



2024:DHC:7858



\$~95

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 19th September, 2024*

+ W.P.(C) 3481/2019

CHANDI PRASAD AND ORS.

.....Petitioners

Through: Dr. Ashwani Bhardwaj, Advocate.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Ms. Monika Arora, Mr. Subhrodeep Saha and Ms. Radhika Kurdukar, Advocates for R-2/JNU.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioners under Article 226 of the Constitution of India, seeking quashing of the letters/orders dated 06/07.09.2018 and 28.01.2019, whereby the request of the Petitioners to cover them under the Old Pension Scheme ('OPS') has been rejected. The limited grievance of the Petitioners is that they were appointed with Respondent No.2/Jawahar Lal Nehru University ('JNU') on various dates between 1990 to 2001 initially on daily wages/*ad-hoc*/temporary basis and were later appointed on these posts on substantive basis. Broadly understood, case of the Petitioners is that although they were regularized and appointed substantively on various posts, after 01.01.2004, their initial appointments were prior to the said date from which New Pension Scheme ('NPS') was made operational.



2. Before advertng to the legal issues arising in the present writ petition it would be useful to have a look at the factual matrix emerging from the writ petition. Petitioners joined JNU between 1990 to 2001 on daily wages/*ad-hoc*/temporary basis but were later regularized on the posts *albeit* after 01.01.2004. Government of India introduced the NPS by a notification dated 22.12.2003 making the Scheme effective from 01.01.2004 for the new entrants who joined service on or after the said cutoff date. It is the case of the Petitioners that they joined JNU prior to the introduction of NPS and would be governed by OPS but have been illegally denied the benefit under OPS on the ground that though the Petitioners joined JNU prior to 01.01.2004 but their appointment were on daily wages/*ad-hoc*/temporary basis and they would be treated as substantively appointed only from the dates they were regularized and since the regularization was post 01.01.2004, according to JNU, Petitioners cannot be covered under OPS.

3. It is averred in the writ petition that various representations were made by the Petitioners in 2016 but there was no response from JNU. On 26.02.2016, DoPT issued an O.M. inter alia providing that casual labourers who had been granted temporary status under a scheme and had completed three years of continuous service were entitled to contribute to General Provident Fund ('GPF') and that 50% of the service rendered under temporary status would be counted towards retiral benefits for those who were regularized in terms of para 8 of O.M. dated 10.09.1993. In the meantime, based on a clarification from the UGC on 27.04.2017, representations of the Petitioners were rejected on 23.10.2017. In these circumstances, Petitioners were constrained to file W.P.(C) 5167/2018,



which was disposed of by this Court vide order dated 15.05.2018 directing JNU to reconsider the representations of the Petitioners. JNU again rejected the representation vide order dated 06/07.09.2018 by a non-speaking order, compelling the Petitioners to approach this Court again.

4. Learned counsel for the Petitioners submits that NPS is not applicable to the Petitioners as the scheme applies only to 'new entrant'. Petitioners were appointed with JNU prior to the cutoff date of 01.01.2004 from which NPS came into force. 'New entrant' is not defined in NPS, however, the expression can only mean and connote a person who has entered service after 01.01.2004 from open market. Petitioners were not subjected to any medical examination or character or antecedents verification at the time of regularization and cannot be treated as at par with fresh appointees. Learned counsel submits that commencement of qualifying service starts from the date incumbent takes charge of the post to which he is appointed in temporary capacity, provided it is followed without interruption by substantive appointment in the same post. This is the essence of Rule 13 of CCS (Pension) Rules, 1972 which apply across the Government of India and Petitioners have been working against permanent posts without a break or interruption till they were regularized and substantively appointed against the concerned posts. Learned counsel submits that the case of the Petitioners is covered on all four corners with respect to applicability of NPS by judgments of this Court in ***Dr. Ravindra Narayan Mishra v. Sri Guru Tegh Bahadur Khalsa College and Others, 2023 SCC OnLine Del 3057*** and ***Dr. Archana Verma v. University of Delhi and Another, 2024 SCC OnLine Del 5778***.



5. Learned counsel for JNU fairly and candidly does not dispute that the issue raised by the Petitioners is squarely covered by the aforesaid judgments *albeit* he points out that an appeal being LPA No. 687/2023 against the judgment in ***Dr. Ravindra Narayan Mishra (supra)*** is pending before the Division Bench.

6. There is no dispute on facts that Petitioners were appointed with JNU on different dates between 1990 to 2001 on daily wages/*ad-hoc*/temporary basis. It is equally undisputed that they were regularized on different dates post 01.01.2004 as per details mentioned in a chart appended as Annexure P-2 to the writ petition, which is uncontroverted. The only question is whether Petitioners are to be covered under OPS or NPS and on this both sides have their rival stands. On account of introduction of NPS, JNU seeks to bring the Petitioners under NPS on the ground that they were appointed on regular basis only after 01.01.2004 and being fresh appointees post the said date would fall under the expression 'new entrants' while Petitioners resists this stand and submit that they have been in service of JNU prior to 01.01.2004 and cannot be treated as new entrants.

7. This very issue came up before the Supreme Court in ***State of Himachal Pradesh and Another v. Sheela Devi, 2023 SCC OnLine SC 1272***, where the Supreme Court was examining the judgment of the Himachal Pradesh High Court granting relief to the writ petitioners, whose claims were that as they were initially appointed prior to 01.01.2004 *albeit* on contract basis, they were entitled to reckon the period of contractual service for pension *de hors* the fact their regularisation was post 01.01.2004. The State contested the judgment of the High Court on the ground that the



regular appointments of the writ petitioners were post 01.01.2004 and thus they were mandatorily covered under the NPS and their contractual service could not be counted for pension. Repelling the contention of the State, the Supreme Court agreed with the writ petitioners and observed that the past services of the contractual employees will be taken into account for pension and they will be covered under the OPS.

8. A similar issue came up before a Division Bench of this Court in *Union of India and Another v. Dalip Kumar, 2010 SCC OnLine Del 311*. In the said case, Respondent before this Court filed an Original Application before the Central Administrative Tribunal, seeking benefit of Pension Rules. Tribunal allowed T.A. No. 444/2009 directing Union of India to grant him benefit of Pension Rules as applicable when he entered into service. Union of India challenged the order of the Tribunal before this Court and contended that since the Respondent was appointed on the substantive post only on 29.06.2004, he was rightly covered under NPS. Respondent, on the other hand, urged that he had acquired temporary status in 1997 and continued in the said post without any break or interruption till 29.06.2004, when he was regularised and appointed in a substantive capacity. Since he was not an appointee post 01.01.2004, it was not open to the Petitioner to place him under NPS and deprive him of pension under the pension rules. This Court upheld the order of the Tribunal, placing reliance on Rule 13 of Pension Rules, which categorically stipulates that qualifying service of a Government servant commences from the date he joins in a temporary capacity provided the temporary service is followed without interruption by substantive appointment in the same or another service or



post. Court agreed with the Tribunal that Rule 13 obligates commencement of qualifying service from the date an employee takes charge of the post on substantive appointment, after continuous service on the temporary post and the service relates back to the initial date of temporary appointment. It was held that though NPS was introduced from 01.01.2004, Rule 13 of Pension Rules was not abrogated by NPS and that the said Scheme is applicable only to new entrants to Government service and cannot take away the rights of old entrants prior to 31.12.2003. The Court found no reason to interfere with the order of the Tribunal and observed that the impugned order could not be faulted with.

9. It will be relevant to refer to a judgment of the High Court of Punjab & Haryana in CWP No.26482/2018 titled ***Union of India & Others v. Dr. Neelam Aggarwal and Others***, decided on 22.10.2018, where the issue was grant of benefit of GPF-cum-OPS to the Respondents, which was the Scheme prevalent at the time of their initial appointment on *ad-hoc* basis. Respondents in the said case were appointed on *ad-hoc* basis in PGIMER on different dates between 12.06.1996 to 24.12.2003 as Lecturer, which post was redesignated as Assistant Professor. Respondents were regularised on various dates between 21.12.2005 to 23.04.2011. Since in the meantime, NPS was introduced, new employees of PGIMER were also covered under the said Scheme. Respondents represented for grant of benefit of OPS and the Governing Body recommended in their favour. The decision was subject to approval of the Government of India and by a letter dated 05.11.2013, a proposal to cover the Respondents under OPS was rejected by the Government. Aggrieved by the rejection, Respondents approached the



Tribunal, which allowed their Original Application, holding that Respondents would be covered by OPS as that was the Scheme prevalent at the time of their initial appointments. The decision of the Tribunal was challenged before the Punjab & Haryana High Court in ***Dr. Neelam Aggarwal (supra)***, and the contention of Union of India was that Respondents were appointed on regular basis only after 01.04.2004 and were thus covered by NPS as new entrants. Reliance was also placed on the conditions of the appointment letters highlighting that their initial appointments were on *ad-hoc* basis and, therefore, it was not a case where the Respondents were regularised and in fact, their appointments were in the nature of fresh appointments, post 01.04.2004.

10. The issue framed by the Court for its consideration was as follows:

“21. The framing of the issue would not govern the outcome of the case. The primary issue for consideration was whether in the peculiar facts and circumstances of the case, respondents who had been appointed on ad-hoc basis before 01.04.2004 could avail the benefit of OPS?”

11. This judgment is significant for the present petition inasmuch as it deals with both the aspects arising herein i.e. initial appointment being temporary/*ad-hoc* followed by regularisation and criteria for coverage under OPS/NPS Scheme. The High Court observed that Respondents could not be treated as fresh appointees in *stricto-sensu*. As per the terms and conditions of the appointment letters, their services as *ad-hoc* appointees were not considered for purpose of their regularisation but on their successful appointment as regular employees, services rendered on *ad-hoc* basis were safeguarded for purpose of pay protection. Affirming the decision of the Tribunal, Court held that the Tribunal rightly came to a conclusion that



Respondents would be governed by OPS. Relevant paragraphs of the judgment are as follows:

“22. The Tribunal has examined the issue in two different ways. The relevant observation of the Tribunal on this aspect reads thus:—

“14. Ex-facie, the main celebrated arguments of the learned counsel for the respondents and their objections projected in the impugned orders, that since the PGIMER, Chandigarh, has not taken any approval of the Department of Personnel & Training (DoP&T) before extending the adhoc appointments, till the regular appointments of the applicants, so they are not entitled for the benefit of the GPF-cum-Old Pension Scheme, and if it is granted to them, then it will open floodgates of litigation, for other institutions, are not only devoid of merit, but mis-placed as well and deserve to be repelled for, more than one, (following) reasons.

15. At the first instance, it is not a matter of dispute, that having possessed the requisite qualifications and experience etc, in pursuance of the advertisement and having successfully completed the recruitment process as per statutory rules and regulations of the PGIMER, all the Doctors (applicants) were duly appointed as Assistant Professors, in their respective fields, during the period ranging from 1996 to 2003, by the Competent Authority. Since then, they are performing the same duties with devotion, which are performed by regular appointees. Similarly, the clinical duties of all the Doctors (applicants) are the same, as performed by regular incumbents. Subsequently, the PGIMER advertised the posts manned by the applicants, for filling on regular basis. The applicants, have requisite qualifications & experience, and were eligible for regular appointments against the said posts, as well. They were duly selected and appointed, on regular basis, without any interruption maintaining and protecting their continuity in service, pay scale and other service benefits, including the increments, which they were drawing as adhoc appointees.

16. In that eventuality, for the purpose of pensionary benefits, the qualifying service of the applicants shall commence from the date, they took charge of the posts, to which they were first appointed, in temporary capacity, as that temporary service was followed, without interruption, by substantive permanent appointments in the same service/posts, as contemplated under Rule 13 (Chapter III) of the Central Civil Services (Pension) Rules, 1972 (Annexure A-28).

17. Not only that, as indicated hereinabove, the applicants continued working, as such, uninterruptedly and without any break. Even the



Respondents No. 2 & 3, have duly acknowledged the factual matrix, in this regard, in their written statement.”

xxx

xxx

xxx

23. In the same manner, the second feeble argument & ground to reject the claim of the applicants, vide impugned order, Annexure A-1, that if the request of faculty members of the Institute is allowed, then it will give rise and would open flood gates of litigation by a number of representations from various other Institutions/organizations, is again not, at all, tenable. Once, it is held that the applicants are legally entitled to the benefit of GPF-cum-Old Pension Scheme, as discussed here-in-above, then their claim cannot possibly be denied on the ground that it will give rise to a number of representations and would open flood gates of litigations, by various other Institutions/organizations for grant of similar relief. It is now well settled principle of law that the legitimate and legal right of the applicants cannot be denied to them, in the garb of plea of opening of Flood Gate Litigations.

xxx

xxx

xxx

26. This is not the end of the matter. What cannot possibly be disputed is that in the wake of representations of the applicants, the Director of the PGIMER, vide letter dated 21.1.2010, favourably recommended their cases and forwarded it to be put up and the Governing Body of the PGIMER (Central Government), in its meeting, held in January, 2011, had constituted a 6 Member sub-Committee, to look into the grievance of the applicants. The Committee had also favourably recommended their case, vide letter dated 14.9.2011 (Annexure A-14). Then, the matter was considered by the Governing Body under Agenda No. F-6 on 28.04.2012 and it was resolved that all these faculty members were on ad-hoc basis for a long period and could have been regularized prior to 01.01.2004, had the Selection Committee met earlier.

27. Meaning thereby, had the meeting of the Governing Body was timely held, then the service of the applicants would have been regularized much prior thereto. In other words, since the respondents failed to convene the timely meeting of the Governing Body, so the applicants, cannot, possibly be blamed, in any manner, in this regard. Concededly, the Governing Body appreciated the circumstances and after detailed discussion, agreed to approve the proposal to grant the benefit of GPF-cum-Old Pension Scheme, to the applicants, as a special case, vide Agenda Item No. F-6, in its meeting held on 28.4.2012, and it was resolved as under:—

“The matter was discussed in detail. The Governing Body was



informed about the recommendations of the Committee under Joint Secretary (HR) of the Ministry and that all these faculty members were on ad-hoc basis for a long period and could have been regularized prior to 01.01.2004, had the Selection Committee met earlier. The Governing Body appreciated the circumstances but at the same time the fact remains that these faculty members were actually appointed on regular basis only after 01.01.2004. After detailed discussion, the Governing Body agreed to approve the proposal as a special case, which could not be cited as a precedence, subject to the approval of the government”.

28. Surprisingly enough, the Ministry of Health and the Competent Authority, without assigning any cogent reasons, and without any detailed discussion of legal/rule position and entitlement of the applicants, have taken a somersault, and rejected their claim, on speculative grounds. Admittedly, as per Regulation No. 61 of Schedule-1 appended to PGIMER, Chandigarh Regulations, 1967, its Director has been empowered to appoint Faculty, on adhoc basis, for two years. It was duly acknowledged and explained by Respondents No. 2&3 in their written statement that since, the meeting of the Governing Body, is held once or twice a year, so keeping in view the public interest, exigency of service and heavy rush of patients, the institute filled up these vacancies on adhoc basis, in various disciplines in various departments, as a stop gap arrangement, till final process of recruitment is made. As the applicants, continued on their respective posts, till their regular appointments, so the mere fact the PGIMER has not obtained the approval of the DoP&T, is not a ground, much less cogent, to deny the legitimate claims of the applicants, in this relevant connection, as contrary projected on behalf of the respondents. It was for the competent authorities to get alleged approval from the DoP&T (if any), and the applicants cannot possibly be blamed, in any manner, in this regard, and their legitimate right cannot be taken away. Thus, any such administrative instructions, requiring the approval of the DoP&T, for extension of adhoc service, pail into insignificance, in view of the failure of the authorities. The respondents, therefore, now cannot possibly be heard to say, rather estopped, from their own act and conduct, to deny the pointed benefits of GPF-cum-Old Pension Scheme to the applicants.”

xxx

xxx

xxx

25. It is a fact on record that the respondents were performing the same duties, which were being performed by regular appointees. Respondents continued without any interruption i.e. maintaining and protecting their continuity in service, pay scale and other service benefits, including the increments, as being drawn by them as ad-hoc appointees.



The said fact is fortified by the conduct of their appointing authority as pay protection was allowed to them on their appointment on regular basis. However, in the case of fresh appointments they were given a pay scale of fresh appointee. At this stage it would be relevant to reproduce the minutes of Sub-Committee meeting held on 14.09.2011.

“At the outset, the Chairman asked the details of the case from the Member Convener. It was informed to the members that there are about 23 faculty members who were appointed on adhoc basis (as per details in Annexure) without break prior to 01.01.2004 and have been working without break till their appointment on regular basis as Assistant Professors after 01.01.2004. They have represented for applicability of Old Pension Scheme in their case as they were appointed prior to 01.01.2004. It was also informed that the matter was earlier referred to the Govt. of India on 23.06.2009 and in response this Ministry of Health and Family Welfare, vide their letter dated 01.01.2010 intimated that the proposal was sent to DOPT and they have stated that

“Since PGIMER, Chandigarh, in their offer of appointment had Stated that only NPS will apply in these cases, it is for them to resolve the matter”.

The matter was placed before the Governing Body on 17.01.2011, the Governing Body recommended that Sub-Committee to examine the issue may be constituted in the Ministry as to whether any departure from the NPS can be considered in PGIMER or other similar institutions on the ground that the initial ad-hoc appointments have taken effect from a date earlier than 01.01.2004. Accordingly a Sub-Committee was constituted under the Chairmanship of JS (HR).

The Committee was informed that all these faculty members have been appointed against the regular vacancies and pay protection was also allowed to them on their appointment on regular basis.

After due deliberations the Committee considered that there is a case/ground for extending benefits of CCS (Pension) Rules, 1972 (Old Pension Scheme) to these 23 faculty members. The request is further strengthened on the grounds that the meeting of Standing Selection Committee for selecting them on regular basis could not be held regularly, which is beyond the knowledge and control of these 23 faculty members. The Committee, however, further observed that it should be a onetime measure and should not be quoted as precedent in future.

This committee recommends for extending the benefit of Old Pension Scheme to these 23 faculty members after approval by the Competent Authority”.



26. *For the reasons mentioned above, the respondents were not treated as fresh appointees in stricto sensu. As per the terms and conditions of the appointment letter their services as ad-hoc appointees were not considered for the purpose of their regularisation but on their successful appointment as regular employees the services rendered by them on ad-hoc basis were safeguarded for the purpose of pay protection. In view of above discussion the Tribunal rightly came to the conclusion that respondents would be governed by OPS prevalent at the time of their initial appointment.*

27. *Viewed from another angle, the respondents were denied benefit of OPS only on the ground that NPS would apply to employees who were appointed on or after 01.01.2004. It is undisputed that respondents were working against those very posts since 1999 onwards although initially on adhoc basis but that cannot be a ground to disentitle them from benefit of OPS."*

12. In ***A.R.D. Nayagam v. The Director, Local fund Audit, Chennai-108 and Others, 2012 SCC OnLine Mad 5098***, Petitioner was appointed as Water Supply Attender on daily wages in 1980 and his service was regularised on 04.08.2006. On attaining the age of superannuation on 31.05.2009, he sought pensionary benefits. However, his request was declined on the ground that Petitioner was not entitled to regular pension but only to a contributory pension since his regular appointment was made after 01.04.2003 as contemplated under G.O.Ms. No.259 dated 08.08.2003. Upon filing the writ petition, Respondent contested the same and stated that Government of India introduced the Contributory Pension Scheme dated 08.08.2003 for employees who joined service on or before 01.04.2003 and therefore, those who joined on or after 01.04.2003 are not eligible for regular pension under Tamil Nadu Pension Rules. As Petitioner's service was regularised in the time scale of pay only w.e.f. 23.06.2006, he was not eligible to regular pension that existed prior to 01.04.2003. Negating the contention of the Respondent, the Madras High Court held as follows:



“7. When the very G.O. says that the new pension scheme, namely contributory pension scheme is applicable to persons, who are newly recruited after 01.04.2003, I fail to understand as to how the respondents are entitled to treat the petitioner as newly recruited person after 01.04.2003, merely because, his service was regularised on 23.06.2006. The respondents are not disputing the fact that the petitioner was originally appointed as Water Supply attender as early as on 27.02.1980. Certainly, the words ‘newly recruited’ cannot be construed to mean that it applies only to persons, whose services were regularised before 01.04.2003. New recruitment and regularisation are two different aspects and stages and therefore, the respondents are not entitled to put both together in the same boat and deny the benefit of pension under the general scheme to the petitioner.”

13. Recently, the High Court of Punjab & Haryana in the case of **Union of India & another v. Dr. Sameer Aggarwal & another**, decided on 18.04.2022 in CWP No. 7694/2022, relied on the earlier judgment in **Dr. Neelam Aggarwal (supra)** and granted the same benefit as was granted to the Respondents in **Dr. Neelam Aggarwal (supra)** and relevant paragraphs of the judgment are as follows:

“It was also noticed by the Tribunal that the said judgment had been upheld by the Co-ordinate Bench in Union of India v. Dr. Neelam Aggarwal, 2019 (4) SCT 842 on 22.10.2018. Resultantly, the Senior Standing Counsel for Union of India could not dispute the fact that the application was allowed in the same terms and the applicant-respondent No. 1 herein was granted the benefit of GPF-cum-Old Pension Scheme (OPS). It is pertinent to mention that the Tribunal did not grant any benefit for the past service rendered by him with Punjab Government but for the arrears towards his claim for pension. The said respondent has also not filed any cross-petition against that claim.

xxx

xxx

xxx

A perusal of the earlier order of the Division Bench would also go on to show that it was noticed by the Division Bench that the similarly situated persons were working against those posts since 1996 and there was continuity of service and the services rendered by them were safeguarded for the purpose of pay-protection. It was also noticed that the PGIMER had extended the benefit of Old Pension Scheme to the similarly situated non-medical faculty and the same was not denied in the writ petition. Accordingly, we are of the considered opinion that respondent No. 1 is



identically situated and there was no denial of the said fact in the pleadings before the Tribunal.

Another aspect which is to be noticed is that another Division Bench of this Court in Harbans Lal v. The State of Haryana, 2012 (3) SCT 362, was also noticed in the earlier decision of the Tribunal which had upheld the principle that once the services of work-charge employees were regularized then the earlier service was also liable to be considered for the purpose of pension and the entire service was to be counted back from the said date of his initial appointment. It is not disputed that the SLP No. 23578 of 2012 filed by the State of Punjab was dismissed on 30.07.2012 and Review Petition No. 2038/2013 was also dismissed on 04.11.2015. The relevant portion reads as under:

“From the above discussion, we have come to the conclusion that the entire daily wage service of the petitioner from 1988 till the date of his regularisation is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. service prior to 1.1.2004. The new Restructured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004, will not be applicable to the petitioner. The amendment made vide Annexure P-2 amending the Punjab Civil Services Rules, cannot be further amended by issuing clarification/instructions dated 30.5.2008 (Annexure P-3). The petitioner will continue to be governed by the GPF Scheme and is held entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Govt. Services prior to 1.1.2004.”

Accordingly, keeping in view the above discussion we are of the considered opinion that the present writ petition is liable to be dismissed since respondent No. 1 is identically situated and placed with similarly situated faculty members of petitioner No. 2-Institute. There is no justifiable reason for this Court to interfere on account of the fact that there was an admission regarding all these aspects in the pleadings itself by the petitioner No. 2-Institute. Resultantly, the present writ petition is hereby dismissed.”

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



2024:DHC:7858



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.

16. Writ petition is allowed in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 19, 2024

DU