurisdiction and constitutional scrutiny. But that does not take the Petitioners to the next step. The issue here is not whether FCI is "State". It is whether direct recruits of FCI acquired, as a matter of legal right, the benefit of a Central Government pension-switch framework. ***Pradeep Kumar Biswas*** does not answer that question.

29. The Petitioners' reliance on paragraph 96 of ***Pradeep Kumar Biswas***

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[5] (2006) 12 SCC 53
[6] (2002) 5 SCC 111

does not take the matter much further. Even if FCI is an authority created by or under a statute and discharges functions of public importance, that only means it is subject to constitutional discipline as an instrumentality of the State. It does not mean that every service benefit available to another class of employees must automatically be extended to the Petitioners.

30. These contentions, therefore, do not take the Petitioners much further than reaffirming what was never seriously in dispute, namely, that FCI is a public authority amenable to constitutional scrutiny. They do not show that the Petitioners were covered by the Office Memorandum dated 1st May, 1987. Nor do they negate the Respondents' objection that the direct recruits and the food transferees never stood on the same legal footing in the matter of terminal benefits.

31. In ***Surjit Singh Bhatoa v UOI & Ors,***[7] concerning the CDA/IDA batch, this Court dealt, in a different context, with a situation where a substantial class of employees, pursuant to an administrative decision, came to be treated inequitably when such decision was applied retrospectively to retirees. The Court disapproved coercive recoveries and one-sided implementation of the pay-pattern conversion framework. However, that decision was confined to issues of CDA/IDA conversion, recoveries, and withholding of dues. It did not adjudicate the present pension issue. At best, it illuminates the service history; it does not create the pension right asserted herein.

32. The result is that the Petitioners have shown hardship, but not arbitrariness of a kind that would justify judicial creation of the pension regime they seek. Article 14 does not permit the Court to ignore the

statutory scheme and direct that the Petitioners be treated as though they had always fallen within the framework of Section 12A.

Effect of the order dated 30th June, 2015

33. The Kerala High Court proceedings do not appear, on the material placed before this Court, to have finally adjudicated the pension claim on merits. What followed, however, was the order dated 30th June, 2015, in which the Government expressly rejected the claim after hearing. That order recorded that the direct recruits were governed by FCI Staff Regulations, that the option under Section 12A belonged to transferred Government employees, and that the Office Memorandum dated 1st May, 1987 did not apply to the Petitioners. The said order was never challenged.

34. The Respondents say this is fatal to the present claim. The Petitioners dispute any such conclusive bar. In the facts of the case, it is not considered necessary to rest the decision entirely on *res judicata* or issue estoppel. The matter has been argued fully on merits, and it is preferable to deal with it on that footing.

Claim of parity with other statutory bodies

35. The Petitioners' comparison with the employees of LIC, nationalised banks, and employees of Doordarshan and All India Radio under Prasar Bharati is equally misplaced. Each of those entities is governed by its own statutory and regulatory framework, and the pensionary benefits available to them arise from materially different legal arrangements. Parity cannot be claimed by comparing outcomes while ignoring the legal source of the benefit itself.

36. In the case of employees of Doordarshan and All India Radio under

[7] W.P.(C) 3365/2012

Prasar Bharati, the statutory scheme shows that such employees, including those under the CPF scheme, were placed on "deemed deputation" to the Corporation and continued to be governed by Central Government service conditions, including pension. The pensionary benefit available to them was thus a continuation of an existing entitlement as Government employees. It was not the result of a fresh extension of pension policy to employees of an independent statutory corporation. Their position, therefore, is fundamentally different from that of the Petitioners.

37. In the case of LIC, pension is governed by the LIC of India (Employees) Pension Rules, 1995, which constitute a self-contained statutory framework. The said scheme was introduced as a matter of policy through specific rule-making and is funded through a dedicated pension fund, with eligibility contingent upon the exercise of option and fulfilment of stipulated conditions. The pensionary benefits available to LIC employees are thus not a direct consequence of Central Government Office Memoranda, but flow from an independent statutory regime framed for that organisation.

38. Similarly, employees of nationalised banks derive pensionary benefits from separate Pension Regulations framed by each bank under the relevant statutes governing such institutions.[8] These regulations were introduced with the approval of the Central Government, and operate as distinct statutory instruments. The extension of pensionary benefits in the banking sector was therefore the result of a conscious regulatory framework and not the automatic application of Central Government pension policies.

[8] See: Bank of India (Employees') Pension Regulations, 1995; Punjab National Bank (Employees') Pension Regulations, 1995 ; Punjab & Sind Bank (Employees') Pension Regulations, 1995

39. A comparative analysis of the above demonstrates that pensionary benefits in each of these entities arise either from (i) continuation of Central Government service conditions, as in the case of Prasar Bharati, or (ii) independent statutory or regulatory schemes, as in the case of LIC and nationalised banks. In the absence of any corresponding statutory framework, rule, or binding decision extending similar benefits to the employees of the Respondent-organisation, no claim of parity can be sustained merely on the basis of functional similarity or status as a statutory body.

40. The plea of parity, therefore, is devoid of merit and is liable to be rejected.

Case law relied upon by the Respondents

41. The Respondents have relied on ***Pradeep Kumar Biswas***, ***All India ITDC Workers Union and Ors. v. ITDC and Ors.***,[9] ***P. Bandopadhya and Ors. v. Union of India (UOI) and Ors.***[10] and ***BSNL v. Pramod v. Sawant***.[11] Since some of these authorities also feature in the Petitioners' submissions, it is appropriate to notice the true bearing of each of them.

42. ***Pradeep Kumar Biswas*** does not materially advance the Respondents' case on the question whether FCI is "State". The majority view in that decision held CSIR to be "State" within the meaning of Article 12 and, in the course of the discussion, noticed that FCI had already been treated as an instrumentality of the State. To that extent, the Petitioners are justified in relying on the decision to affirm the public character of FCI and the amenability of its actions to scrutiny on constitutional principles. The

[9] AIR 2007 SC 301
[10] 2019 1NSC 390

Respondents can, however, legitimately draw from the same line of authority the narrower proposition that Article 12 status does not, by itself, carry with it the service protections or incidents available to Government servants under other constitutional or statutory provisions. That distinction is of real significance here, because the present issue is not whether FCI is "State", but whether its direct recruits acquired, as a matter of legal right, the benefit of a pension regime that arose in a different statutory and regulatory setting.

43. All India ***ITDC Workers Union*** arose in the context of disinvestment. It is of limited assistance here. It may support the general proposition that employees of a public sector body do not, by reason of that status alone, acquire every incident of Government service. But its factual setting is materially different.

44. ***P. Bandopadhya*** is more instructive. It underscores that pension options and policy memoranda must be read together with the governing statutory rules and eligibility conditions, and that absorption or service transitions cannot be ignored while determining pension claims. It also underlines that earlier final adjudications are not to be lightly sidestepped in later representative litigation. Though the facts there are not identical, its analysis lends support to the Respondents' case.

45. The decision in ***Pramod V. Sawant***, on which the Respondents rely, does not concern a pension dispute. It arose in the context of sanction for prosecution and the status of employees after absorption. What it establishes is the limited proposition that employees of public sector undertakings do not, merely because the undertaking falls within the meaning of "State"

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[11] AIR 2019 SC 3979

under Article 12, acquire or retain the status of Government servants upon absorption. Beyond that proposition, the decision has no real bearing on the present dispute.

Conclusion

46. The Petitioners' grievance is understandable. The distinction between them and the food transferees may appear harsh in its operation. But the Court is not deciding whether a more generous policy might have been desirable. The question is whether the Petitioners have shown an enforceable legal right. They have not.

47. The benefit available to the food transferees was rooted in their prior status as Government employees and in the statutory transfer arrangement embodied in Section 12A. The Office Memorandum dated 1st May, 1987 did not automatically extend to FCI direct recruits, and no corresponding order bringing them within that pension-switch framework has been shown. The exclusion, though it results in hardship, rests on a legally relevant distinction. Article 14 does not permit the Court to create, by judicial direction, a pension regime which the governing law or any binding policy never made applicable to this class.

48. The writ petition is accordingly dismissed.

SANJEEV NARULA, J

APRIL 16, 2026
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