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

+ **W.P.(C) 14713/2024**

RAMESH CHANDRA AND ORSPetitioners

Through: Mr. Ranjit Sharma, Advocate.

versus

GOVT.OF N.C.T.DELHI, AND ORSRespondents

Through: Mr. Parvinder Chauhan and Ms.
Mahima Anand, Advocates for R-2/DUSIB.

Ms. Anshula L. Bakhru, Advocate for R-3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

21.10.2024

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CM APPL. 61830/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This writ petition has been preferred on behalf of the Petitioners under Article 226 of the Constitution of India seeking a direction to the Respondents to grant them benefits of Old Pension Scheme ('OPS') under CCS Pension Rules, 1972 ('1972 Rules') instead of New Pension Scheme ('NPS') and allot GPF numbers.
4. Issue Notice
5. Counsels, as above, accept notice on behalf of the Respondents.
6. Facts to the extent necessary are that Petitioners were engaged as Class IV employees on daily wage basis (Muster Roll) in the Slum and JJ



Department of Municipal Corporation of Delhi ('MCD') between 1996 to 1998 and were subsequently regularised w.e.f. 01.04.2004 by different orders. Delhi Urban Shelter Improvement Board ('DUSIB') came into existence by virtue of Delhi Urban Shelter Improvement Board Act, 2010 and the Slum and JJ Department of MCD was transferred to the said Board and consequently Petitioners were also transferred to the Board and came under the control of Government of National Capital Territory of Delhi.

7. Learned Counsel for the Petitioners submits that Petitioners were appointed on different dates between 1996 to 1998 i.e. before the introduction of NPS and even though they were regularised from 01.04.2004, their past service cannot be wiped off and therefore they are entitled to the benefits under OPS. It is urged that the issue regarding grant of OPS benefits, taking into account services of employees as daily wagers, who were subsequently regularised, is no longer *res integra*. The Punjab and Haryana High Court in CWP No.2371/2010 decided on 31.08.2010 has held that entire daily wage service of the Petitioner therein from 1988 till the date of his regularisation will be counted as qualifying service for pension and he will be deemed to be in Government service prior to 01.01.2004 and therefore, the New Defined Contribution Pension Scheme introduced for new entrants in Punjab Government service w.e.f. 01.01.2004 will be inapplicable to the Petitioner. Against the said judgment, SLP (C) No. 17901/2011 filed by State of Punjab was dismissed on 30.07.2012 followed by dismissal of Review Petition (C) No. 2038/2013 on 04.11.2015. It is also pointed out that Delhi Jal Board has also issued Office Order dated 27.08.2020 holding that its employees will be entitled to benefit under OPS taking into account their daily wages service in view of DoPT O.M. dated



01.05.2019 and in fact MCD issued a Circular dated 08.09.2000 directing addition of 50% of daily wage service towards qualifying service for pension and gratuity upon regularization. Central Administrative Tribunal has also allowed O.A. No. 1921/2020, based on the aforesaid judgment and the MCD Circular in case of ***Brahm Dutt Sharma and Others v. NDMC and Another***, and MCD implemented the said order. Being similarly placed, Petitioners made a representation but there has been no favourable response till date.

8. Learned counsel for the Petitioners lastly submits that this Court in ***Shafiqur Rahman Kidwai Association (SRKA) and Another v. Union of India and Others, 2023:DHC:2567***, has directed Jamia Millia Islamia University to consider the cases of the Petitioners for covering them under the OPS after holding that NPS can apply only to the new entrants who are appointed on or after 01.01.2004 and seeks similar direction in the present case.

9. Mr. Parvinder Chauhan, learned counsel appearing for Respondent No.2, on instructions, submits that representation made by the Petitioners shall be decided within a period of 12 weeks from today after taking clarifications/comments from the remaining Respondents, as also taking into consideration the judgments aforementioned and the Circular of the MCD.

10. In view of the above and without entering into the merits of the case, this writ petition is disposed of directing Respondent No. 2 to take a considered decision on the representation of the Petitioners for grant of pension under OPS i.e. under the 1972 Rules. The decision shall be taken within 12 weeks from the date of receipt of this order and needless to state while taking the decision, the Competent Authority shall take into account



the judgments aforementioned as well as the Circular issued by the MCD and the DoPT O.M. dated 01.05.2019. Respondent No. 2 will also consider the crucial fact brought on record by the Petitioners that on 06.09.2017, benefit has been granted by MCD to one Mr. Paramvir Vats who is stated to be similarly placed as the Petitioners. If the decision is in favour of the Petitioners, Respondent No. 2 shall proceed to process the case of the Petitioners for pension under OPS. If for any reason, the decision is otherwise, a reasoned and speaking order shall be passed which will be communicated to the Petitioners within a period of one week from the date of the decision. Petitioners will be at liberty to take recourse to legal remedies, in case of any surviving grievance.

JYOTI SINGH, J

OCTOBER 21, 2024/YA/shivam