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Request 957

By Regd. Post

From,

Ram Prasad,
Deputy Registrar(M),
High Court of Judicature at,
Allahabad.

To,

The District Judge,
Hapur.

24/2/17

No. 13283 /IV-3966/Admin.(A)/Allahabad : dated 30-10-2017

Subject: Grant of three advance increments to Sri Kamalkant Gupta, Civil Judge(Junior Division), Hapur.

Sir,

With reference to your endorsement no. 1263/XV dated 24.08.2017, on the above subject, I have to say that from perusal of available records of Sri Kamalkant Gupta, it is observed that he has completed LL.M. qualification after joining the service with the permission of this Court and Degree of LL.M. has not been included in his service record till date, which is essentially required for granting three advance increments.

I, therefore, request you kindly to ask Sri Kamalkant Gupta to submit a representation regarding inclusion of Degree of LL.M. in his service records, to this Court so that further necessary action may be taken in the matter.

Yours faithfully,

R.P.
21/10/2017
Deputy Registrar

S.O/A.R.(Admin.A1)/D.R.(M.)

May like to issue?

laiks
25-10-17
R.O.

Jendani S.O.
25.10.17
ok. Jendani
26.10.17
AR

FROM

KamalKant Gupta
ID No. UP 1925
Civil Judge (Junior Division) - I
Hapur

TO

The Registrar General
Hon'ble High Court of Judicature
Allahabad

THROUGH

The District Judge
Hapur

Letter No. 1264/XV/25/Hapur

Dated: 24.9.17

SUBJECT: APPLICATION FOR GRANT OF THREE ADVANCE INCREMENTS ON THE BASIS OF LL.M. QUALIFICATION

Respected Sir,

The applicant humbly submits that he is Civil Judge (Junior Division) Hapur. That he joined in the services on 20/05/2013. That the officer was pursuing LL.M. course at that time. That the officer, having obtained permission from the Hon'ble Court, has successfully completed the said course on 06/12/14 and Degree for the same has also been granted by Chaudhary Charan Singh University, Meerut.

Hon'ble Supreme Court in case Service Bench No. 1496 of 2015 Sanjay Shankar Pandey v State of UP through Principal Secretary has ordered that -

"i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.

ii. The Judicial Officers who acquire the degree of LL.M. before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order, as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M."

Mrs. Sanita

S.O.

25.10.17.

मिनिस्टर जज (वि. वि. प्रथम)
का. वि.

Request (23)

15967 &
8.9.17
IV/3972

IV/3966

24/10/17

21/14-9-17
13.9.17

7-9-17
Encl (22) page

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58/17

D.R. (C.R.R.) Admn
S.O. Admn, AI
24/10/17

DR.M
W.K
① N. S. D.

~~3/2/17/10/17/17/17/17~~

matter

S.O. /A.R. (Admin A1)

As per direction issued by Hon'ble Committee regarding grant of three advance increments to the judicial officer, O Court letter no. 10820/17 F-82 (Admin A1) dated 08.09.17 has already been issued to the C.O. of U.P. for issuance of C.O. in the light of judgement dated 03.05.17. May advise for supply of the same?

Savit
25.10.17 R.O.

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In light of the order of Hon'ble Supreme Court in the above case, the applicant is entitled to three additional increments from the date of acquisition of the higher qualification of LL.M. i.e. date 06/12/2014


It is, therefore, prayed that the Hon'ble Court may be pleased to grant three additional increments to the applicant.

Respectfully

Yours faithfully
Kamalkant Gupta
(ID No. UP1925)
(Civil Judge (Junior Div) - I)
(Hapur)
कामिल जज (जूनियर, प्रथम)
हपूर

- Encl:
1. Copy of Degree
2. Copy of Marksheets

Endorasmnt No. 1263/xw Dated 24/8/13
Forwarded to The Registrar General,
High Court of Judicature at Allahabad.


District Judge
Hapur

क्रमांक/Serial No. : 14132243

अनुक्रमांक /Roll No. : 112187

नामांकन सं./Enrolment No. : M0659318

Reqd. (95)

चौधरी चरण सिंह विश्वविद्यालय, मेरठ Chaudhary Charan Singh University, Meerut



विधि अध्ययन विभाग

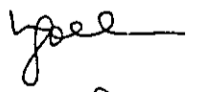
प्रमाणित किया जाता है कि कमलकान्त गुप्ता
आत्मज/आत्मजा श्री सुरेन्द्र कुमार गुप्ता एवं श्रीमती मृदुला गुप्ता को इस
विश्वविद्यालय से सन् 2014 की परीक्षा में विधि विषय लेकर विधि
निष्णात की उपाधि प्रथम श्रेणी में विषिष्ट अध्ययन व्यावसायिक विधि के साथ
प्रदत्त की गयी है।


DEPARTMENT OF LEGAL STUDIES

This is to certify that **Kamal Kant Gupta**
Son/Daughter of **Shri Surendra Kumar Gupta** and **Smt.**
Mirdula Gupta has been conferred the Degree of **MASTER OF**
LAWS of this University in the Examination of **2014** in **Laws** and
that he/she was placed in **First Division** with specialization in
Business Law.



Chaudhary Charan Singh University, Meerut
Dated : 06/12/2014


कुलपति
Vice-Chancellor

Attested


सिमित जज (जूडिसी) विभाग
लखनऊ



Sl.No. 2K14 50369900

CH. CHARAN SINGH UNIVERSITY, MEERUT

STATEMENT OF MARKS

Examination / Year L.L.M. (1st SEM.) DEC.-2011

(B.P.15 2013)

Request for

Candidate's Name : KAMALKANT GUPTA

Roll No. : L112187

Father's Name : SURENDRA KUMAR GUPTA

Enrol No. : M 0659318

Mother's Name : MIRDULA GUPTA

Institution's Name : C C S UNIVERSITY CAMPUS, MEERUT

NAME OF THE COURSE	CODE No.	MARKS		MARKS OBTAINED		TOTAL
		Max	Min	THEORY	PRACTICAL	
CONST. LAW OF INDIA	101	50+50	20+20	30	36	66
JURISPRUDENCE	102	50+50	20+20	23	32	55
LEGISLATIVE DUGHTS, INTE- RPRETATION & JUD. PROC.	103	50+50	20+20	29	36	65
LEGAL EDUCATION & RESEA. METHODOLOGY	104	50+50	20+20	27	32	59
PRACTICAL	510	50+50	20+20	38	38	76
TOTAL		500	250	301	381	PASS

In case of any discrepancy between the entries in the marksheet issued & in the University record, the University record shall be final.



50369900

Date : 12/01/15

CHECKED BY :	
1. Full Signature <i>Savita Tyagi</i>	2. Full Signature <i>Brahm Singh</i>
Full Name _____	Full Name _____

Registrar
C.C.S. University Meerut

Attested

सिखिल जज (जुडिसि) सि.सि.स.
हायुड



CH. CHARAN SINGH UNIVERSITY, MEERUT

STATEMENT OF MARKS

Examination / Year L.L.M. (IInd SEM.) JUN-2012

Request 98

Candidate's Name : KAMALKANT GUPTA

Roll No. : L112187

Father's Name : SURENDRA KUMAR GUPTA

Enrol No. : M 0659318

Mother's Name : MIRDULA GUPTA

Institution's Name : C C S UNIVERSITY CAMPUS, MEERUT

NAME OF THE COURSE	CODE No.	MARKS		MARKS OBTAINED		TOTAL
		Max.	Min.	THEORY	PRACTICAL	
ADMINISTRATIVE LAW	201	50+50	20+20	30	39	69
HINDU & MUSLIM LAWS	202	50+50	20+20	27	35	62
CONSTITUTIONAL LAW OF INDIA-II	203	50+50	20+20	29	32	61
ENVIRONMENTAL & DEV. LAW POLICY	204	50+50	20+20	25	33	58
PRACTICAL	511	50+50	20+20	38	37	75
				EXT.	INT.	
TOTAL		500	250	325		
PREV. TOTAL		500	250	321		PASS
G. TOTAL		1000	500	646		

In case of any discrepancy between the entries in the marksheet issued & in the University record, the University record shall be final.



50369911

Date : 12/01/15

CHECKED BY :	
1. Full Signature <i>Savitri Dyagi</i>	2. Full Signature <i>Brahm Singh</i>
Full Name _____	Full Name <u>Brahm Singh</u>

Registrar
C.C.S. University Meerut

Attested

सिविल जज (जुडिस) विवेक
कश्यप



CH. CHARAN SINGH UNIVERSITY, MEERUT

STATEMENT OF MARKS

Examination / Year LL.M. (IIIrd SEM.) DEC.-2012

Request (AS)

Candidate's Name : KAMALKANT GUPTA

Roll No. : 112187

Father's Name : SJRENDRA KUMAR GUPTA

Enrol No. : M 0659318

Mother's Name : MIRDULA GUPTA

Institution's Name : C C S UNIVERSITY CAMPUS MEERUT

NAME OF THE COURSE	CODE No.	MARKS		MARKS OBTAINED		TOTAL
		Max.	Min.	THEORY	PRACTICAL	
BANKING LAW	304	50+50	20+20	20	35	63
INTELLECTUAL PROPERTY RIGHTS	305	50+50	20+20	34	35	69
INSURANCE LAW	306	50+50	20+20	28	36	64
GENERAL PRINCIPLES OF CONTRACT	308	50+50	20+20	29	35	64
PRACTICAL	PRA	50+50	20+20	38	38	76
		MAX. MARKS	MIN. MARKS	MARKS OBT.		RESULT
TOTAL		500	250	336		PASS
PREV. TOTAL		1000	500	646		
G. TOTAL		1500	750	982		

In case of any discrepancy between the entries in the marksheet issued & in the University record, the University record shall be final.



50369896

Date : 12/01/15

CHECKED BY :	
1. Full Signature <i>Savita Dyagi</i>	2. Full Signature <i>Brahm Singh</i>
Full Name _____	Full Name _____

Registrar
C.C.S. University Meerut

Attested

निवेदिता जज (जुजिडि) विनि
हसुड



CH. CHARAN SINGH UNIVERSITY, MEERUT

STATEMENT OF MARKS

Examination / Year L.L.M. (IVTH SEM.) JUN-2014

Candidate's Name : KAMALKANT GUPTA

Roll No. : 112187

Father's Name : SURENDRA KUMAR GUPTA

Enrol No. : M 0659318

Mother's Name : MIRDULA GUPTA

Institution's Name : C C S UNIVERSITY CAMPUS MEERUT



NAME OF THE COURSE	CODE No.	MARKS		MARKS OBTAINED		TOTAL
		Max.	Min.	THEORY	PRACTICAL	
LAW OF SALE OF GOODS & PARTNERSHIPS	404	50+50	20+20	31	33	64
COMPANY LAW	405	50+50	20+20	29	33	62
DISSERTATION	DIS	100+100	40+40	76	75	151
PRACTICAL	511	50+50	20+20	38	37	75
		MAX. MARKS	MIN. MARKS	MARKS OBT.		RESULT
TOTAL		500	250	382		
PREV. TOTAL		1500	750	982		FIRST
G. TOTAL		2000	1000	1334		

In case of any discrepancy between the entries in the marksheet issued & in the University record, the University record shall be final.



50388741
17/01/15

Date :

CHECKED BY :	
1.  Full Signature	2.  Full Signature
Full Name : Kamal Kant Gupta	Full Name : Kamal Kant Gupta

C.C.S. University Meerut

Attested

सिधिल नज (जुओडो) वि.सं.
सयुज

Request (98)

Sanjay Shankar Pandey vs State Of U.P. Thru. ... on 3 May, 2017

Allahabad High Court

Sanjay Shankar Pandey vs State Of U.P. Thru. ... on 3 May, 2017

Bench: Shri Narayan Shukla, Sheo Kumar Singh-I

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

Reserved

1. Case :- SERVICE BENCH No. - 1496 of 2015

Petitioner :- Sanjay Shankar Pandey

Respondent :- State Of U.P. Thru. Prin.Secy., Deptt.Of Appointment & Anr.

Counsel for Petitioner :- Anwar Ashfaq, Rina Pandey

Counsel for Respondent :- C.S.C., Gaurav Mehrotra, U.N. Mishra

2. Case :- SERVICE BENCH No. - 1628 of 2015

Petitioner :- Lovely Jaiswal

Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Ors.

Counsel for Petitioner :- Avinash Chandra

Counsel for Respondent :- C.S.C., U.N. Mishra

3. Case :- SERVICE BENCH No. - 1869 of 2015

Petitioner :- Pawan Kumar Srivastava

Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Ors.

Counsel for Petitioner :- Alok Saran, Avinash Chandra

Request (OS)

Sanjay Shankar Pandey vs State Of U.P. Thru. ... on 3 May, 2017

Counsel for Respondent :- C.S.C., U.N. Mishra

And

4. Case :- SERVICE BENCH No. - 392 of 2016

Petitioner :- Atul Chaudhary

Respondent :- State Of U.P. Thru Prin.Secy.(Appointment)Civil Sectt.& Ors.

Counsel for Petitioner :- Avinash Chandra

Counsel for Respondent :- C.S.C., U.N. Misra

Hon'ble Shri Narayan Shukla, J.

Hon'ble Sheo Kumar Singh-I, J.

(Delivered by Sheo Kumar Singh-I, J.)

1. Hon'ble the Supreme Court of India while dealing the matter of All India Judges' Association vs. Union of India - (2002) 4 SCC 247 had issued several directions for the improvement of service conditions including reasonable hike in the pay scales of the judicial officers. The recommendation made by the First National Judicial Pay Commission popularly known as "Shetty Commission" in this regard, including for grant of three advance increments to judicial officers having post graduate degree in Law, were also accepted.

2. While recommending uniform pattern of eligibility conditions and pay structure throughout the country in the Judicial Services, 'Shetty Commission' considered the desirability of granting 'Additional Benefit for Higher Qualification'. The Commission referred to the Service Rules and conditions of service prevailing in different States at the entry level and took notice in para 8.46 of its Report Vol-II of the fact that except Delhi and Rajasthan, in none of the States additional benefit to a selected candidate possessing higher qualification was admissible. The Commission thereafter made the following recommendations in paras 8.48 and 8.49 of the report (Vol-II):-

8.48 If selected candidates are having a higher qualification like Post-Graduation in Law, we recommend that three advance increments be given as it is allowed by the Delhi Administration. It is an acknowledged fact that Post-Graduation in Law is a difficult course and it is better to reward appropriately such candidates.

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Sanjay Shankar Pandey vs State Of U.P. Thru. ... on 3 May, 2017

3. The State of U.P. vide Government Order dated 13.05.2002 issued a direction to implement the recommendations of Hon'ble the Apex Court to be effective from the date of 21.03.2002 extending the benefit of three advance increments to the officers who are selected in the service after the above date. Hon'ble the Supreme Court in the cited decision directed all the States of India to implement these recommendations and grant the benefit of three advance increments to those officers who possess higher qualification but the reluctant executive started misinterpreting the Shetty Commission's recommendations to mean that this benefit is extended only to those officers who are selected and joined the services after the date of implementation. Aggrieved by the order, the present petitioners, while filing aforesaid writ petitions under Article 226 of the Constitution of India, have prayed to issue a writ, order or direction in the nature of certiorari quashing the impugned order so far as it affects the right of the petitioners for grant of three advance increments and with further direction in the nature of mandamus commanding the opposite parties to grant three advance increments to the petitioners on the basis of Shetty Commission with effect from the date of their acquiring LL.M degree with further prayer to grant these three increments on every promotion or revised pay scale as granted by the State of Delhi.

4. The brief facts giving rise to filing of the aforesaid writ petitions are that after award of LL.M degree, the petitioners moved an application for grant of three advance increments as admissible in accordance with the recommendations of Shetty Commission which was accepted by the Hon'ble Supreme Court but they were denied by the subsequent Government letters dated 03.01.2012 and 27.03.2015, thus, the aforesaid writ petitions.

5. The State Government vide order dated 13.05.2009 provided the selected officers of the U.P. State Judicial Service having post graduate degree in Law for entitlement of these increments with effect from 21.03.2002 but subsequently the Government Order dated 13.05.2009 was modified by the Government Order dated 27.03.2015 clarifying the position that the officers who were appointed prior to 21.03.2002 in U.P. State Judicial Service and at the time of their selection having LL.M degree are entitled to get three advance increments. Some of the judicial officers completed their LL.M degree after the above cut off date and applied for sanction of three advance increments as admissible in accordance with the recommendations of the Shetty Commission but the respondents declined to extend the benefit on the ground that those who have been awarded LL.M degree after entering into the service are not entitled for the allowance.

6. The petitioners have challenged the order on the ground that the clarification issued by the Government is unreasonable and violative of Article 14 of the Constitution of India.

7. In the Counter Affidavit it has been narrated that the admissibility of above three advance increments is applicable to those officers who were selected after the cut of date and not with respect to the judicial officers who are already in service. The Government has further clarified vide order dated 03.01.2012 that the candidates who had duly filled in the application form the factum of possessing post graduate degree of Law at the time of selection, filling the application form, would be entitled for three advance increments.

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Sanjay Shankar Pandey vs State Of U.P. Thru. ... on 3 May, 2017

8. A common question that arises for consideration in all these writ petitions includes the admissibility of grant of three advance increments to the judicial officers who have got LL.M degree and come within the following categories:-

i. The officers who were selected after 21.03.2002 and have LL.M degree, and ii. The officers who took permission from the competent authority for LL.M and after taking permission, the degree was awarded during the service period.

9. In the present case the degree of Master of Law would certainly bring efficiency in discharging duties by the judicial officers in comparison to those officers who do not possess such degree. The question that arises for our consideration is as to whether the classification sought to be made between the judicial officers who possessed LL.M degree at the time of joining service and those who obtain the same subsequent to their appointment come within the reasonable classification based upon an intelligible criteria or not. A distinction has been made by the respondents between the persons appointed before entering into service from the date of implementation and those who acquired higher qualification while in service. This distinction seems to be illusory and unwarranted and in our view frustrates the basic policy of benefiting the officers who have higher qualification. A similar situation was considered by Hon'ble the Apex Court in the case of P.K. Ramchandra Iyer and others v. Union of India - AIR 1984 SC 541 in which it was held that right to equality in pay scale amongst two similar classes of employees performing identical or similar duties and carrying out same functions with the same measure of responsibility having same academic qualifications are entitled for equal pay. While examining the reasonable classification the Court before forming an opinion shall consider various factors like nature of duties, functions, measures of responsibility and educational qualifications etc. Applying these yardsticks, we find no tangible distinction amongst the judicial officers possessing higher qualification of LL.M whether obtained degree before or after joining the judicial service. If the degree of Masters of Law or higher education brings efficiency and improves quality of discharging duties by a judicial officer, we fail to understand as to why such a qualitative advantage will not be achieved by an officer who does LL.M after joining the service.

10. The justification advanced by the State Government in its affidavit has been based on Para 8.48 of the Shetty Commission by interpreting the words "if selected candidates are having a higher qualification like post graduation in Law". In other words, it was interpreted by the executive of the State that the word "higher qualification" should be possessed by the officer at the time of his/her selection. The above plea as raised by the learned counsel for the respondents/CSC, in our considered view, is wholly unwarranted and unjustified on the ground that firstly Shetty Commission has nowhere recommended that three advance increments are not to be granted to those officers who acquire higher qualification while in service. Secondly, the direction should not be interpreted in negative prospects. The beneficial legislation or Government Orders be interpreted in the way to fulfill and achieve the goal for which it was issued. The phrase "selected candidates having higher qualification" does not and cannot mean that if higher qualification is acquired by the selected candidates after their appointment, it would not improve their efficiency with better knowledge of Law. Thirdly, the judicial officers having post graduate degree in Law before appointment and those who acquire such degree after joining the service, constitute one homogeneous class and the artificial classification to discriminate against the latter category of

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Sanjay Shankar Pandey vs State Of U.P. Thru. ... on 3 May, 2017

officers does not satisfy the test of equality within the meaning of Articles 14 and 16 of the Constitution of India.

11. The Government Order dated 13.05.2009 further specifieswe recommend that three advance increments be given as it is allowed by the Delhi Administration. It is an acknowledged fact that post graduation in Law is difficult course and it is better to reward appropriately such candidates. The purpose of the Shetty Commission was of equal pay and service conditions of the judicial officers throughout the country and the State has accepted this allowance in parity with Delhi Administration.

12. The Government of India, Ministry of Law, Justice and Company Affairs, Department of Justice, Jaisalmer House, Mansingh Road, New Delhi, vide order no.17/17014/1/98-JO3 dated 24.06.2002 has issued an order to grant this benefit in the following terms:-

In pursuance of the Hon'ble Supreme Court order dated 1.2.2002 dismissing SLP No.1462/2002 titled as Union of India v. S.K. Kaushik & Ors. filed by the Union of India against the High Court of Delhi judgment dated 3.8.2001 in LPA No.390/01 and others identical cases wherein the Hon'ble Delhi High Court had directed Union of India to grant of three advance increments to the petitioner, Sh. S.K. Kaushik Judicial Officer w.e.f. 1.1.1986 and all other similarly situated judicial officers throughout their employment as judicial officer, and in case the petitioner is placed in a higher or revised pay scale, he will get three advance increments in that higher/revised pay scale in Higher Judicial Service and the arrears payable to the petitioner will be duly worked out and paid to him. I am directed to convey sanction of the Central Government to the grant of 3 advance increments to the petitioner Sh. S.K. Kaushik, a judicial officer w.e.f. 1.1.1986 and arrears accrued to him and to all other similarly situated judicial officers throughout their employment as judicial officer as per the orders dated 20.02.2001 of the Hon'ble High Court.

13. The need and importance of higher education and professional qualifications have been recognised by the Fourth Pay Commission. In para 29.8 at page 29, Vol. 1 of the Fourth Pay Commission report it has been recommended that the government employees who could acquire higher professional qualifications would be useful in their official working and contribute to their efficiency. The recommendations of the Fourth Pay Commission were accepted by the Government of India on 15.2.1986 and it was duly accepted by the Union of India. It was the general consensus that attaining a higher qualification in a particular field undoubtedly results in broadening the outlook of an individual and increase in knowledge thereby directly bringing efficiency which alone was the object of recommendations made by the Fourth Pay Commission. There was no reason why the same ought not to have been accepted by the respondents. It may be pertinent to mention that such incentives have already been given to doctors and other government employees. Denial of similar incentives to the petitioners/ judicial officers in the matter of increments on acquiring or in recognition to the higher qualification would amount to discrimination.

14. It has further been submitted by learned counsel for the petitioners that State of Uttarakhand has also recommended the facility of payment of three advance increments to the officers w.e.f. 01.11.1999 and all those officers who had degree at the time of entering into the service or had

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degree before entering into the service or they were awarded degree after entering into the service and during continuance of the service are entitled for payment of this allowance. The copy of the order passed by the Secretary, Law Department, Uttarakhand Government dated 27.03.2008 has been placed before us.

15. The Government of Himachal Pradesh, Home Department, vide order dated 17.07.2014 has clarified that this advance increment is also admissible to the judicial officers who acquire post graduation degree in Law i.e. LL.M after joining the service. The relevant order is quoted below:-

"In continuation of this Department's notification of even number dated 29th August, 2008 and as corrigendum to notification of even number dated 2.3.2009, the Governor, Himachal Pradesh, in exercise of the powers conferred by Section 3 read with Section 4 of the Himachal Pradesh Judicial Officers (Pay, Allowances and Conditions of Service) Act, 2003 is pleased to grant with immediate effect three advance increments to the Judicial Officers, who acquire post graduate degree in Law i.e. LL.M. after joining service."

16. Writer's Building, Kolkata has also sanctioned the advance increment for having or acquiring higher qualification in Law for the Members of West Bengal Judicial Service, which is as under:-

"I am directed by the order of the Governor to say that all members belonging to the West Bengal Judicial Service having/acquiring higher qualification like post graduation in Law are entitled to get three advance increments with effect from 01.11.1999 as per recommendations of the Shetty Commission duly accepted by Hon'ble Apex Court. This order issues with the concurrence of the Finance Department of West Bengal vide their U/O No.165. Group I (Pay) dated 18.01.2008."

17. A similar benefit has been provided to the Members of Judicial Service in the State of Kerala vide judgment and order dated 16.12.2014 in Writ Petition No.25828 of 2012 with following terms:-

"It is beyond dispute that by virtue of the various orders issued by the Apex Court, the State is bound to implement the said recommendation of the Pay Commission in its letter and spirit. It is evident from the report that the said recommendation was intended to reward those who have obtained post graduation which is considered to be a difficult course. Further, in Exhibit P6 judgment, this Court has held that the said recommendation was intended to recognise and honour the higher qualified Judicial Officers to enable them to serve better and improve the quality of the justice delivery system. The relevant portion of the said judgment reads thus:

"From the contents of the recommendation as well as the G.O., it is evident that the intention was to recognise and honour the higher qualifications of the Judicial Officers, which was considered as a wealth to the entire judiciary and to serve better justice delivery system. It cannot be said that the GO was issued by the Government only to attract more persons having more higher qualifications, as the purpose of the recommendation made by the Shetty Commission was to appreciate the persons who are having higher qualifications, which in turn may serve in future to attract persons having such higher qualifications as well and thus to improve the quality."

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If the recommendation was intended to recognise and honour the higher qualified Judicial Officers to enable them to serve better and improve the quality of the justice delivery system, I fail to understand how a classification can be made between the Judicial Officers who have obtained post graduation before and after their entry into the service. The object sought to be achieved being the honouring and recognising of the higher qualified Judicial Officers, the classification of Judicial Officers as those obtained post graduation before and after their entry in the service cannot be held to be on an intelligible differentia. The State, in the circumstances, is bound to extend the benefit of Exhibits P3 and P4 orders to all the Judicial Officers who have obtained post graduation while in service also.

In the result, the writ petitions are allowed and the respondents are directed to extend the benefit of Exhibits P3 and P4 orders to all Judicial Officers in the State who have obtained post graduation while in service also. This shall be done within a period of three months from the date of receipt of a copy of this judgment."

18. Learned counsel for the State has raised the other allowance admissible to the judicial officers in accordance with Shetty Commission report.

19. We are not concerned with other allowance or pay scale. This Court is concerned with the facts and reliefs as prayed by the petitioners in these petitions for the admissibility of three advance increments for the officers who possess LL.M degree. Perusal of the Government Order dated 13.05.2009 makes it clear that there is no distinction between the officers who had LL.M degree before entering into the service or who acquire LL.M degree after entering into the service. It is clarification dated 03.01.2012 and 27.03.2015 creating controversy and making distinction with arbitrariness which is violative of principles as laid down in Article 14 of the Constitution of India.

20. It is settled law that when the action of the State instrumentality is not as per rules or regulations and not supported by the Government order, the Court must exercise its jurisdiction to declare such an act to be illegal and invalid.

21. In *Sirsi Municipality Vs. Cecelia Kom Francis Tellis*, AIR 1973 SC 855, the Supreme Court observed that "the ratio is that the rules or the regulations are binding on the authorities."

22. Similarly, a Constitution Bench of the Hon'ble Supreme Court in *Sukhdev Singh & Ors. Vs. Bhagatram Sardar Singh Raghuvanshi & Anr.*, AIR 1975 SC 1331, has observed as under:-

"The statutory authorities cannot deviate from the conditions of service. Any deviation will be enforced by legal sanction of declaration by Courts to invalidate actions in violation of rules and regulations. The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employees a statutory status and impose restrictions on the employer and the employee with no option to vary the conditions.....In cases of statutory bodies there is no personal element whatsoever because of the impersonal character of statutory bodies.....the element of public employment or service and the support of statute require observance of rules and

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regulations. Failure to observe requirements by statutory bodies is enforced by courts by declaring (action) in violation of rules and regulations to be void. This Court has repeatedly observed that whenever a man's rights are affected by decision taken under statutory powers, the Court would presume the existence of a duty to observe the rules of natural justice and compliance with rules and regulations imposed by statute." (Emphasis added).

23. Similar view has been taken by the Supreme Court in *Ambica Quarry Works etc. Vs. State of Gujarat & Ors.*, AIR 1987 SC 1073; and *Commissioner of Police, Bombay Vs. Gordhandas Bhanji*, AIR 1952 SC 16. In both the cases, the Apex Court relied upon the judgment of the House of Lord in *Julius Vs. Lord Bishop of Oxford*, (1880) 5 AC 214, wherein it was observed as under:-

"There may be something in the nature of thing empowered to be done, something in the object for which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so."

In *Commissioner of Police (supra)*, the Apex Court observed as under:-

"Public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order.....An enabling power of this kind conferred for public reasons and for the public benefit is, in our opinion, coupled with a duty to exercise it when the circumstances so demand. It is a duty which cannot be shirked or shelved nor it be evaded, performance of it can be compelled."

In *Dr. Meera Massey Vs. Dr. S.R. Mehrotra & Ors.*, AIR 1998 SC 1153, the Apex Court observed as under:-

"If the laws and principles are eroded by such institutions, it not only pollutes its functioning deteriorating its standard but also exhibits.....wrong channel adopted.....If there is any erosion or descending by those who control the activities all expectations and hopes are destroyed. If the institutions perform dedicated and sincere service with the highest morality it would not only up-lift many but bring back even a limping society to its normalcy."

24. The Supreme Court has taken the same view in *Ram Chand & Ors. Vs. Union of India & Ors.*, (1994) 1 SCC 44, and held that "the exercise of power should not be made against the spirit of the provisions of the basic policy, otherwise it would tend towards arbitrariness."

25. Therefore, it is evident from the aforesaid judgments of the Hon'ble Apex Court that whenever any action of the authority is in violation of the provisions of the statute or the action is constitutionally illegal, it cannot claim any sanctity in law, and there is no obligation on the part of the Court to sanctify such an illegal act. Wherever the statutory provision is ignored, the Court cannot become a silent spectator to such an illegal act, and it becomes the solemn duty of the Court to deal with the persons violating the law with heavy hands. (Vide *Mrs. Dr. Chanchal Goyal Vs. State*

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of Rajasthan, AIR 2003 SC 1713; M.D., U.P. Land Development Corporation & Anr. Vs. Amar Singh & Ors., AIR 2003 SC 2357; State of Haryana & Anr. Vs. Tilak Raj & Ors., AIR 2003 SC 2658; Haryana Tourism Corporation Ltd. Vs. Fakir Chand & Ors., AIR 2003 SC 4465; Sultan Sadik Vs. Sanjay Raj Subba & Ors., AIR 2004 SC 1377; and A. Umarani Vs. registrar, Co-operative Societies & Ors., 2004 AIR SCW 4462).

26. In Ramniklal N. Bhutta & anr. Vs. State of Maharashtra & ors., AIR 1997 SC 1236, the Hon'ble Apex Court observed as under:-

"The power under Art. 226 is discretionary. It will be exercised only in furtherance of justice and not merely on the making out of a legal point. the interest of justice and public interest coalesce. They are very often one and the same. The Courts have to weight the public interest vis-a-vis the private interest while exercising the power under Art. 226.... indeed any of their discretionary powers."

27. In view of the above, we are of the considered opinion that every statutory provision requires strict adherence, for the reason that the statute creates rights in favour of the citizens, and if any order is passed de hors the same, it cannot be held to be a valid order and cannot be enforced. As the statutory provision creates legal rights and obligations for individuals, the statutory authorities are under a legal obligation to give strict adherence to the same and cannot pass an order in contravention thereof, treating the same to be merely decoration pieces in his office.

28. So far as the challenge to the cut off date is concerned, it should not be forgotten that while fixing the cut off date, the Authority has to consider various aspects of the case and there is very limited scope of judicial interference in such matters. It is settled proposition of law that a cut off date can be introduced, but it is not permissible to do in such an artificial manner that it may discriminate the similarly situated persons. Cut off date may be introduced by creating a fiction but while doing so, the consequences must be examined thoroughly and the date must have some nexus to the object sought to be achieved. Generally it should be prospective but may have retrospective effect also.

29. If the State cannot bear the financial burden to meet a particular requirement, it may be a sufficient cause to fix a particular cut off date and even to make the law with retrospective effect. However, the basis must be shown to have a nexus with the object of classification as well as of legislative exercise. If the choice of fixing a particular date is shown to be wholly arbitrary and introduces discrimination, which violates the mandate of Article 14 of the Constitution, the classification can be struck down for the reason that a purpose of choice unrelated to the object sought to be achieved cannot be accepted as valid. If fixing of a cut off date is not devoid of rational consideration and wholly not whimsical and the Authorities had not acted malafide with a view to deprive a particular section of employees of such benefits and the cut off date has been fixed on the recommendation of the Expert Committee/Board or on proper consideration by the Authority concerned, it may meet the test of reasonableness and cannot be held arbitrary. While examining the cases like the instant, the Court has to be very conscious because judicial review is not permissible unless the Court is satisfied that the cut off date is "very wide off the reasonable mark or

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so capricious or whimsical as to permit judicial interference." In all such matters, the Government/ Authority has to fix a particular date for computing the eligibility and if the date so adopted meets the test of reasonableness, it cannot be invalidated merely on the ground that it may adversely affect some persons. In such a case the rational behind the Policy has to be examined as to whether it is beneficial to all or intended to be punitive to some or to discriminate on irrational grounds.

30. When the policy and order provide for a particular thing and benefit, the authority has to follow the same and cannot be permitted to act in contravention of the same. It has been hitherto uncontroverted legal position that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim "Expressio unius est exclusio alterius", meaning thereby that if a statute provides for a thing to be done in a particular, then it has to be done in that manner and in no other manner and following other course is not permissible. (Vide Taylor Vs. Taylor, (1876) 1 Ch.D.426; Nazir Ahmed Vs. King Emperor, AIR 1936 PC 253; Deep Chand Vs. State of Rajasthan, AIR 1961 SC 1527; Patna Improvement Trust Vs. Smt. Lakshmi Devi, AIR 1963 SC 1077; State of Uttar Pradesh Vs. Singhara Singh & Ors., AIR 1964 SC 358; Chettiam Veetil Ammad Vs. Taluk Land Board & ors., AIR 1979 SC 1573; State of Bihar Vs. J.A.C. Saldanna, AIR 1980 SC 327; State of Mizoram Vs. Biakchhawna, (1995) 1 SCC 156; J.N.Ganatra Vs. Morvi Municipality Morvi, AIR 1996 SC 2520; Haresh Dayaram Thakur Vs. State of Maharashtra & ors., (2000) 6 SCC 179; Dhanajaya Reddy Vs. State of Karnataka etc. etc., (2001) 4 SCC 9; Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala & ors., (2002) 1 SCC 633; Prabha Shankar Dubey Vs. State of Madhya Pradesh, AIR 2004 SC 486; and Ram Phal Kundu Vs. Kamal Sharma, AIR 2004 SC 1657.

31. In M/S Erusian Equipment & Chemicals Ltd. Vs. State of West Bengal & Anr., AIR 1975 SC 266, the Supreme Court observed that where a Government activity involves public element, the "citizen has a right to claim equal treatment", and when "the State acts to the prejudice of a person, it has to be supported by legality." Functioning of a "democratic form of Government demands equality and absence of arbitrariness and discrimination".

32. Similarly, in Ramana Dayaram Shetty Vs. The International Airport Authority of India & ors., AIR 1979 SC 1628, the Apex Court observed that the activities of the government had a public element and if it framed a policy, it must do so fairly without discrimination and without unfair procedure. Whenever the government dealt with the public, whether by way of giving certain relaxation or special benefit, the government could not act arbitrarily at its sweet will but must act in conformity with standards or norms, without being arbitrary, irrational or irrelevant. If the government departed from such standard or norm in any particular case or cases its action was liable to be struck down unless it could be shown that the departure was not arbitrary but was based on some valid principle which was not irrational, unreasonable or discriminatory. The Court further held as under:-

"Every action of the executive Government must be in form of reason and should be free from arbitrariness. That is the very essence of rules of law and its bare minimum requirement."

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33. Thus, a decision taken in an arbitrary manner contradicts the principle of legitimate expectation and the plea of legitimate expectation relates to procedural fairness in decision making and forms a part of the rule of non-arbitrariness, as denial of administrative fairness is Constitutional anathema. The basic requirement of Article 14 is fairness in action by the State. (Vide E.P. Royappa Vs. State of Tamil Nadu, AIR 1974 SC 555; Smt Maneka Gandhi Vs. Union of India & Anr. AIR 1978 SC 597; Kasturi Lal Lakshmi Reddy Vs. State of Jammu & Kashmir, AIR 1980 SC 1992; Dwarkadas Marfatia & Sons Vs. Board of Trustees of the Port of Bombay, AIR 1989 SC 1642; Mahabir Auto Stores Vs. Indian Oil Corporation, AIR 1990 SC 1031; Ku. Shrilekha Vidyarthi Vs. State of U.P. & ors., AIR 1991 SC 537; and Ghaziabad Development Authority Vs. Delhi Autho & General Finance Pvt. Ltd. & Ors., AIR 1994 SC 2263).

34. The rule of law prohibits arbitrary action and command the authority concerned to act in accordance with law. Every action of the State or its instrumentalities should not only be fair, legitimate and above-board but should be without any affection or aversion. It should neither be suggestive of discrimination nor even apparently give an impression of bias, favouritism and nepotism or negation of right accrued by the policy or order. (Vide Haji T.M. Hassan Rawther Vs. Kerala Financial Corporation, AIR 1988 SC 157).

35. In the State of Andhra Pradesh Vs. Nalla Raja Reddy & ors., AIR 1967 SC 1458, the Constitution Bench of the Apex Court observed as under:-

"official arbitrariness is more subversive of doctrine of equality than the statutory discrimination. In spite of statutory discrimination, one knows where he stands but the wand of official arbitrariness can be waved in all directions indiscriminately."

36. Similarly, in S.G.Jaisinghani Vs. Union of India & ors., AIR 1967 SC 1427, the Constitution Bench of the Apex Court observed as under:-

"In the context it is important to emphasize that absence of arbitrary power is the first essence of the rule of law, upon which our whole Constitutional System is based. In a system governed by rule of law, discretion, when conferred upon Executive Authorities, must be confined within the clearly defined limits. Rule of law, from this point of view, means that the decision should be made by the application of known principle and rules and in general such decision should be predictable and the citizen should know where he is, if a decision is taken without any principle or without any rule, it is unpredictable and such a decision is antithesis to the decision taken in accordance with the rule of law."

37. In a case where as a result of a decision taken by the Government the other party is likely to be adversely affected, the State authorities have to exercise their powers bonafidely and not arbitrarily. (Vide Amarnath Ashram Trust Society Vs. Governor of U.P., AIR 1998 SC 477).

38. There is no manner of doubt that the public authorities and the Government are bound to act reasonably and fairly and each action of such authorities must pass the test of reasonableness and whenever action taken is found to be lacking bonafide and made in colourable exercise of the power,

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the Court should not hesitate to strike down such unfair and unjust proceedings. (Vide Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress & Ors., AIR 1991 SC 101; and Hansraj H. Jain Vs. State of Maharashtra & ors. (1993) 3 SCC 634).

39. In essence, the action/order of the State or State instrumentality would stand vitiated if it lacks bona fides as it would only be a case of colourable exercise of power. The Rule of Law is the foundation of a democratic society.

40. Courts being custodians of law have a solemn duty to uphold the rule of law under all circumstances by directing the authorities concerned to act in accordance with law. If the rule of law is not enforced, it will surely become a casualty in the process, a costly consequence to be zealously averted by all, and at any rate, by the Court. (Vide Salkia Businessmen's Association & Ors. Vs. Howrah Municipal Corporation & Ors., (2001) 6 SCC 688).

41. Wherever arbitrariness or unreasonableness is found, there is a denial of Rule of Law. The Rule of Law means absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power and excludes the existence of arbitrariness, of prerogative or even of wide discretionary authority on the part of the State or its instrumentality. (Vide State of Madhya Pradesh & Anr. Vs. Thakur Bharat Singh, AIR 1967 SC 1170). A decision taken by the authority under the policy or Statute has to be made by the application of principles of rules, and, in general, such decision should be predictable and the citizen should know where he stands. If a decision is taken without any principle or without any rule, it is unpredictable and such a decision is the antithesis to a decision taken in the rule of law. The term Rule of Law connotes the undisputed supremacy of law and envisage a state of things in which every one respects the law and where law has to be followed by everyone collectively and individually by the citizens as well as by the State. The Rule of Law permeates the entire fabric of the Constitution and indeed forms one of its basic features. (Vide Bachan Singh Vs. State of Punjab, AIR 1982 SC 1325).

42. In I.R. Coelho (dead) by LRs Vs. State of Tamil Nadu, (2007) 2 SCC 1, the Apex Court held as under:-

"The State is to deny no one equality before the law.....Economic growth and social equity are the two pillars of our Constitution which are linked to the right of an individual (right to equal opportunity), rather than in the abstract.....Equality, rule of law, judicial review and separation of powers form parts of the basic structure of the Constitution. Each of these concepts are intimately connected. There can be no rule of law, if there is no equality before the law. These would be meaningless if the violation was not subject to the judicial review."

43. The petitioners claimed that in light of Shetty Commission report and Apex Court's order, a legitimate expectations arose in their favour for grant of such a benefit for which they were deprived by an unreasonable and arbitrary order/classification by the executive which is negation of benefit which was accrued in their favour and against the principle of Legitimate Expectation. The legal maxim "salus populi est suprema lex" (regard for public welfare is the highest law) comes to an aid. The doctrine can be pressed if a person satisfies the Court that he has been deprived of some benefit

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or advantage which earlier he had in the past been permitted by the decision-maker to enjoy or he has received the assurance from the decision-maker that such benefit shall not be withdrawn without giving him an opportunity of advancing reasons for contending that it should not be withdrawn. (Vide A. Mahudswaran & Ors. Vs. Govt. of T.N. & Ors., (1996) 8 SCC 617; Mrs. Dr. Meera Massey & Ors. Vs. Dr. S.R. Mehrotra & Ors. (1998) 3 SCC 88; National Buildings Construction Corporation Vs. S. Raghunathan & Ors., (1998) 7 SCC 66; State of West Bengal & Ors. Vs. Niranjan Singha, (2001) 2 SCC 326; State of Bihar Vs. S.A. Hasan & Anr., (2002) 3 SCC 566; Dr. Chanchal Goyal (Mrs.) Vs. State of Rajasthan, (2003) 3 SCC 485; J.P. Bansal Vs. State of Rajasthan & Anr., (2003) 5 SCC 134; Hira Tikkoo Vs. Union Territory, Chandigarh, AIR 2004 SC 3649; Ram Pravesh Singh Vs. State of Bihar & Ors., (2006) 8 SCC 381; Confederation of Ex-Servicemen Association Vs. Union of India & Ors., AIR 2006 SC 2945; and Secy, State of Karnataka & Ors. Vs. Uma Devi & Ors., AIR 2006 SC 1806).

44. In Union of India & Ors. Vs. Hindustan Development Corporation & Ors, AIR 1994 SC 988 the Supreme Court held as follows:-

"On examination of some of these important decisions it is generally agreed that legitimate expectation gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation is to be confined mostly to right of a fair hearing before a decision which results in negating a promise or withdrawing of an undertaking is taken. The doctrine does not give scope to claim relief straight way from the administrative authorities as no crystallized right as such is involved. The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise. In other words where a person's legitimate expectation is not fulfilled by taking a particular decision then decision-maker should justify the denial of such expectation by showing some overriding public interest." (Emphasis added).

45. In Punjab Communications Ltd Vs. Union of India & Ors., AIR 1999 SC 1801, the Supreme Court held as follows:-

".....the doctrine of legitimate expectation in the substantive sense has been accepted as part of our law and that the decision-maker can normally be compelled to give effect to his representation in regard to the expectation based on previous practice or past conduct unless some overriding public interest comes in the way..... reliance must have been placed on the said representation and the representee must have thereby suffered detriment.....The more important aspect, in our opinion, is whether the decision-maker can sustain the change in policy by resort to Wednesbury principles of rationality or whether the court can go into the question whether the decision-maker has properly balanced the legitimate expectation as against the need for a change. In the latter case the court would obviously be able to go into the proportionality of the change in the policyThe choice of the policy is for the decision-maker and not for the Court.....The protection for substantive legitimate expectation was based on Wednesbury unreasonableness. In sum, this means that the judgment whether public interest overrides the substantive legitimate expectation of individuals will be for the decision-maker who has made the change in the policy and the courts will intervene in that decision only if they are satisfied that the decision is irrational or perverse."

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46. While deciding the said case, reliance was placed by the Apex Court on its earlier judgments in M.P. Oil Extraction Vs. State of Madhya Pradesh, (1997) 7 SCC 592; and National Buildings Construction Corporation Vs. S.Raghunathan, (1998) 7 SCC 66.

47. The doctrine of legitimate expectation has a meaning that the statements of policy or intention of the Government or its Department in administering its affairs should be without abuse or discretion. The policy statement could not be disregarded unfairly or applied selectively for the reason that unfairness in the form of unreasonableness is akin of violation of natural justice. It means that said actions have to be in conformity of Article 14 of the Constitution, of which non arbitrariness is a second facet. Public Authority cannot claim to have unfettered discretion in public law as the authority is conferred with power only to use them for public good. Generally legitimate expectation has essentially procedural in character as it gives assurance of fair play in administrative action but it may in a given case be enforced as a substantive right. But a person claiming it has to satisfy the Court that his rights had been altered by enforcing a right in private law or he has been deprived of some benefit or advantage which he was having in the past and which he could legitimately expect to be permitted to continue unless it is withdrawn on some rational ground or he has received assurance from the decision making Authority which is not fulfilled, i.e. , the kind of promissory estoppel.

48. Change of policy should not violate the substantive legitimate expectation and if it does so it must be as the change of policy which is necessary and such a change is not irrational or perverse.

49. This doctrine being an aspect of Article 14 of the Constitution by itself does not give rise to enforceable right but it provides a reasonable test to determine as to whether action taken by the Government or authority is arbitrary or otherwise, rational and in accordance with law.

50. In Kuldeep Singh Vs. Government of NCT of Delhi, AIR 2006 SC 2652, the issue of legitimate was considered observing that the State actions must be fair and reasonable. Non-arbitrariness on its part is significant in the field of governance. The discretion should not be exercised by the State instrumentality whimsically or capriciously but a change in policy decision, if found to be valid in law, any action taken pursuant thereto or in furtherance thereof should not be invalidated.

51. Similarly in Ashok Smokeless Coal India (P) Ltd. & Ors. Vs. Union of India & Ors., (2007) 2 SCC 640, the Court held as under:-

"Principles of natural justice will apply in cases where there is some right which is likely to be affected by an act of administration. Good administration, however, demands observance of doctrine of reasonableness in other situations also where the citizens may legitimately expect to be treated fairly. Doctrine of legitimate expectation has been developed in the context of principles of natural justice."

52. It is also settled law that government having taken a decision in accordance with law should not be permitted to challenge the same solely with a view to resile from the consequences of its earlier decision or order. [Vide Commissioner of Police Vs. Govardhan Das, AIR 1952 SC 16; and State of

Assam Vs. Raghava Gopalachari, (1972) SLR 44 (SC)].

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53. Similarly, in Ramana Dayaram Shetty Vs. The International Airport Authority of India & ors., AIR 1979 SC 1628, the Apex Court observed that every action of the executive Government must be informed by reasons and should be free from arbitrariness. That is the very essence of rule of law and its bare minimum requirement.

54. The spirit of the recommendation of the Shetty Commission was to grant advance increment to those candidates having higher qualification i.e. post graduation in Law. There is a positive recommendation and it should be interpreted in a positive way. The State instrumentality may not negate the fruits of the Shetty Commission or interpret in such a way to deny the advance increment as made admissible to those having higher qualification. The exercise of power of interpretation should not be made against the spirit of the provisions of the order otherwise it would tend towards arbitrariness.

55. Learned counsel for the petitioners has also raised the question of equal pay on the ground of equal qualification and equal work. The principle of equal pay for equal work is not an abstract doctrine and can be enforced by reading it into the doctrine of equality enshrined in Articles 14 and 16 of the Constitution of India. The said principle has been followed in various pronouncements of Hon'ble the Apex Court, some of which are quoted below:-

I. Randhir Singh v. Union of India -[1982 (1) SCC 618] II. Jaipal v. State of Haryana - MANU/SC/0160/2000 III. Canteen Mazdoor Sabha v. Metallurgical & Engineering, Consultants (India) Ltd. - MANU/SC/3434/2007

56. The question of legitimate expectation has also been raised by the petitioners and in light of the Shetty Commission which was duly approved by Hon'ble the Apex Court and later on the Government of India applied the principle for payment of three advance increments to those who have higher educational qualification raised a legitimate expectation in the mind of all those officers who have higher qualification to have the benefit extended to them by the Judicial Commission. The similar view has been taken by the 4th Commission while recommending the equal pay on equal footings.

57. In Secretary, State of Karnataka vs. Uma Devi (supra), the Constitution Bench referred to the claim of the employees based on the doctrine of legitimate expectation and observed as under :

"The doctrine can be invoked if the decisions of the administrative authority affect the person by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there have been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker that they will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn."

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58. Uttar Pradesh is a big State, having big population, a big number of pending cases, a big number of disposal also, big number of judicial officers and employees in the Court and a big number of problems also. Denial of equality with the officers who have similar higher education and differentiating in the manner to deny the rights which have been accrued to them on unreasonable ground is not reasonable criteria for rational classification. The State of U.P. should lead leading role not only in growth and development but also in applying the principle and facilities to the employees of the State similar to the pattern which has been adopted by the Government of India. We hope and trust that the benefit which has been extended by the Government of India to the officers within Delhi Administration, be also extended to the officers in the State of U.P. on similar footings specially in the circumstance when States like West Bengal, Kerala, Delhi, Uttarakhand etc. have applied the policy as framed by the Shetty Commission and directed by the Supreme Court. The record reveals that while clarifying the Government Order, the Principal Secretary has distinct it and made a discrimination by an arbitrary order on unjustified and unreasonable grounds.

59. Considering the above submissions, we are of the view that the letter dated 03.01.2012 addressed to the Registrar General, High Court of Judicature at Allahabad, has no sanctity and is unwarranted and required to be quashed. The letter dated 27.03.2015 clarifies the position that those who had higher degree as on 21.03.2002 while entering into service or had degree prior to this, are entitled for the benefit of three advance increments. There is again not denial of this benefit to the officers who acquire degree after entering into the service.

60. Accordingly, letter dated 03.01.2012 is quashed and the Government Orders dated 13.05.2009 and 27.03.2015 require clarification/modification to the extent they deny the benefit of three advance increments to those judicial officers who have acquired/acquire higher qualification of LL.M after joining the service, therefore, we direct that -

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.
- ii. The judicial officers who acquire the degree of LL.M before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order, as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M.
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

The writ petitions are decided accordingly. No order as to costs.

Order Date :- 03.05.2017

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(Sheo Kumar Singh-I, J.) (Shri Narayan Shukla, J.)

A. Katiyar