



2025:DHC:6858



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

*Decided on: 13.08.2025*

+ W.P.(C) 4523/2023

AJAY KUMAR GUPTA

.....Petitioner

Through: Mr. Bhushan Kapur, Advocate  
alongwith Petitioner in Person.

versus

JAWAHARLAL NEHRU UNIVERSITY

.....Respondent

Through: Mr. Vasanth Rajasekaran, Senior  
Standing counsel for JNU with Mr.  
Karan Prakash, Mr. Harshvardhan  
Korada, Mr. Om Bali & Mr D.  
Kumar, Advocates. [M:-  
8826502108]

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J. (ORAL)**

1. The petitioner is a retired employee of Jawaharlal Nehru University ["JNU"]. He has filed this petition under Article 226 of the Constitution, seeking coverage under the Central Civil Services (Pension) Rules, 1972 ["CCS (Pension) Rules"], also known as the Old Pension Scheme ["OPS"].

2. The petitioner was first engaged by JNU in the year 1989 in temporary service, as part of the Genetic Engineering Unit ["GEU"]. GEU was shut down in the year 1998, following which some of the



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erstwhile employees approached this Court by way of W.P.(C) 5480/1998, seeking regularisation. Pursuant to the directions given by this Court in the said writ petition, by order dated 21.03.2000, the petitioner's case was also considered by JNU. By a communication dated 09.08.2000, he was selected for appointment as a temporary Junior Engineer (Electrical) for a period of one year. It is undisputed that he continued in the service of JNU by way of various temporary appointments, until he was appointed as Junior Engineer (Electrical) on regular basis with effect from 22.12.2009. This appointment was notified by Office Order dated 15.01.2010, which provided that the petitioner would be entitled to the benefit of the New Pension Scheme ["NPS"], as notified by the Government of India ["GoI"] by notification dated 22.12.2003.

3. The petitioner continued in the service of JNU till his retirement on 31.08.2021.

4. In the writ petition, reliance has been placed upon two Office Memorandums issued by the Department of Pension and Pensioners' Welfare, GoI, relating to coverage under OPS in place of NPS, of those Central Government Employees, whose selection for appointment was finalised before 01.01.2004, but joined government service on or after 01.01.2004. Copies of the said Office Memorandums dated 17.02.2020 and 03.03.2023 have also been placed on record.

5. Although Mr. Bhushan Kapur, learned counsel for the petitioner, and Mr. Karan Prakash, learned counsel for JNU, have joined issue on the proper interpretation of the said Office Memorandums, I am of the view that adjudication of this controversy is unnecessary, as the petitioner's



case is covered by a judgment of this Court in *Chandi Prasad and Ors v. Union of India and Ors.* [W.P.(C) 3481/2019, dated 19.09.2024] [hereinafter, “*Chandi Prasad*”].

6. The writ petition in *Chandi Prasad* was also filed by retired employees of JNU, who were initially appointed on daily wages/*ad-hoc*/temporary basis, but were substantively appointed on various posts after 01.01.2004. They contended that their period of service prior to 01.01.2004 rendered them eligible for coverage under the OPS, notwithstanding the fact that they had been appointed to regular posts after 01.01.2004. This contention was accepted by the Court with the following observations:-

*“14. From a conspectus of the aforementioned judgments, it is palpably clear that Courts have repeatedly affirmed that if an employee enters service prior to 01.01.2004, i.e. the date of enforcement of NPS, in whatever capacity, whether as temporary or ad-hoc employee and renders continuous and uninterrupted service, followed by regularisation/absorption, the period of service shall count towards qualifying service for pension and such an employee will be deemed to be in service prior to 01.01.2004 and thus governed by OPS. This is the view taken by this Court in *Dr. Archana Verma (supra)* and *Dr. Ravindra Narayan Mishra (supra)*. This Court is conscious of the fact that an appeal is pending in *Dr. Ravindra Narayan Mishra (supra)* but be it noted that when the appeal was listed on 07.05.2024, the Court had made a categorical observation that the Bench was not staying the operation of the order and it would be open to the Respondents to seek implementation of the order as per law. In view of the many judgments, now covering the issue in favour of the Petitioners, it is hardly open to JNU to take a position that Petitioners are covered under the expression “new entrants/new recruits” envisaged under NPS, wiping out their entire past service and depriving them of pension under OPS.*”

*15. For all the aforesaid reasons, this Court comes to the irresistible conclusion that entire service of the Petitioners from the date of initial appointments on daily wages/*ad-hoc*/temporary basis till the date of permanent appointment/regularization shall be counted as qualifying service for the purpose of pension and they will*



*be deemed to be in service prior to 01.01.2004 and governed by OPS. Needless to state that NPS will be inapplicable to the Petitioners and accordingly, necessary and corrective orders shall be issued by JNU in this regard.”<sup>1</sup>*

7. The only distinction urged by Mr. Prakash, is that the petitioner in the present case was appointed to a different post on regular basis by the office order dated 15.01.2010, than the post he held in temporary capacity. I do not find such a distinction in the above extracts of *Chandi Prasad*. In any event, the position is clarified in favour of the petitioner by Rule 13 of the CCS (Pension) Rules which reads as follows:-

*“13. Commencement of qualifying service – Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity:*

**Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post.**

xxx

xxx

xxx”<sup>2</sup>

8. Rule 13 of the CCS (Pension) Rules makes it clear that qualifying service commences on the date the employee is first appointed, notwithstanding that the original appointment is in officiating or temporary capacity. It is clear therefrom that the petitioner’s qualifying service commenced from 09.08.2000, as he was thereafter in continuous service without interruption, until his superannuation in August, 2021. The proviso to the said rule requires such officiating or temporary service to be followed by substantive appointment, but expressly confers the benefit even if the substantive appointment is in “*another service or*

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<sup>1</sup> Emphasis supplied.

<sup>2</sup> Emphasis supplied.



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*post*". The distinction sought to be drawn to distinguish the judgment in *Chandi Prasad* is, therefore, not well founded, on a reading of Rule 13 of the CCS (Pension) Rules itself.

9. Consequently, the petitioner is covered by the judgment in *Chandi Prasad*, and JNU is directed to proceed on the basis that the petitioner's continuous appointment from 09.08.2000 would be counted as qualifying service. As in *Chandi Prasad*, the petitioner is deemed to have been in service prior to 01.01.2004, and will be governed by OPS. JNU is directed to take consequential steps, and issue the necessary orders in favour of the petitioner within a period of eight weeks from today.

10. The writ petition is disposed of with the aforesaid directions.

**PRATEEK JALAN, J**

**AUGUST 13, 2025**

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