GAHC040003342025 undefined

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

Case No. : WA/13/2025

Nyajum Yinyo and 5 Ors
Son of Late Damnyo Yinyo, posted at Govt Upper Primary School, IG Park, Itanagar, PO and PS Itanagar, Papum Pare District, Arunachal Pradesh.

2: Smti Monya Boje
Age:
Occupation :
Wife of Late Damo Boje
presently posted at Govt Upper Primary School
IG Park Itanagar
PO and PS Itanagar
Papum Pare District
Arunachal Pradesh.

3: Yomto Sora
Age:
Occupation :
Son of Late Koyum Sora
presently posted at Govt Upper Primary School
Peri Kamki
West Siang District
Arunachal Pradesh.

4: Pojar Gamlin
Age:
Occupation :
Son of Late Kopu Gamlin
presently posted at Govt Primary School
Gemo Tali
West Siang District
Arunachal Pradesh.

5: Smti Larni Tajom
Age:

Occupation :
Wife of Shri Pojar Gamlin
presently posted at Govt Primary School
Gemo Tali
West Siang District
Arunachal Pradesh.

6: Smti Dagbi Jilen
Age:
Occupation :
Wife of Shri Yitak Jilen
presently posted at Govt Primary School
Raj Bhawan
PO and PS Itanagar
Papum Pare District
Arunachal Pradesh

VERSUS

The State of AP and 5 Ors
represented by the Chief Secretary, Govt of Arunachal Pradesh, Itanagar 791111

2:The Commissioner Finance
Age: 0
Occupation :
Department of Finance
Govt of Arunachal Pradesh
Itanagar 791111

3:The Finance Secretary
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar 791111

4:The Secretary Education
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar 791111

5:The Director of Secondary Education
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar 791111

6:The Director of Elementary Education

Age: 0
Occupation :
Department of Education
Govt of Arunachal Pradesh
Itanagar 79111

Advocate for the Petitioner : A K Purkayastha, Dusu Rillung,Suraj Sharma,Uttam Deka

Advocate for the Respondent : GA (AP), SC (Education),Taba Tagum

Linked Case : WA/14/2025

All Arunachal Pradesh Elementary Teachers Associations and Anr
Age: 0
Occupation :
Address:represented by its President
Shri Pill Takur
Son of Late Pill Teni
permanent resident of Village Korli
PO Yazali
PS Yazali
District Lower Subansiri
Arunachal Pradesh
Pin 791119. presently residing at P Sector
Itanagar
PO and PS Itanagar
District Papum Pare
Arunachal Pradesh
Pin 791111
2: Pill Takur (Vice President)
Age: 47
Occupation :
Address:Son of Late Pill Teni
permanent resident of village Korli
PO Yazali
PS Yazali
Lower Subansiri District
Arunachal Pradesh 791119 presently residing at P Sector
Itanagar
PO and PS Itanagar
Arunachal Pradesh 791111
VERSUS

The State of AP and 8 Ors
Age: 0
Occupation :
Address:represented by the Chief Secretary
Govt. of Arunachal Pradesh
Itanagar
791111
2:The Commissioner Finance
Age: 0
Occupation :
Address:Department of Finance
Govt of Arunachal Pradesh
Itanagar
791111

3:The Finance Secretary
Age: 0
Occupation :
Address:Department of Finance
Govt of Arunachal Pradesh
Itanagar
791111

4:The Secretary Education
Age: 0
Occupation :
Address:Govt of Arunachal Pradesh
Itanagar
791111

5:The Director of Secondary Education
Age: 0
Occupation :
Address:Govt of Arunachal Pradesh
Itanagar
791111

6:The Director of Elementary Education
Age: 0
Occupation :
Address:Department of Education
Govt of Arunachal Pradesh
Itanagar
791111

7:The Under Secretary
Age: 0
Occupation :

Address:Department of Education
Govt of Arunachal Pradesh
Itanagar
791111

8:The Director of Secondary Education
Age: 0
Occupation :
Address:Department of Education
Govt of Arunachal Pradesh
Itanagar
791111

9:The Director of Elementary Education
Age: 0
Occupation :
Address:Department of Education
Govt of Arunachal Pradesh
Itanagar
791111

Advocate for : A K Purkayastha
Advocate for : GA (AP) appearing for The State of AP and 8 Ors: Advocate ,

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
HON'BLE MR. JUSTICE BUDI HABUNG

Advocate for the appellants: Mr. A. K. Purkayastha

Advocates for the respondents: Mr. I. Choudhury, A.G., Mr. T. Tagum, Edu. Dept.

Date on which judgment is reserved :15.06.2026.

Date of pronouncement of judgment : 16.09..2026.

Whether the pronouncement is of the operative part of the judgment : Full judgment.

Whether the full judgment has been pronounced : Yes

JUDGMENT AND ORDER (CAV)

(Susmita P. Khaund, J)

Case of the Appellants

1. The appellants are aggrieved by the common judgment and order dated 09.01.2025 passed by the Single Bench in WP(C) No. 466/2022 as well as in WP(C) No. 151(AP)/2018, whereby both the writ petitions were dismissed, being bereft of merits.

2. The State of Arunachal Pradesh represented by the Chief Secretary; the Commissioner of Finance; the Finance Secretary, Government of Arunachal Pradesh; the Secretary Education; the Director of Secondary Education and the Director of Elementary Education are arrayed as respondent Nos. 1 to 6 respectively in W.A. No. 13(AP)/2025. In addition to the above respondents, The Under Secretary, Government of Arunachal Pradesh; The Director of Secondary Education, Government of Arunachal Pradesh, Education Department and The Director of Elementary Education are arrayed as respondent nos. 7, 8 & 9 respectively in W.A. 14(AP)/2025. Both the appeals are conjointly taken up.

3. The appellants in WA No. 13(AP)/2025 are, (i) Shri Nyajum Yinyo, (ii) Smt. Monya Boje, (iii) Shri Yomto Sora, (iv) Shri Pojar Gamlin, (v) Smt. Larni Tajom, and (vi) Smt. Dagbi Jilen; and the appellants in WA No. 14(AP)/2025 are, (i) All Arunachal Pradesh elementary Teachers Associations and (ii) Shri Pill Thakur.

4. It is submitted by the learned counsel for the appellants that the Single Bench has arrived at an erroneous decision that the appellants are not entitled to arrear salary with effect from 01.04.1998 to 31.03.2013 and in view of such perverse findings, the impugned judgment and order is not sustainable in law and is liable to be set aside and quashed. It is contended by the learned counsel for the appellants that the impugned judgment is vitiated by the vice of perversity as the State Government may or may not accept the recommendations of Pay Commission. It is submitted that the Single Judge was not justified in holding that the Apex Court has held that while exercising judicial review, it should not interfere with the policy decisions having financial implication of the State, in view of the settled proposition of law laid down by the Apex Court in holding that the financial constraints or implication cannot be resorted to, by the State Government in refusing to pay the arrear of salary to the Government employees as lawfully accrued under the recommendation of the 5th and 6th CPC and consequently the impugned judgment is liable to be set aside due to apparent misconception of law.

5. The learned counsel for the appellants has contended that the Single Bench was not justified in holding that the State Government has got prerogative to deny the arrear of the appellants by taking policy decision, in view of the fact that no policy decision can take away the substantive and basic fundamental and constitutional rights of citizens by taking the plea of financial constraints more particularly, when the Government of

Arunachal Pradesh extended the benefits of arrear salary for the period with effect from 01.04.1998 up to 31.03.2013 to the employees of other Government Departments.

6. It is contended that the decision was in gross violation of the constitutional mandate of equity as guaranteed under Article 14 of the Constitution of India. It is averred that relinquishment, if any, made by Arunachal Teachers Association (ATA for short) in course of negotiation between the authorities and the ATA, this decision of ATA does not have any implication so as to construe the appellants to have relinquished or waived their *bona fide* and legitimate claim for arrear salary w.e.f., 01.04.1998 to 31.03.2013 under the 5th and 6th Central Pay Commission (CPC for short). The decision of ATA relinquishing rights is dated 21.09.2011, which is marked as annexure-A of the writ petition, and it clearly reflects that ATA in an express and inequitable term relinquished the claim of the appellants and all other teachers of Elementary Education for the period w.e.f., 01.04.1998 to 31.12.2005 covered by the recommendation of the 5th Pay Commission but did not at all waive or relinquish the other part of the claim for arrear salary for the period w.e.f., 01.06.2006 up to 31.03.2013 and is covered by the recommendation of the 6th CPC. Consequentially, the impugned decision of the Single Judge seems to have been vitiated by the vice of perversity. It is submitted that even the High Power Committee (HPC for short) constituted by the Government of Arunachal Pradesh (vide annexure-G of the writ petition)

recommended for release of the arrear salary for the aforesaid period as recommended by the 5th and 6th CPC in a phased manner, keeping in view the financial constraints through implication of the State Government.

7. It is averred that the respondent authorities have admitted through their affidavit-in-opposition that the Government after acceptance and adoption of the recommendation of 5th and 6th CPC in their entirety without any modification, alteration, substitution etc., did not alter, modify, amend etc., any part of the recommendations of the 5th and 6th CPC by taking any Cabinet decision whatsoever. Thus, the Single Judge has erred by holding that the State Government shall have the prerogative or discretion to accept or not to accept the recommendations of 5th and 6th CPC.

8. It is submitted that Cabinet decision can be altered, modified, substituted or amended by the Government only by way of another Cabinet decision. It is further contended that it is a settled proposition of law that once an affidavit is filed on oath, the same affidavit cannot be substituted by any contrary affidavit, retracting the earlier submission through the initial affidavit. It is averred that the Single Bench has already taken into consideration the subsequent and contradictory affidavit by the respondent Authorities. Thus, in view of the negotiation between the ATA and the Education Department, the Law Department examined the claim of the appellants and took a decision to recommend a lump

sum amount of Rs. 5,64,000/- as arrear for the period w.e.f., 01.04.1998 to 31.03.2013 which had accrued under the 5th and 6th CPC.

9. It is further emphasized through the argument that the decision of the Single Judge was unreasonable and unconscionable, as per the letter of the Government of India dated 02.02.2002, the revised pay-scale vide order dated 15.02.2013, was notionally fixed w.e.f., 10.04.1998 to 31.03.2013 and the actual benefits of the revision was granted to w.e.f., 01.04.2013. It is *ex facie* erroneous that the rules of the Central Government is not applicable to any State other than Union territories and the impugned judgment and order was based on misconception and wrong appreciation of facts.

10. The appellants are aggrieved by the decision of the Single Judge, the decision of the Finance Department as well as Education Department and consequent notification orders dated 13.08.2009 and 08.09.2009, asnecessary approval was accorded by the Government for providing the benefits of arrear salary i.e., the 5th and 6th CPC with effect from 01.04.1998 to 31.03.2013. It is submitted that arrear is a part of the salary. Arrear cannot be denied on the plea of policy decision or financial constraints or on the plea of relinquishment being made by a third party association which violates the basic fundamental rights under Article 14 and 21 of the Constitution of India.

11. The Secretary of Finance namely, Mr. Tappi Loma vide Office

communication dated 02.02.2002, informed both the Secretary and Commissioner of Education Department, Government of A.P., that the Education Department being an Administrative Department shall be required to file necessary affidavit-in-opposition in connection with WP(C) No. 151(AP)/2018 and the Finance Department decided not to file any separate affidavit-in-opposition in connection with the writ petition and decided to rely entirely on the affidavit of the Education Department.

12. Mr. Tappi Loma himself filed the affidavit-in-opposition in connection with the petition being WP(C) No. 466(AP)/2022 and the said admitted facts accordingly leads to the conclusion that the higher authorities of both Finance and Education Department had the knowledge regarding the pendency of the writ petitions and all the affidavits filed by the Education Department in pursuance to the decision of the Finance Department vide Office memo communication dated 02.02.2022. It is further argued that the suspension, and the departmental proceeding against the Director of Elementary Education does not indicate that the affidavit filed by him was a false affidavit and, it is prayed to set aside the impugned decision of the Single Bench.

Respondents Case

13. An affidavit-in-opposition has been filed by the respondent Nos. 4, 5 and 6. Through their affidavit-in-opposition and through their oral argument, it is submitted on behalf of all the respondents that the 5th Central Pay Commission recommendations came to be

implemented by the Government of India vide notification No. GSR-569(A) dated 30.09.1997. Subsequently, the Government implemented the 5th CPC, vide notification No. FIN/E/II/77/97 dated 09.10.1997. It was followed by another Office memorandum No. FIN/E/II/77/97 dated 23.10.1997, whereby it had clarified the revision of pay-scales in respect of the Government of Arunachal Pradesh, that the Part-A of the First Schedule would be applicable. Thus, as per the aforesaid Office memorandum (O.M. for short) dated 23.10.1997, the pay-scales as notified in Part-B and Part-C of the Schedule would not be applicable to the Government of Arunachal Pradesh.

14. Prior to the implementation of the 5th CPC, the elementary teachers were drawing a pay scale of Rs.1350-50-450-1440-40-1800-50-2200/1400-40-1800-50-2300. The pay-scale was revised under the 5th CPC and accordingly, the elementary teachers were paid at the pay-scale of Rs. 4500-125-7000 (entry scale). The senior scale was revised to S-9 and they were revised to the pay-scale of Rs. 5000-150-8000 and the selection scale was revised to S-10 and revised to pay-scale of Rs. 5500-175-9000.

15. Therefore, no arrear of salary is pending in respect of the primary teachers/elementary teachers against the 5th CPC. Annexure-A to the affidavit-in-opposition filed by respondent Nos. 4, 5 and 6 in W.A. 13/2025 is the copy of the First Schedule, Part-A showing various revised pay scales notified by the 5th CPC vide notification dated 30.09.1997 and Annexure-B is the notification

dated 09.10.1997 and a copy of the O.M. dated 23.10.1997 is marked as Annexure-C to the affidavit-in-opposition. It is further contended by the respondents that after implementing the 5th CPC, the Government of Arunachal Pradesh had also implemented the recommendation of the 6th CPC vide O.M. No. FIN/E/II/22/2008 dated 05.01.2009.

16. The pay-scale of the elementary teachers under the Education Department was revised as per 6th CPC and ordered for implementation of Part-B pay-scale under the 6th CPC for teachers serving under the Government schools of Arunachal Pradesh corresponding to the 5th CPC w.e.f., 01.01.2006, vide order dated 08.09.2009 and order No. ED/II/556/2009. The teachers serving under the Education Department including elementary teachers have received the revised scale under 6th CPC as notified by the Education Department vide order dated 08.09.2009. Hence, no arrear salary is pending with respect to the elementary teachers of the Education Department even under the 6th CPC.

17. Learned Advocate General laid stress in his argument that after receiving the revised pay scale as per 5th CPC and 6th CPC, suddenly the Association (ATA) started demanding revision and enhancement of the pay-scale as per Government of India Letter No. F.5-21/97/UT.1 dated 04.04.2002. It is emphasized on behalf of the respondents that the letter dated 04.04.2002 issued by the Government of India was specifically meant for Union Territories

mentioned therein and as such, it was not applicable to the State of Arunachal Pradesh (Annexure F).

18. In response to such demand of the ATA, several meetings and discussions with all the stakeholders were held and the financial implication thereof was considered. The Government of Arunachal Pradesh took a generous view and decided to accept the request of the Association. Accordingly, the pay-scale of the elementary teachers/Misc.teachers serving under the Education Department, was revised and re-fixed by order No. ED2/550/2009 dated 15.02.2013, issued by the Commissioner (Education). The Government of Arunachal Pradesh revised the pay-scale fixed by the Government of India vide Letter dated 04.04.2002, although such pay-scale was specifically meant for employees of Union Territories of the Government of India and not for the Government of Arunachal Pradesh. A plain reading of the order dated 15.02.2013, makes it abundantly clear that the concerned teachers were already enjoying the benefits of the 5th CPC recommendation and what was granted by the said order was an additional benefit in terms of the Government of India letter dated 04.04.2002. (Annexure-G to the affidavit-in-opposition is the copy of the order issued by the Commissioner).

19. It is averred that since the elementary teachers serving under the Education Department of the State had already received a revised pay scale under the 5th and 6th CPC, therefore, in order to pay them higher pay-scale as mentioned in the aforesaid

Government of India letter dated 04.04.2002, the revised pay-scale as mentioned in the aforesaid order dated 15.02.2013, was notionally fixed w.e.f., 01.04.1998 to 31.03.2013, and the actual benefit of the revision was granted w.e.f., 01.04.2013. Accordingly, all the concerned teachers represented by the ATA had accepted the revised pay scale as notified by the Education Department vide order dated 15.02.2013.

20. It is contended that all the appellants/writ petitioners herein availed the benefit of the 5th CPC recommendations way beyond what they were actually entitled to, and it appears that the appellants/writ petitioners got wiser with passage of time and preferred the connected writ petition i.e. WPC No. 151(AP)/2018 in the year 2018, after a prolonged delay, claiming arrears of salary w.e.f., 01.04.1998 to 31.03.2013. Unfortunately, the Nodal Officer (Court), the Office of the Directorate of Elementary Education, namely, Shri Bamar Yinyo who is also an interested party in the aforesaid connected writ petition and the former Director of Elementary Education, namely, Sri Otem Tayeng had filed false affidavits dated 27.02.2022, 18.10.2022 and the additional-affidavit dated 16.05.2023, in the connected WP(C) No. 151(AP)/2018, whereby the claim of the appellants/writ petitioners was falsely admitted by misrepresentation of the factual aspects of the case without the knowledge and approval of the competent Authority of the Education Department at the Government level.

21. It is submitted that the Nodal Officer (Court) and the then

Director of Elementary Education were placed under suspension and proceedings were drawn up against them. The Department of Education filed a fresh affidavit-in-opposition on 12.09.2023, through the Secretary, Education in WP(C) No. 151(AP)/2018.

22. Learned Advocate General laid stress in his argument that the documents were available with the appellants/writ petitioners but the appellants have suppressed all the relevant and material facts in the present writ appeal. Documents were also placed before the Single Judge but eventually in this writ appeal, these documents have been suppressed by the appellants. On the basis of these documents, the Single Bench was pleased to hold that no arrear salary is pending in respect of primary/elementary teachers against recommendation of the 5th CPC. It is alleged that the appellants by resorting to blatant falsehood and suppression of relevant and material facts, have tried to mislead this Court to achieve something which they could not lawfully achieve in the connected WP(C) No. 151(AP)/2018. It is no more *res integra* that a person approaching the Court must come with clean hands as this Court has the inherent power to refuse to proceed in the matter, so as to prevent the abuse of the process of the Court.

23. Learned Advocate General laid stress in his argument that the Government of Arunachal Pradesh, by applying its best wisdom and having considered all aspects of the matter including financial implication thereof, had taken a conscious policy decision to extend actual financial benefit in terms of the Government of India letter

dated 04.04.2002, although not applicable to the aforementioned categories of teachers from 01.04.2013 onwards with notional pay fixation benefit without arrears, vide order dated 15.02.2013, which is within the prerogative and discretion of the State Government.

It is submitted that such decision and order of the State Government being in the realm of policy decision is not open to judicial review. Hence, the instant writ appeal filed by the appellants is not tenable in law and is liable to be dismissed.

24. The Hon'ble Apex Court has time and again held that Courts while exercising the power of judicial review should not interfere with the policy decisions having financial implication on the State. In a catena of decisions, the Hon'ble Supreme Court of India has repeatedly held that recommendations of Pay Commission are not binding upon the State Governments and as such, the State may not accept the Pay Commission's recommendations.

25. Heard learned counsel Mr. A. K. Purkayastha for the appellant. Also heard learned A.G., Mr. I. A. Choudhury for the State of Arunachal Pradesh assisted by learned Standing Counsel, Mr. T. Tagum for the Education Department.

26. The arguments have already been discussed in the foregoing discussions. Before deciding both the appeals conjointly, an analysis of the decision of the Single Bench is relevant.

Decision of the Single Bench

27. It was held by the Single Judge that the case as projected by the writ petitioners in these two connected writ petitions was with regard to the non-payment of purported arrear salary of

primary/elementary teachers serving under the Education Department, w.e.f., 01.04.1998 to 31.03.2013. While raising the preliminary objection, the learned Advocate General emphasized that the writ petitions under consideration are barred by delay and laches as evident from the challenges made therein, which pertain to minutes of the ATA meeting held on 21.09.2011, recommendation of the High Power Committee dated 12.09.2012, order dated 15.02.2013 and the speaking order dated 04.10.2014. It is apparent that the delay was inexplicable.

28. It was held by the Single Bench that essentially the claim of the writ petitioners was for payment of arrear salary w.e.f., 01.04.1998 to 31.03.2013. Admittedly, the challenge made pertains to minutes of ATA meeting dated 21.09.2011, recommendation of the High Power Committee dated 12.09.2012, order dated 15.02.2013, and the speaking order dated 04.10.2014. However, considering that some of the petitioners have approached the Court in the year 2014 by filing WP(C) No. 463/2014, but, although the same was dismissed on withdrawal, liberty was granted to file afresh and accordingly, the present writ petition No. 151/2018 was filed.

29. The Single Judge held that there was no delay and laches and as such the writ petitions were not barred by delay and laches. The Single Bench has held that the plea of the respondents that the writ petitions are hit by the principles of *waiver and estoppel* has force to a certain extent as the petitioners/appellants in both the writ petitions were admittedly members of ATA and had renounced

their claim so made in the writ petitions. However, it was held that the appellants could not be non-suited only on the principles of *waiver and estoppel* and the plea of the appellants were considered on merits.

30. It was held by the Single Bench that undisputedly, the 5th CPC recommendations came to be implemented by the Government of India vide Notification No. GSR-569(E), dated 30.09.1997. Subsequently, the Government of Arunachal Pradesh implemented the 5th CPC vide Notification No.FIN/E/II/77/97, dated 09.10.1997. It was followed by another Office Memorandum No. FIN/E/II/77/97, dated 23.10.1997, whereby it was clarified that the revision of pay-scale with respect to the State Government, the Part 'A', of the First Schedule would be applicable.

31. Thus, it was held by the Single Judge that vide O.M. dated 23.10.1997, the pay-scales notified in Part-B and Part-C of the Schedule would not be applicable to the Government employees of Arunachal Pradesh. It was observed that prior to implementation of the 5th CPC, the elementary teachers were drawing a pay-scale of Rs.1350-50-450-1440-40-1800-50-2200/1400-40-1800-50-2300.Their pay-scale was revised under the 5th CPC and accordingly, the elementary teachers were paid at the pay-scale of Rs. 4500-125-7000 (entry scale). The senior grade was revised to S-9 and they were revised to the pay-scale of Rs. 5000-150-8000 and the Selection scale was revised to S-10 and revised to pay-scale of Rs. 5500-175-9000.

32. It was thus held that the State respondents have clarified the implementation of the First Schedule, Part-A of the 5th CPC. The O.M. dated 23.10.1997, was considered and it was held that no arrear salary is pending in respect of primary/elementary teachers against the recommendation of the 5th CPC. It was also held that the record reveals that after implementation of the 5th CPC, the Government also implemented the recommendation of the 6th CPC, vide O.M. dated 05.01.2009. Accordingly, the pay-scale of primary/elementary teachers under the Education Department was again revised as per the 6th CPC and ordered for implementation of Part B pay-scale under the 6th CPC for teachers serving under the Government of Arunachal Pradesh corresponding to 5th CPC w.e.f., 01.01.2006, vide order dated 08.09.2009. It was held that all the teachers serving under the Education Department of the Government of Arunachal Pradesh including the appellants have received the revised pay-scale under the CPC as notified by the Education Department.

33. The Single Bench agreed with the submission of the Learned Advocate General that the record reveals that ATA under which the petitioners/appellants are also members, has demanded revision and enhancement of the pay-scale as per Government of India letter dated 04.04.2002, after having received revised pay-scale as per the 5th and 6th CPC. The perusal of the letter dated 04.04.2002 issued by the Government of India, clearly depicts that the same

was meant for Union Territories. Thus, it was held not to be applicable to the state of Arunachal Pradesh.

34. However, in response to such demand of the ATA, the Government decided to accept the request of the Association and accordingly, the pay-scale of the elementary teachers etc., serving under the Department of the Government was revised and re-fixed vide order No. ED/II/550/2009, dated 15.02.2013, issued by the Commissioner (Education) of the Government of A.P. as per revised pay-scale fixed by the Government of India vide letter dated 04.04.2002, although such pay scale was specifically meant for employees of Union Territories, and not for the State of Arunachal Pradesh.

35. It was held by the Single Bench that a bare perusal of the order dated 15.02.2013, makes it amply clear that the concerned teachers, including the petitioners were already enjoying the benefits of the 5th CPC. Additional benefits were granted to them in terms of the Government of India letter dated 04.04.2002. It was held by the Single Bench that in order to pay the primary/elementary teachers, including the appellants, higher pay-scale as per the Government of India letter dated 04.04.2002, the revised pay-scale vide order dated 15.02.2013, was notionally fixed w.e.f., 01.04.1998 to 31.03.2013, and the actual benefit of the revision was granted w.e.f., 01.04.2013. Accordingly, all the teachers represented by the ATA had accepted the revised pay-scale as notified by the Education Department and have received

their pay-scale. Thus, the primary/elementary teachers, including the petitioners/appellants have received their revised pay-scale under the 5th and 6th CPC.

36. The Single Bench also dealt with the argument on behalf of the appellants that the respondent Authorities have admitted the claim of the appellants/petitioners in their earlier affidavit and now they cannot turn around and deny the same by filing a fresh affidavit.

37. The fact that the Nodal Officer (Court) of the Office of the Directorate of Elementary Education, namely, Sri Bamar Yinyo, is also an interested party in the aforesaid writ petition and he and the then Director of Elementary Education, namely, Sri Otem Tayeng had filed false affidavits dated 27.02.2022 and 18.10.2022, and the additional-affidavit dated 16.05.2023, and that the claim of the appellants was falsely admitted by the misrepresentation of the factual aspects of the case, without the knowledge and approval of the competent Authority of the Education Department at the Government level and upon having detected such serious misconduct committed by the aforementioned two officers, the Government of Arunachal Pradesh had placed them under suspension and disciplinary proceedings have been initiated against them and on that aspect, the Single Bench held that, "This Court is not persuaded to take a view that the claim of the petitioners has been admitted, but constrained to observe that such action initiated against be brought to its logical conclusion."

38. The Single Bench relied on the decisions of the Supreme Court referred to by the respondents and held that the decisions of the Hon'ble Supreme Court clearly shows that the recommendations of the Pay Commission are not binding upon the State Governments and the State Governments may or may not accept the Pay Commission's recommendations.

39. It was held by the Single Bench that the Supreme Court has also held that the Court while exercising judicial review should not interfere with the policy decisions having financial implications. Stressing on the fact that in order to pay a higher pay-scale to the teachers including the petitioners/appellants, serving under the Education Department, the Government of Arunachal Pradesh, as per the Government of India letter dated 04.04.2002, revised pay-scale vide order dated 15.02.2013, and the pay-scale was notionally fixed w.e.f., 01.04.1998 to 31.03.2013, and the actual benefit of the revision was granted w.e.f., 01.04.2013.

40. It was also held that all the teachers including the petitioners represented by the ATA had accepted the revised pay scale as notified by the Education Department vide order dated 15.02.2013, and have accepted and received the pay-scale, and the teachers have already received the revised pay-scale under the 5th and 6th CPC. It was then held that the petitioners/appellants are barred from claiming arrear salary w.e.f., 01.04.1998 to 31.03.2013. The petitioners/appellants prayer for payment of arrear salary w.e.f., 01.04.1998 to 31.03.2013, was held to be unjustified and thereby,

the prayer was rejected and the petition was dismissed as the petition was found to be devoid of merits.

Decision

41. We have given our thoughtful consideration to the submissions at the Bar.

42. We record our concurrence to the decision of the Single Bench. The decision of the Single Bench cannot be considered to be perverse or erroneous. The Single Bench has elaborately discussed the issues projected by the appellants.
It is held the appellants have raked up an issue which, in fact, is not an issue at all.

43. It has been correctly held that the pay-scale of the appellants have been fixed notionally from the stage of 5th and 6th CPC w.e.f., 01.04.1998 up to 31.03.2013. It is true that the Pay Commission's recommendation do not have binding force until accepted and notified by the Government on a decision of the Cabinet. It is also trite law that while exercising judicial review, a Court should not in a routine manner interfere with the policy decisions having financial implications on the State.

44. This Court cannot be oblivious of the fact that the appellants demanded revision and enhancement of pay-scale as per Government of India letter dated 04.04.2002, after having received revised pay-scale as per the 5th and 6th CPC. The letter dated 04.04.2002 issued by the Government of India, clearly depicts that

the same was meant for Union territories only and was not applicable to the State of Arunachal Pradesh. However, in response to such demand, the State decided to accept the request of the ATA and accordingly, the pay-scale of the elementary teachers etc, serving under the Department was revised and re-fixed vide order dated 15.02.2013, as per revised pay-scale fixed by the Government of India vide letter dated 04.04.2002, notwithstanding the fact such pay-scale was specifically meant only for employees of the Union territories and not for the State of Arunachal Pradesh.

45. This fact alone clearly reveals that the appellants have not been prejudiced and no fundamental rights as per Article-14 of the Constitution has been violated.

46. Relating to the contradictory affidavits allegedly filed by the two erring officials who were also interested parties, the Bench refrained from passing any orders and the decision was left to the wisdom of the Department. It was alleged by the Single Judge that the Nodal Officer (Court) of the Office of the Directorate of Elementary Education, namely, Bamar Yinyo and the former Director of Elementary Education, namely, Otem Tayeng, had filed false affidavits dated 27.02.2022, 18.10.2022 and 16.05.2023, in connection with WP(C) No. 151(AP)/2018, whereby the claim of the appellants was falsely admitted on behalf of the respondents and without knowledge and approval of the competent Authorities of the Education Department at the Government level.

47. The argument on behalf of the appellants that this affidavit has

been retracted and contradicted by another affidavit holds no water. Equity prevails when any submission with misrepresentation and misleading facts is ignored and the cause of the parties who approach with clean hands are taken into consideration. It cannot be held that the acceptance of the affidavit disowning the earlier three affidavits dated 27.02.2022, 18.10.2022 and 16.05.2023, allegedly submitted surreptitiously by the erring officials has not been accepted by the Single Judge. The Single Judge did not take a view that the claim of the appellants has been falsely admitted, but the Bench left it to the Department to proceed with any action if taken against the allegedly erring officials.

48. The cases of the Hon'ble Supreme Court referred by the appellants in connection with writ petitions, i.e., WP(C)/466/2022 and WP(C)/151(AP)/2018, have also been referred to by the appellants in connection with both these appeals and we agree with the observation of the Single Bench that the facts and circumstances of these appeals are not similar to the cases of the Hon'ble Supreme Court referred to by the appellants.

49. After implementation of the 5th CPC, the Government of Arunachal Pradesh had also recommended the implementation of the 6th CPC vide O.M. dated 05.01.2009. Annexure-B is the O.M. dated 09.10.1997, which clearly reflects that:-

"*After fixation of pay as on 1-1-96, each employee may be allowed to draw the difference of pay only between the pay fixed in the revised scale and the pay drawn in the pre-revised scale. This, therefore, follows that the quantum of other allowances drawn on pre-revised scale as on 1-1-96 other than*

Dearness allowance, now merged with the revised pay scales will continue to be drawn by the employees till further orders are received from the Govt. of India. The revised allowances other than Dearness allowance will be effective from 1st August, 1997. The arrears would be paid in cash with the stipulation that, where the amount of arrear is less than Rs.5000/- it should be paid in one installment and where it is in excess of Rs.5000/-, it should be paid in two installments, in the first installment, payment should be restricted to Rs.5000/- plus 50% of the balance amount of arrear."

Annexure-C of the affidavit-in-opposition dated 29.07.2025 filed by the respondent Nos. 4, 5 & 6 clearly reflects the O.M. dated 23.10.1997, notifying that:-

"*(1) In so far as the revision of pay in respect of the Government employees of Arunachal Pradesh is concerned, only the scale to scale revision as notified in PART 'A' of the FIRST SCHEDULE to the said Rules will be applicable, The scales of pay as notified in PART 'B' AND PART 'C' of the FIRST SCHEDULE to the Rules, are not applicable to the Govt. employees of Arunachal Pradesh.*

(2) This is in continuation of Government Office Memorandum NO.FIN/E/11/77/97 dated 9-10-97.

50. Thus, there was a jump from Rs. 1350—2300 to 4500-125-700, after the 5th CPC for the Elementary teachers and the Senior scale was revised from 1400—2600 to 5000-150-8000 (S-9) and the selection scale was revised to (S-10) from 1640—2900 to 550-175-9000. It is not disputed that no arrear salary is pending in respect of primary teachers/elementary teachers against the 5th CPC. Thus, it is apt to reiterate that no arrear is due under the 5th CPC.

51. Annexure-D of the affidavit dated 29.07.2025 is the O.M. dated 05.01.2009 and Annexure-E is the order dated 08.09.2009,

implementing Part-B pay-scale under the 6th CPC for teachers serving under the Government schools of Arunachal Pradesh corresponding to the 5th CPC w.e.f., 01.01.2006. As the teachers serving under the Education Department including elementary teachers have received the revised scaled under the 6th CPC, no arrear salary is pending with respect to the elementary teachers of the Education Department even under the 6th CPC.

52. Now, the demand of the appellants for arrear salary as per the Government of India letter No. 04.04.2002, is not justified as the Annexure-F of the affidavit clearly depicts the Government of India's order dated 04.04.2002, is for revision of pay-scales (senior and selection scales) for primary school teachers in the employment of the Government of India in Union territories and other autonomous bodies and not for any State. This letter was specifically meant for the Union territories but considering the demand of the ATA, the Government took a generous view and decided to accept the request of the Association. Through their affidavit-in-opposition to the affidavit-in-reply, the appellants have submitted that they have not claimed the benefits meant only for the Union territories but their prayer is for the difference in the arrear accrued which is a justified demand as the appellants have been granted the benefits on the basis of the Government of India letter dated 04.04.2002. The appellants are praying for difference of arrear from 1998 to 2013.

53. Annexure-G of the affidavit-in-opposition is the order dated

15.02.2013, which makes it clear that the "scales of pay of the appellants and similarly placed employees will be notionally fixed from 5th CPC stage as adopted in the State level w.e.f., 01.04.1998 under relevant rules/orders and actual financial benefits thereof, however will be tenable from 01.04.2013 i.e., pay and allowances from the month of April, 2013 without arrears." This makes it abundantly clear that the teachers were already enjoying the benefits of the 5th CPC and 6th CPC. The appellants thus failed to contradict the statements and submissions of the respondents. The appellants have received their dues of 5th and 6th CPC and in addition to their enhanced pay-scales, they have also reaped the benefits of Pay revision meant for the Union territories.

54. Thus, it can be safely held that no prejudice is discernible. There appears to be no justified ground to interfere with the order impugned by the appellants.

55. Both the appeals are dismissed, being devoid of merits.

JUDGE **JUDGE**

Comparing Assistant