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

***Date of Decision*: *15th September, 2026***

\# **CNR No. DLHC010078282025**

\+ W.P.(C) 2094/2025 & CM APPL. 9807/2025

JIT RAM .....Petitioner

Through: Mr. Ranjit Sharma, Advocate.

versus

GOVT.OF N.C.T. DELHI AND ANR .....Respondents

Through: Mr. Rishikant Singh and Mr. Dinesh Kumar, Advocates for DUSIB.

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\# **CNR No. DLHC010082402025**

\+ W.P.(C) 2216/2025 & CM APPL. 10415/2025

SUKHBIR SINGH .....Petitioner

Through: Mr. Ranjit Sharma, Advocate.

versus

GOVT.OF N.C.T. DELHI AND ANR .....Respondents

Through: Mr. Anubhav Gupta, Advocate for Ms. Vaishali Gupta, Panel Counsel (Civil), GNCTD.
Mr. Rishikant Singh and Mr. Dinesh Kumar, Advocates for DUSIB.

**CORAM:**
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J. (Oral):**

1. Can employees who entered service years before the introduction of the National Pension System [“NPS”] be treated as fresh entrants merely

because their services were regularised after its commencement? That is the central and narrow question in these petitions.

2. The Petitioners were engaged as Muster Roll employees in the erstwhile Slum & JJ Department of the Municipal Corporation of Delhi ["MCD"] well before 1st January, 2004. Their services were regularised on 16th July, 2004, and they were later transferred to the Delhi Urban Shelter Improvement Board ["DUSIB"] upon its establishment. DUSIB nevertheless treats the date of regularisation as their first entry into service and, on that basis, places them under the NPS.

3. A related issue arises from MCD's decision, as a one-time measure, to extend coverage under the CCS (Pension) Rules, 1972 ["1972 Pension Rules"] / Old Pension Scheme ["OPS"] to daily-wage employees engaged on or before 31st December, 2003 and regularised on or after 1st April, 2004. DUSIB denies the Petitioners the same benefit solely because they were described as "Muster Roll employees" rather than "daily wage employees". The Court must therefore determine whether this difference in nomenclature carries any legal consequence for their pensionary entitlement.

4. The material facts are largely undisputed. Jit Ram, the Petitioner in W.P.(C) 2094/2025, had served in the Slum & JJ establishment even before the period of muster-roll engagement acknowledged by DUSIB. Those earlier spells need not be examined for present purposes. DUSIB admits that he was engaged as a Muster Roll employee on 21st July, 1997, regularised as a Surveyor with effect from 16th July, 2004, and retired on 31st March, 2024. It further admits that GPF Account No. 1810 was allotted to him on 14th September, 2005, from which he withdrew 90% of the accumulated amount before retirement.

5. Jit Ram, however, traces his muster-roll engagement to 2nd December, 1996, rather than 21st July, 1997. The record lends some support to this assertion: a letter dated 14th November, 1996 called upon him to convey his consent to join as Assistant Surveyor "on Muster Roll". Nothing, however, turns on this difference for determining the applicable pension regime, since even the date admitted by DUSIB precedes 1st January, 2004 by several years. The exact period of pre-regularisation service qualifying for pension may be verified from the service record while giving effect to this order.

6. Sukhbir Singh, the Petitioner in W.P.(C) 2216/2025, stands on substantially the same footing. DUSIB admits that he was engaged as a Muster Roll employee on 20th December, 1995, regularised on 16th July, 2004, and retired on 31st May, 2024. He was allotted GPF Account No. 1809 on 14th September, 2005 and, as in Jit Ram's case, withdrew 90% of the accumulated amount before retirement. His earlier service record also reflects engagements as a Surveyor on a daily-wage basis.

7. Both Petitioners were regularised under the same Establishment Order dated 16th July, 2004. Acting on the recommendation of the Departmental Selection Committee, the Additional Commissioner (Slum & JJ), MCD, regularised the existing "Work charge/M/R Surveyors" as Surveyors. Sukhbir Singh appears at Serial No. 3 and Jit Ram at Serial No. 4. The language of the order leaves little room for doubt: it recognised and regularised an existing service relationship; it did not appoint the Petitioners afresh.

8. The position must be considered against the service framework then prevailing in MCD. By Circular dated 8th September, 2000, issued pursuant to Corporation Resolution No. 156 dated 10th July, 2000, MCD decided that

50% of the service rendered by daily-wage employees would count towards pensionary benefits, subject to the stipulated conditions. To give effect to this decision, the concerned DDOs were directed to record each employee's date of initial engagement in the service book.

9. The Slum & JJ establishment was later transferred to DUSIB under the Delhi Urban Shelter Improvement Board Act, 2010 ["DUSIB Act"]. Section 30 preserves the service conditions and continuity of employees taken over by DUSIB. The relevant portion reads:

> *"...the Board may, with the prior approval of the Government, take over the services of the officers and other employees of any existing organization of the Government or any other local authority with such designations as the Board may determine and they shall hold office for the same tenure, and at the same remuneration and on same terms and conditions of service, as they would have held if the Board had not been established...*
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> *Provided that the tenure, remuneration and terms and conditions of service of any such officer or employee shall not be altered to his disadvantage without the previous approval of the Government:*
>
> *Provided further that any services rendered by any such officer or employee before the establishment of the Board shall be deemed to be services rendered under the Board..."*

10. A Division Bench of this Court in ***North Delhi Municipal Corporation & Anr. v. Prema Rai***[1], considered the effect of Sections 30 and 31 of the DUSIB Act on the services, assets and liabilities of the erstwhile Slum & JJ Wing of MCD. In terms of the second proviso to Section 30, the Court held that the services rendered by an employee who served in the Slum & JJ Wing of MCD would be deemed to be services rendered at DUSIB. The Court further noted that, under Section 31, the assets and liabilities of the Slum & JJ Wing were taken over by DUSIB and held that

[1] 2019 SCC OnLine Del 11229.

any unresolved claim of a former employee of the Slum & JJ Wing would thereafter have to be made against DUSIB.

11. Thereafter came the decision of the Central Administrative Tribunal in ***Brahm Dutt Sharma & Ors. v. North Delhi Municipal Corporation & Anr***[2]. The applicants had been engaged as daily wagers in MCD in 1997, 2001 and 2002 and were regularised with effect from 1st April, 2006. The Tribunal held that, where service rendered as a daily wager is followed by regular appointment, the benefit of such service cannot be denied for the purpose of pension and other retiral benefits. It accordingly held that the applicants were entitled to the benefit of their service as daily wagers for determining their entitlement under the OPS and GPF. MCD thereafter implemented that decision *vide* Office Order dated 3rd November, 2023.

12. MCD thereafter considered the issue at an institutional level. By Resolution No. 333 dated 5th October, 2024, followed by Circular dated 21st November, 2024, MCD approved, as a one-time measure, extension of the benefit to other daily wagers appointed by the erstwhile MCD on or before 31st December, 2003 and subsequently regularised on or after 1st April, 2004. The Circular further provides that 50% of the service rendered as daily wagers shall be counted for retirement benefits and that such employees may exercise a one-time option to be covered under the 1972 Pension Rules, in place of the NPS.

13. The Petitioners rely upon these developments and submit that their transfer to DUSIB cannot place them in a worse position than employees who continued with MCD. They also point out that GPF accounts were allotted to them soon after their regularisation and were operated for years.

14. DUSIB contest the petitions on two grounds. First, it argues that the Petitioners are governed by the NPS because their services were regularised only on 16th July, 2004. Second, it seeks to exclude them from the benefit of MCD's orders and circulars by characterising them as "Muster Roll employees" rather than "Daily Wager employees". This distinction forms the central premise of the Counter Affidavits in both petitions.

***Discussion***

15. The first objection cannot be sustained in view of the law reiterated by the Supreme Court in ***Punjab School Education Board & Anr. v. Satnam Singh & Ors***[3]. The controversy before the Supreme Court concerned the entitlement of employees, who had been regularised after 1st January, 2004, to have their pre-regularisation service counted as qualifying service for pension and to consequently remain under OPS.

16. The employees in *Satnam Singh* had initially entered service between 1993 and 1996 on contract, ad hoc, daily-wage or work-charge basis and were regularised only in August 2004. The Supreme Court first examined whether the orders issued in their favour were, in substance, fresh appointments or regularisation of an existing service relationship. In that context, it held that the substance of the employees' engagement must prevail over its form and found that the material on record established that the exercise was one of regularisation.

17. Having so held, the Supreme Court proceeded to examine the effect of the pre-regularisation service on pension. It observed that pension is a payment for past service and that, where an employee has rendered long and

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[2] O.A. No. 1921/2020, decided on 4th July, 2023 (CAT, Principal Bench, New Delhi).
[3] 2026 SCC OnLine SC 1806.

continuous service and is ultimately regularised, denial of pensionary benefits on the basis of technicalities or artificialities is generally unjustified. It also approved the reasoning in ***Harbans Lal v. State of Punjab & Ors.***[4], where an employee, who was initially engaged on daily wages on 1st August, 1988 and regularised on 28th March, 2005, was held to have entered service before 1st January, 2004 and was consequently held entitled to remain under the GPF Scheme.

18. Applying these principles to the employees before it, the Supreme Court held that the service rendered by them on contract, ad hoc, daily-wage or work-charge basis prior to regularisation had to be computed as qualifying service for retiral and pension benefits. It also observed that breaks in service, where they were merely notional, artificial or administrative, were not to be taken into account and the service be treated as continuous. On a cumulative assessment of the record, the Court held that the employees had indeed been regularised and were entitled to be treated as having entered Government service prior to 1st January, 2004, with the discretion to choose between the OPS or the NPS.

19. The same principle had earlier been applied by this Court in ***Chandi Prasad & Ors. v. Union of India & Ors***[5]. The Petitioners therein had initially entered service with JNU between 1990 and 2001 on daily-wage/ad hoc/temporary basis and were subsequently regularised after 1st January, 2004. This Court held that the fact that their permanent appointment or regularisation took place after the cut-off date did not make them "new entrants" for the purposes of the NPS. It ultimately held that the entire

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[4] 2010 SCC OnLine P&H 8181.
[5] 2024 SCC OnLine Del 7958.

service from the date of their initial appointment on daily-wage/ad hoc/temporary basis till their permanent appointment/regularisation was to be counted as qualifying service for pension, and that the Petitioners were consequently to be treated as having entered service prior to 1st January, 2004 and governed by the OPS.

20. These principles answer DUSIB's first objection. Both Petitioners entered service well before 1st January, 2004, and the Establishment Order dated 16th July, 2004 expressly regularised them as existing "Work Charge/M/R Surveyors". Conditions concerning medical fitness, verification of antecedents, probation and other formal requirements did not convert that exercise into a fresh appointment. The date of regularisation, therefore, cannot by itself determine the pension regime applicable to them.

21. That leaves DUSIB's attempted distinction between "Muster Roll" and "Daily Wager" employees.

22. The Petitioners' service records do not support such a rigid distinction. In Sukhbir Singh's case, the contemporaneous appointment orders expressly describe him as a Surveyor engaged "on daily wages". DUSIB nevertheless describes his pre-regularisation engagement as muster roll. The Establishment Order dated 16th July, 2004 thereafter groups the employees under the common description "Work charge/M/R Surveyors". Jit Ram's record likewise shows earlier engagement on daily wages followed by muster-roll engagement before regularisation.

23. The expression "muster roll", in its ordinary administrative sense, refers to a record on which persons engaged otherwise than on the regular establishment are borne, their attendance is recorded and their wages are worked out with reference to the period worked. It thus ordinarily describes

the manner in which such non-regular engagement is recorded and accounted for. In the present context, it describes the mode of engagement and maintenance of such non-regular employees; by itself, it does not establish a separate pensionary category.

24. There is more direct authority in the context of MCD itself. In ***MCD v. Female Workers (Muster Roll) & Anr.***[6], the Supreme Court noted that the female workers engaged by MCD on muster roll were on daily-wage basis. The Court also recorded that MCD itself had described these workers as persons engaged on muster roll who were "all engaged only on daily wages". The judgment thus reflects that, in the context of MCD, engagement on muster roll was understood as engagement on daily wages. The distinction now sought to be drawn between muster-roll and daily-wage employees is, therefore, not borne out by the manner in which such engagement was understood in MCD itself.

25. If DUSIB seeks to attach a different pensionary consequence to muster-roll service, that distinction must, therefore, be traceable to the applicable rules or service conditions. No such distinction emerges from the record placed before the Court.

26. The Petitioners were already working as Surveyors when the Establishment Order dated 16th July, 2004 regularised them under the common description "Work charge/M/R Surveyors". Their pre-existing engagement and not a fresh entry into service was thus the very subject of regularisation.

27. The MCD Circular dated 21st November, 2024 reinforces the conclusion. The Circular records MCD's considered decision to extend, as a

one-time measure, the benefit of coverage under the 1972 Pension Rules to daily wagers who were appointed on or before 31st December, 2003 and subsequently regularised on or after 1st April, 2004. It further provides for counting 50% of the service rendered as daily wagers for retirement benefits and permits the employees concerned to exercise a one-time option for coverage under the 1972 Pension Rules in place of NPS. The Circular also traces this decision to Resolution No. 156 of 2000 and the decision in *Brahm Dutt Sharma*.

28. The objection, therefore, cannot turn merely on nomenclature of "muster roll". It cannot efface the substance of the Petitioners' pre-regularisation engagement or the service actually rendered. To permit the label alone to determine the pension regime would be to make form decisive of substance – the very approach which *Satnam Singh* disapproves. DUSIB's attempt to treat the Petitioners as having entered service only upon their regularisation on 16th July, 2004 cannot, in the circumstances of these cases, be sustained.

29. Besides the Circular dated 21st November, 2024, the more fundamental point is that Section 30 of the DUSIB Act preserves the service conditions of transferred employees and expressly deems service rendered before the establishment of DUSIB to be service rendered under DUSIB. It also requires the transferred employee to hold office on the same terms and conditions as he would have held had DUSIB not been established, unless those conditions are duly altered. An alteration to his disadvantage additionally requires the previous approval of the Government. No such alteration affecting the pensionary status of these Petitioners has been

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[6] (2000) 3 SCC 224.

shown.

30. The Petitioners cannot, therefore, be deprived of the pensionary consequences of their pre-existing service merely because the establishment in which they worked was transferred from MCD to DUSIB. The statutory transfer changed the employer; it did not wipe the slate clean.

31. The allotment and operation of GPF accounts in the names of both Petitioners does not, by itself, create their entitlement; an administrative act cannot confer a pensionary right contrary to the governing rules. It is, however, relevant contemporaneous evidence. DUSIB itself records that GPF accounts were allotted to both Petitioners in 2005 and that each withdrew 90% of the amount standing to his credit before retirement. This conduct is consistent with the service history and legal position already discussed.

32. One qualification is necessary. Neither *Satnam Singh* nor *Chandi Prasad* establishes that every casual or interrupted spell of pre-regularisation service must be counted in full irrespective of the governing service rules. Here, Resolution No. 156 of 2000 and the Circular dated 8th September, 2000 permit 50% of eligible daily-wage service to be reckoned for pensionary benefits, subject to the conditions they prescribe. The precise period satisfying those conditions must therefore be verified from each Petitioner's service record.

33. The generic plea in the Counter Affidavits that there were breaks in the Petitioners' service does not answer the issue. Even on the dates admitted by DUSIB, Sukhbir Singh stood engaged from 20th December, 1995 and Jit Ram from 21st July, 1997, well before the NPS cut-off, and both were thereafter regularised through the order dated 16th July, 2004. Any

earlier disconnected spell, or the exact starting date of the reckonable continuous period, can be examined while calculating the qualifying service. It does not convert either Petitioner into a fresh entrant on 16th July, 2004.

34. It is, accordingly, held that the Petitioners cannot be treated as employees entering service for the first time after 1st January, 2004. They are entitled to coverage under the OPS and to have the qualifying portion of their pre-regularisation service reckoned in accordance with the MCD Circular dated 8th September, 2000 and the applicable pension rules.

35. The petitions are accordingly allowed in the following terms:

a. DUSIB shall treat both Petitioners as covered by the OPS / 1972 Pension Rules and not under the NPS.

b. For the purposes of determining qualifying service, DUSIB shall verify the service record of each Petitioner and reckon 50% of the eligible pre-regularisation service in terms of the Circular dated 8th September, 2000 and the conditions contained therein. The claim of Jit Ram regarding service prior to the date admitted by DUSIB, as well as any earlier disconnected spells claimed by either Petitioner, shall be determined from the contemporaneous record and in accordance with the said Circular.

c. Since the Petitioners have expressly sought coverage under the OPS in these proceedings, DUSIB shall process their cases on that basis. If any prescribed option form is administratively required, the Petitioners shall be permitted to furnish the same and shall not be denied the benefit on the ground that the period stipulated in the MCD Circular dated 21st November, 2024 has expired.

d. DUSIB shall thereafter refix the pension of each Petitioner and determine the consequential entitlement towards pension arrears, commutation and any differential amount of retirement gratuity, after adjustment of the amounts already paid.

e. DUSIB shall make the consequential adjustments in the GPF accounts and, where applicable, the NPS accounts, in accordance with the applicable Government instructions. Any balance remaining to the credit of either Petitioner in the GPF account shall also be released.

36. The entire exercise of verification, computation and re-fixation shall be completed within twelve weeks from today, and the consequential arrears shall be released within the same period. In the event of delay beyond twelve weeks, the unpaid arrears shall carry simple interest at 6% per annum from the expiry of that period until payment.

37. The writ petitions are disposed of in the above terms.

**SANJEEV NARULA, J**

**SEPTEMBER 15, 2026**/*hc*