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

Date of Decision: 06th August, 2026

CNR No. DLHC010016832020

+ **W.P.(C) 88/2021 & CM APPL. 12361/2024**

AJAY KUMAR I AND ORS

.....Petitioners

Through: Mr. Shivanshu Bhardwaj, Ms. Suradha Maheshwari and Mr. Archit Mudgal, Advocates.

versus

LOK SABHA SECRETARIAT AND ANR.

.....Respondents

Through: Mr. Pramod Gupta, Ms. Riya Khandelwal and Ms. Yogita, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J (Oral):

1. The dispute arises from the change in the pension regime governing public employment with effect from 1st January, 2004. The National Pension Scheme [“NPS”] was made applicable to new entrants to Government service joining on or after 1st January, 2004, while employees covered by the earlier pension regime continued under the pre-existing pension framework. The Petitioners were associated with the Lok Sabha Secretariat before the change took effect, initially as Casual Labourers and, during Sessions of Parliament, as Sessional Attendants. Their regular appointment to the post of Attendant Grade-III, however, took place after 1st January, 2004.

2. The Petitioners contend that their service prior to regular appointment cannot be ignored merely because their entry into the regular cadre occurred



later. According to them, their pre-2004 engagement, together with the treatment extended to other similarly placed employees, entitles them to coverage under the Old Pension Scheme [*“OPS”*] / Central Civil Services (Pension) Rules, 1972 [*“1972 Pension Rules”*]. The Respondents dispute this claim, stating that the Petitioners entered the regular establishment only through a subsequent process of direct recruitment and that the service rendered by them prior thereto did not constitute qualifying pensionable service.

3. The controversy, therefore, is not whether the Petitioners worked for the Lok Sabha Secretariat before 1st January, 2004. The question is whether the nature of that earlier service, and the rules governing it, permit them to claim coverage under the OPS notwithstanding that their regular appointment took place after the NPS had come into force.

Facts & Contentions

4. The Petitioners were initially engaged as Casual Labourers and, during different periods, were appointed as Sessional Attendants for particular Sessions of Parliament. Those appointments came to an end with the Session, following which they reverted to casual engagement. Their regular appointments to Attendant Grade-III took place after 1st January, 2004. The Respondents maintain that these appointments were made against the direct recruitment quota and that the Petitioners were accordingly treated as new recruits to the regular establishment.

5. The Petitioners seek coverage under the OPS on more than one footing. First, they invoke parity with employees who were regularised after 1st January, 2004 but were subsequently extended the benefit of the OPS.



They also rely upon *Harbans Lal v. State of Punjab & Ors.*¹, *Som Nath & Ors. v. State of Punjab & Ors.*² and *Habib Khan v. State of Uttarakhand & Ors.*³ to contend that service rendered before regularisation cannot be discarded for pension merely because it was rendered as a daily wager or in a work-charged establishment. Their submission, in substance, is that the nature or nomenclature of their engagement before regular appointment should not defeat their claim, since they had been serving the Lok Sabha Secretariat well before 1st January, 2004. Reliance is also placed on the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 [*“the 1993 Scheme”*], concerning the grant of temporary status to Casual Labourers and on *Association of Qualified and Trained Technologists, AIIMS & Ors. v. Union of India & Ors.*⁴, where temporary service preceding regularisation was held capable of being counted under Rule 13 of the 1972 Pension Rules.

6. The Respondents dispute the claim for parity. According to them, the comparator employees were not extended the OPS merely because they too entered regular service after 1st January, 2004. Their cases fell within a distinct category in which the vacancies and the recruitment process against those vacancies belonged to the period preceding the pension cut-off, although the formal appointments came later. The Petitioners, on the other hand, entered the regular establishment through direct recruitment to Attendant Grade-III after 1st January, 2004, following their earlier engagement as Casual Labourers/Sessional Attendants.

¹ 2010 SCC OnLine P&H 8181.

² 2013 SCC OnLine P&H 1519.

³ Civil Appeal No.(s) 10806/2017; SLP (Civil) No. 7434/2016 (Supreme Court; decided on 23rd August, 2017)



7. The Respondents also deny that the 1993 Scheme provides a route to the relief claimed. The Scheme, they contend, was never adopted by the Lok Sabha Secretariat. Reliance is placed on Article 98 of the Constitution of India and the Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1955 [*“the 1955 LSS Rules”*] to emphasise the separate service framework governing the Secretariat. On this aspect, ***P.K. Bhandari v. the Hon’ble Speaker Lok Sabha***⁵ is cited for the proposition that executive instructions issued by Ministries or Departments of the Government of India do not, without adoption, operate *proprio vigore* upon the staff of the Lok Sabha Secretariat. The Respondents further point out that the Parliamentary Pay Committee had considered the representations seeking coverage under the OPS and did not find justification for reopening the issue. Its report was thereafter accepted by the competent authorities. On that footing, they also raise an objection as to the scope of judicial review, invoking Articles 98 and 122 of the Constitution.

8. These submissions require the Court first to identify what the parity claimed by the Petitioners rests upon.

Discussion

Parity and the Pension Cut-Off

9. The NPS was introduced for new recruits to the Central Government service with effect from 1st January, 2004. The consequence was that the employees appointed on or after that date were governed by the NPS rather than the OPS.

10. The position was, subsequently, relaxed for a defined class of

⁴ W.P.(C) No. 11527/2017, decided on 20th November, 2024 (High Court of Delhi at New Delhi).

⁵ 1997 SCC OnLine Del 447.



employees. By Office Memorandum [“O.M.”] dated 17th February, 2020, the Government extended a one-time option for coverage under the OPS to employees who joined service on or after 1st January, 2004, provided they had been declared successful for recruitment in results declared on or before 31st December, 2003 against vacancies arising before 1st January, 2004. The exception, thus, did not turn upon the date of joining alone. It was available where the recruitment had been completed before the cut-off and the subsequent delay in joining did not alter that position.

11. The rationale for this distinction was examined by the Division Bench in *Satya Dev Prajapati & Ors. v. Delhi High Court, through its Registrar General & Anr.*⁶. The Court considered the earlier decisions in which candidates from the same batch had been treated differently because some had joined service before 1st January, 2004, while the joining of others had been delayed for reasons not attributable to them. The Court held that, in such circumstances, the principle of parity would require the candidates to be treated alike in respect of the terms and conditions of their service, including coverage under the OPS. It further held that the O.M. dated 17th February, 2020 sought to eliminate the possibility of discrimination where candidates selected through a single selection process were treated differently solely because they joined on different dates for reasons not attributable to them. The Court, accordingly, found no infirmity in the O.M. and rejected the challenge.

12. The principle is important here because the Petitioners’ plea of parity rests largely upon the circumstance that the employees cited as comparators were also appointed to regular service after 1st January, 2004. The record,



however, shows that those employees were not brought under the OPS merely because their regular appointments fell after the cut-off. The 17th February, 2020 O.M. was extended to the employees of the Lok Sabha Secretariat through Recruitment and Conditions of Service [“R&CS”] Order No. PGF-588/2020 dated 11th March, 2020, in accordance with Rule 8 of the 1955 LSS Rules. The dispensation covered employees who joined service on or after 1st January, 2004 but had been declared successful in recruitment results declared on or before 31st December, 2003 against vacancies arising before 1st January, 2004.

13. The Counter Affidavit records that, pursuant to this dispensation, comparator candidates were found eligible for coverage under the 1972 Pension Rules since their appointments were against vacancies arising on or before 31st December, 2003. The comparator employees’ subsequent joining after 1st January, 2004 did not constitute a fresh recruitment and did not alter the character of the recruitment process already completed before the cut-off. The record nowhere shows that the Petitioners had been declared successful in a pre-cut-off recruitment process for appointment to Attendant Grade-III against vacancies arising before 1st January, 2004. Their earlier engagement as Casual Labourers and, for specified periods, as Sessional Attendants was followed by their subsequent appointment to Attendant Grade-III through direct recruitment.

14. This distinction cannot be dismissed as one of form. It goes to the basis on which the benefit was extended. Article 14 requires parity between persons who are similarly situated in relation to the benefit claimed. Here, the relevant consideration is not simply that both sets of employees received

⁶ 2022 SCC OnLine Del 3911.



regular appointments after 1st January, 2004. It is whether the employees belonged to the same batch or were otherwise similarly placed, and whether the difference in their dates of joining was attributable to circumstances beyond their control. *Satya Dev Prajapati* itself recognises that a candidate joining after the cut-off date cannot ordinarily claim the OPS merely because the recruitment process had commenced before the cut-off. The exceptions recognised in that decision arose where the inability to join before the cut-off was attributable to the employer or where candidates from the same batch were differently placed due to no fault on their part.

15. The record discloses neither circumstance here. The Petitioners were not part of the pre-cut-off selection process from which the employees with whom parity is claimed emerged. Their pre-existing engagement with the Secretariat is, undoubtedly, relevant to the separate question whether any part of that service can count as qualifying service. It cannot, however, place them in the same recruitment class as employees with whom they did not form part of the same selection process. The parity claim, viewed on that basis, cannot succeed.

16. The decision in *Bhagvan Singh Guleria v. UOI & Ors.*⁷, which also dealt with the connected challenge in *V.P. Goel & Ors. v. UOI & Ors.*, lends support to this approach. While considering a claim of parity, the Division Bench emphasised that such a claim requires examination of the relevant facts, including the eligibility norms, conditions of service, nature of duties and responsibilities. In the absence of the relevant particulars and a clear basis for alleging discrimination, a claim of parity cannot be sustained merely on the assertion of similarity. The common fact that both groups



were appointed to regular service after 1st January, 2004 cannot, by itself, establish parity where the recruitment processes and circumstances leading to their respective appointments were materially different.

Service Prior to Regular Appointment

17. The Petitioners place considerable emphasis on the fact that their association with the Lok Sabha Secretariat long preceded 1st January, 2004. It is argued that, once this fact is accepted, the particular description attached to their employment before regular appointment ought not to determine the pension regime applicable to them.

18. There is some force in the submission that nomenclature cannot be decisive. An appointment does not acquire or lose its legal character merely from the expression used to describe it. But that is quite different from saying that the nature of the earlier service is immaterial. Whether service rendered before 1st January, 2004 can be counted for pension necessarily depends upon the capacity in which it was rendered and the rule under which it is claimed.

19. Rule 13 of the 1972 Pension Rules brings this distinction into focus. Qualifying service commences from the date on which a Government servant takes charge of the post to which “*he is first appointed either substantively or in an officiating or temporary capacity*”. Where the appointment is officiating or temporary, the Rule further requires that such service be “*followed without interruption by substantive appointment in the same or another service or post*”.

20. ***Association of Qualified and Trained Technologists*** is instructive. The employees there had initially been appointed on an *ad hoc* basis. The

⁷ 2011 SCC OnLine Del 2250.



Division Bench examined their appointment orders and found that, although described as *ad hoc*, the appointments were expressly made on a “*purely temporary basis*”. The Court further noted that the appointments continued uninterrupted for seven years, until the employees were substantively appointed in December 2004. The continuity of service was undisputed. The Court, accordingly, held that the appointments were “*temporary*” appointments within the meaning of Rule 13 and that the employees were entitled to the benefit of Rule 13 and, consequently, the OPS.

21. The aforesaid decision itself marks out the limits of its reasoning. The Court specifically noticed that it was not dealing with an appointment made on a temporary basis for a particular project or duty for a limited period, or to occupy a post during the period it remained unfilled. Pertinently, the employees before it had remained on the same post continuously until their substantive appointment.

22. The service history of the Petitioners followed a different course. Their appointments as Sessional Attendants were made for individual Sessions of Parliament. With the conclusion of a Session, the sessional appointment came to an end, and they reverted to their position as Casual Labourers. Further sessional appointments were made as and when occasion arose. Their eventual entry into the regular establishment came later, through appointment to Attendant Grade-III by direct recruitment after 1st January, 2004. This position is also reflected in the Parliamentary Pay Committee record, which records that Sessional Attendants were appointed during the Session and thereafter reverted to Casual Labourers during the inter-Session period, and that they were considered for regular appointment to Attendant Grade-III against the direct recruitment quota.



23. It is therefore unnecessary to decide whether, viewed in isolation, a particular spell as Sessional Attendant could be described as an appointment in a temporary capacity. Even if that question is assumed in favour of the Petitioners, the further requirement of Rule 13 remains. The temporary service must be followed without interruption by substantive appointment. That factual link, which was decisive in *Association of Qualified and Trained Technologists*, is therefore missing.

24. The fact that the Petitioners continued to work for the same establishment does not cure this difficulty. Continuity of engagement with an employer and continuity of qualifying service under a pension rule are not the same thing. Rule 13 speaks of service rendered in identified capacities. No appointment order has been shown under which the intervening casual spells were appointments to a post in a substantive, officiating or temporary capacity.

25. There is one feature of the record which deserves closer attention. The material before the Parliamentary Pay Committee records that, prior to 2006, service rendered during the Petitioners' stint as Sessional Attendants was counted for "*pay fixation and calculation of retirement benefits*". The Committee also records the subsequent demand that the benefit of Sessional service for the purposes of increments and terminal benefits, which had been available prior to 2006, be restored. The Petitioners are, therefore, justified in opposing the suggestion that their Sessional service was of no consequence whatsoever.

26. That recognition, however, does not answer the question before the Court. A period of earlier service may be counted for fixation of pay, increments, or for computing a particular terminal benefit because the



applicable rule or administrative policy so permits. The present question is anterior: whether those spells place the Petitioners within the pension regime applicable to persons who entered qualifying service before 1st January, 2004. The record does not disclose any rule or order which gives the counting of Sessional Service for those purposes the further consequence of satisfying the conditions of Rule 13 or of treating the Petitioners as having entered the OPS before the cut-off.

27. This distinction assumes some importance because the Petitioners' argument tends to treat casual service and Sessional Service as one continuous period preceding regularisation. The record does not support that description. The Sessional appointments were distinct spells of service. Between them lay periods of casual engagement, and the eventual appointment to Attendant Grade-III was a separate appointment through direct recruitment. One form of engagement cannot acquire the legal incidents of another merely because all three occurred within the Lok Sabha Secretariat.

The 1993 Scheme

28. The Petitioners also invoke the 1993 Scheme. This part of the case encounters a more basic difficulty.

29. Article 98 of the Constitution provides that "*each House of Parliament shall have a separate secretarial staff*" and empowers Parliament, or, until such provision is made, the President in consultation with the Speaker or the Chairman, to regulate the recruitment and conditions of service of such staff. The object and purpose of Article 98, as explained in *V.P. Goel*, is to ensure that the officers working in the Secretariat enjoy independence and function without interference or pressure from the



Executive. The effective control over the Secretariat is intended to remain with the heads of the respective Houses.

30. The 1955 LSS Rules reflect that arrangement. Rule 8 deals specifically with pay, leave, pension and age of compulsory retirement. Rule 9 applies the rules governing officers of corresponding rank in the Central Secretariat only to other conditions of service for which no or insufficient provision has been made, and even then subject to such modifications, variations or exceptions as may be specified under the Lok Sabha framework.

31. **P.K. Bhandari** records the same institutional principle. The Court recognised that the Lok Sabha Secretariat is governed by the 1955 Rules framed under Article 98 and that the Speaker exercises the authority conferred by those Rules in matters of recruitment and conditions of service. The Court held that the Speaker is the “*framer, operator and final interpreter*” of the Rules, which are intended for the internal management of the House.

32. This does not mean that Central Government rules or policies can never operate in the Lok Sabha Secretariat. They may do so where the 1955 LSS Rules themselves adopt them, or where the competent authority extends them. The point is narrower. Their application cannot be presumed merely because an executive Ministry has issued them.

33. That distinction is decisive here because the record shows that the applicability of the 1993 Scheme was considered by the Lok Sabha Secretariat, but the Scheme was not adopted as part of its service framework. The Parliamentary Pay Committee was specifically informed that the 1993 Scheme was not applicable to Casual Labourers of the Lok



Sabha Secretariat. It was further recorded that the Rajya Sabha Secretariat had introduced a Casual Labourers (Grant of Temporary Status) Scheme, 2017, whereas no corresponding Scheme existed in the Lok Sabha Secretariat. The Committee itself thereafter recommended that a Scheme regarding grant of Temporary Status on similar lines may be examined and introduced in the Lok Sabha Secretariat. The Court cannot, therefore, extend to the Petitioners a temporary-status regime which did not form part of the service framework governing them.

34. Since the 1993 Scheme did not form part of the service framework applicable to the Petitioners, it is unnecessary to undertake a Petitioner-wise enquiry into whether any of them might otherwise have satisfied the conditions stipulated in Clause 4. Satisfaction of those conditions, by itself, could not confer upon the Petitioners the benefit of a Scheme which had not been adopted by the Lok Sabha Secretariat.

Work-Charged Service

35. The Petitioners rely upon ***Harbans Lal, Som Nath and Habib Khan*** to contend that service rendered before regularisation cannot be excluded from qualifying service merely because the employee did not then hold a regular appointment. The submission reads those decisions beyond their factual circumstances. They form part of a line of authorities concerning work-charged and daily-wage service under pension rules which themselves determined what earlier service would count and what would not.

36. The starting point of that line is ***Kesar Chand v. State of Punjab & Ors.***⁸. Rule 3.17(ii) of the Punjab Civil Services Rules permitted temporary or officiating service followed by confirmation to count towards qualifying



service but excluded service rendered in a work-charged establishment. The Full Bench of the Punjab and Haryana High Court held that such exclusion, after the employee had been regularised, was violative of Article 14 and struck down the exclusion. That view was later affirmed by the Supreme Court in ***Punjab State Electricity Board & Anr. v. Narata Singh & Anr***⁹.

37. ***Harbans Lal*** extended this line of reasoning, in the context of Rule 3.17-A of the Punjab Civil Services Rules and the earlier decisions interpreting the Punjab pension rules, to daily-wage service rendered prior to regularisation. The Punjab & Haryana High Court held that such service was liable to be counted as qualifying service for pension. ***Som Nath*** similarly applied ***Harbans Lal*** to employees who had been appointed on work-charge/daily-wage basis prior to the cut-off date for the new pension framework but regularised thereafter. The decisions turned on the applicable provisions of the Punjab pension rules and their judicial interpretation.

38. ***Habib Khan*** rests on the same foundation. Rule 370 of the Civil Service Regulations applicable in Uttarakhand excluded periods of service in a work-charged establishment from otherwise qualifying temporary or officiating service. The Supreme Court held that Rule 370 was *pari materia* with Rule 3.17(ii) of the Punjab Civil Services Rules and, following ***Narata Singh***, held that the period of work-charged service was to be reckoned for computing qualifying service for pension. ***Prem Singh v. State of Uttar Pradesh & Ors.***¹⁰ likewise arose under Rule 3(8) of the U.P. Retirement Benefits Rules, 1961, which excluded work-charged service from qualifying service, while the Note to Rule 3(8) permitted such service to be counted

⁸ 1988 SCC OnLine P&H 338.

⁹ (2010) 4 SCC 317.



where it fell between specified periods of temporary or permanent service. The Supreme Court held that the requirement that the work-charged service be preceded by such service was discriminatory and irrational, and read down the Rule to permit even work-charged service rendered prior to regularisation to count towards qualifying service.

39. The significance of these authorities must, however, be understood in the context of the service rules governing the employees concerned. In *State of Odisha & Ors. v. Sudhansu Sekhar Jena*¹¹, the Supreme Court, while considering the above line of authority, noted that they arose in the context of the service rules and regulations governing Punjab, Uttarakhand and Uttar Pradesh. In the present case, that statutory foundation is absent. Work-charged service is not synonymous with casual, daily-wage or temporary service, nor is every form of pre-regularisation service work-charged service. Nothing in the record suggests that the Petitioners were borne on a work-charged establishment or that their engagement as Casual Labourers or Sessional Attendants possessed the incidents of such service. Their claim must therefore be examined under the pension rules governing their employment, in particular Rule 13 of the 1972 Pension Rules, which recognises substantive, officiating or temporary service subject to the continuity prescribed therein. The authorities concerning work-charged service do not, therefore, establish a general rule that every form of non-regular service preceding regular appointment constitutes qualifying service.

Rajya Sabha Secretariat Orders

40. Reliance is also placed upon two orders issued by the Rajya Sabha

¹⁰ (2019) 10 SCC 516.

¹¹ 2025 INSC 259.



Secretariat in 2023. By the first dated 4th August, 2023, Casual Labourers who had been appointed as Sessional Messengers before 2004 and regularised thereafter were brought under the 1972 Pension Rules in place of the NPS, with effect from the date of their regular appointment to the grade of Attendant Grade-III. The second dated 16th October, 2023 extended similar treatment to employees who had been engaged on or before 31st December, 2003 as Casual Labourers, Farash or Safaiwala and were regularised thereafter, with effect from the date of their regular appointment to the grade of Attendant/Sanitary Attendant, as the case may be.

41. The comparison is attractive at first sight. Those employees too had worked for a Secretariat of Parliament before 1st January, 2004 and obtained regular appointment only thereafter. But the similarity in their employment history does not, by itself, reveal the legal basis on which the benefit was granted. The Rajya Sabha orders themselves provide that basis.

42. Both orders expressly invoke the Department of Expenditure O.M. dated 13th July, 2018 and the DoPT O.M. dated 11th October, 2018. The former lays down the procedure for extending the Old GPF/Pension Scheme to casual workers covered under the 1993 Scheme, and regularised on or after 1st January, 2004. The latter deals with the transfer of NPS contributions of casual labourers with temporary status to their GPF accounts. The benefit extended under the Rajya Sabha orders, thus, has its source in a temporary-status pension dispensation.

43. The distinction becomes clearer from the Parliamentary Pay Committee report itself. The Committee recorded that the Rajya Sabha Secretariat had introduced the “*Casual Labourers (Grant of Temporary Status) Scheme, 2017*”, while no corresponding Scheme existed in the Lok



Sabha Secretariat. Indeed, the Committee recommended that introduction of a similar Scheme in the Lok Sabha Secretariat be examined. A recommendation to consider introducing such a Scheme is itself inconsistent with the suggestion that the same regime already governed the Petitioners.

44. Article 98 is relevant in this setting, not as an answer to Article 14, but because it explains why the service dispensation of one Secretariat does not, by its own force, govern the other. The Constitution provides for separate secretarial staff for each House and separately contemplates regulation of their respective conditions of service. The distinction between the two Secretariats is, therefore, inherent in the constitutional scheme itself.

45. The Petitioners therefore cannot claim the Rajya Sabha benefit by comparing only the beginning and the end of the respective service histories: engagement before 2004 and regular appointment thereafter. The Rajya Sabha employees received the benefit under a regime recognising temporary status. No corresponding temporary-status regime governed these Petitioners in the Lok Sabha Secretariat.

46. Article 14 cannot supply that missing rule. Equality may require the same treatment where the legal and factual basis of an entitlement is the same. It does not, however, require an administrative benefit created under one service regime to be extended to employees governed by another merely because certain features of their service histories are similar.

Conclusion

47. In view of the foregoing discussion, the Petitioners have failed to establish a basis for extending the OPS to them. Their claim for coverage under the 1972 Pension Rules in place of the NPS, therefore, cannot be sustained.



48. The writ petition is, accordingly, dismissed.

SANJEEV NARULA, J

AUGUST 6, 2026

as/nk