

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8513 of 2025

1. The Union of India through the Secretary Cum DG, Department of Posts, New Delhi- 110001.
2. The Chief Postmaster General, Department of Posts, Bihar Circle, Patna- 800001.
3. The Director of Postal Services (Hq), Department of Posts, O/o Chief Postmaster General, Bihar Circle, Patna- 800001.
4. The Sr. Superintendent of Post Office, Department of Posts, Patna Division, Patna- 800004.
5. The Sr. Postmaster, Bankipore Head Post Office, Department of Posts, Patna- 800004.

... .. Petitioner/s

Versus

Pramila Devi, Wife of Sri Hira Lal Rajak, Resident of Mohalla- North Mandiri, PS-Budha Colony, District and Town- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Sr. CGC
Mr. Ram Tujabh Singh, CGC

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 01-09-2025

Re. I.A.No. 2 of 2025

The aforesaid interlocutory application has been pressed for condoning the delay of 59 days in preferring this writ application.

2. For the reasons stated in the interlocutory application, the delay is condoned.



3. Interlocutory Application No. 02/2025 stands allowed.

Re.: CWJC No. 8513 of 2025

The present writ application has been preferred against the order dated 03.09.2024 passed by the Central Administrative Tribunal, Patna Bench (for brevity the 'Tribunal') in OA No. 050/0743/2023 whereby the Tribunal has allowed the original application preferred by the respondent herein and directed grant of pension and retiral benefits to her.

2. The brief facts giving rise to the present writ application are that respondent herein joined as '*Contingency Paid Waterwoman*' on 09.03.1982 in the Department of Posts at Bankipore Head Post Office. Subsequently, by order dated 13.06.2000, issued by the then Senior Superintendent of Post Offices, Patna Division, she was conferred temporary status as a casual labourer w.e.f. 01.06.2000. In terms of G.I. Department of Posts Letter dated 30.11.1992 (Lr. No. 66-9-91 SPB-I), the respondent, after rendering three years of continuous service, became entitled to such benefits as are admissible to Group-D employees on regular basis w.e.f. 02.06.2003. The respondent was extended all benefits except grant of MACP, though she claimed that she was entitled to be given 1st MACP w.e.f.



02.06.2013 whereas other similarly situated employees were given such benefits. Thereafter, vide letter dated 30.08.2013 of the Senior Postmaster, Bankipore, Head Office, Patna, the respondent submitted her willingness to be regularised on 02.09.2013, which remained pending without any justification, denying her the benefits after regularisation of service. She retired from the service after rendering more than 39 years of continuous service on 30.09.2021.

3. Being aggrieved, the respondent filed O.A. No. 523 of 2016 before the learned Tribunal for her regularisation in service, which was stood disposed of by order dated 07.01.2020, directing the Department to take a decision regarding regularisation of the services of the applicant/respondent and to inform her by a speaking order within three months from the date of receipt of the said order. Thereupon, after examining the claim of the applicant/respondent, the Department passed order dated 27.01.2020, whereby the claim of the applicant/respondent, regarding regularisation, was postponed and kept pending due to non-availability of MTS posts. The petitioners did not grant pensionary benefits and other benefits under MACP to the respondent upon her retirement as she was not regularised.



4. The said order dated 27.01.2020 of the Department, was challenged by the respondent before the Tribunal in the current OA No. 050/0743/2023, which was allowed on 03.09.2024, holding that the applicant/respondent is entitled for pension and the Department was directed to settle the pension and all other retiral benefits and to pay the arrears within a period of three months from the date of production/receipt of order passed today, with interest @ 8% per annum from the date of entitlement, failing which the interest shall be paid @ 9% per annum from the date of entitlement till final payment. Being aggrieved with the aforesaid order of the Tribunal dated 03.09.2024, the Department of Posts has preferred the present writ application.

5. The learned counsel for the petitioners submitted that the respondent was appointed on a temporary status and hence, she cannot claim pensionary benefits. The learned counsel for the petitioners further submitted that no pensionary benefit, as defined under the CCS (Pension) Rules, 1972 (now CCS Pension Rules, 2021), is payable to the respondent employee. The learned counsel further submitted that the respondent was treated at par with temporary Group 'D' employees w.e.f. 01.06.2003, to the extent of some benefits



admissible to Group 'D' employees under the scheme, in the light of Department of Posts letter No. 66-9/91-SPB.I dated 30th November 1992 (Annexure P/3). The learned counsel further submitted that the respondent would be entitled to the pension and other retiral benefits only after regularization in the Group 'D' cadre.

6. The learned counsel for the respondent submitted that the order of the learned Tribunal was rightly passed after going through the facts and materials available on record, and as such, the order of the Tribunal requires no interference in this writ application.

7. The respondent joined the Department of Posts on a temporary status, however, she ought to have been given retirement benefits at par with regular Group 'D' employees, as per the Department of Posts letter dated 30.11.1992 (Lr. No. 66-9-91 SPB-I). The learned Tribunal in its order held as under:

“46. In view whereof reading of sub- clause (3) of clause 2 of Para 5 of the Scheme, dated 30.11.1992 reproduced herein above relating to benefit to casual labourers on completion of three years service in temporary status of Casual Labourers (Grant of temporary status and regularization) Scheme is crystal clear that temporary employee is entitled to pension and retirement benefits, if he has completed three years of service in temporary status followed by regularization. The applicant granted temporary



status w.e.f. 01.06.2000 and not been regularized by respondents inspite of requests and for no fault stood retired on 30.09.2021 and in 2018 filed OA No. 143 of 2018, OA No.523 of 2016 and OA No.425 of 2020 and present OA in year 2023.”

8. Further, while the respondent was working as a casual labourer continuously from 1982, she was not considered at par with temporary Group ‘D’ employees until 2000, and then given similar benefits, as per the scheme of the Department, in the Letter No. dated 12.04.1991 (Lr. No. 45-95/87 SPB.I). Later on, the respondent was given some benefits under the scheme dated 30.11.1992, but MACP and retiral benefits were not given. The respondent was not even considered for regularisation in her 39 years of service, and as such, it shows lacking on the part of the Department of Posts itself. The learned Tribunal held as under:

“32. This Tribunal considering the specific averments made by applicant in the O.A that respondents have not regularized services on regular post as per law on time, in spite of written requests and retired on 30.09.2021 without being regularized. This Tribunal is of the view since respondents state failed to discharge his statutory duty as per the Scheme dated 12.4.1991 and not even once considered for regularization since 1982. Hence respondents cannot take advantage of own mistakes and latches to deny retirement benefits as not regularized deceased



employee before retirement. The matter of right, right accrued pursuant to the scheme and policy applicable to applicant and he ought to have at least considered for regularization before date of superannuation. The applicant worked since 1982 till 30.09.2021 almost more than thirty nine (39) years in the department in Contingency Paid capacity.”

“38. The applicant stood retired on 30.09.2021 as temporary employee for no fault of own not regularized, respondents did not discharge her duties and no rebuttal in reply to O.A. Whereas Rule 10 of Rules 1965 read with Pension Rules 2021 and Policy dated 30.11.1992 provides for grant of pension, family pension and retirement benefits to temporary employee. The status of employee was at par with regular employee on long 39 years continuation on temporary post in welfare state. The Scheme of statutory Rules 1965 read with Pension Rules 2021 would prevail over any policy decision.”

9. It is to be further noted that the respondent had completed 39 years of uninterrupted service, and was on status of a temporary worker, and during this period, she expressed willingness to be regularised; however, she was never regularized. The learned tribunal held as under:

“60. Respondents much emphasized that applicant while working as Temporary Status - Water Woman expressed her willingness to be promoted as regular employee, but not appointed on regular Group 'D' employee. As evident from pleadings applicant worked since year 1982 as Contingency Paid Water



Woman but in more than 39 years of service could not be regularized and applicant never refused to be regularized on post she was working. Respondents (Petitioners herein) have not produced any order that applicant was promoted and this Tribunal finds that argument has no force and devoid of merit and repelled.

61. Hon'ble High Court Patna in similar case of Union of India versus Ratneshwar Singh, CWJC No.13117 of 2019 vide judgment dated 03.07.2019 (Annexure A/5 with OA) in paragraph 3, their Lordships held - 'These letters nowhere indicate that the respondent-petitioner had declined to accept regularization. In the said circumstances, the combined offer made by petitioner to promote him and then to treat him as regularized was not accepted by the respondent-petitioner for his personal letters, but that cannot be construed to mean that he had declined regularization on the post he was occupying. The continuous occupancy of post remained for 27 years undisputed in said background judgment in CWJC No.11435 of 2017 as extracted in paragraph 11 of impugned judgment comes to the aid of respondent-petitioner.' In view of law laid down in similar facts and contention raised by respondents, Hon'ble High Court, Patna their Lordships repelled similar contention as raised in case on hand. Arguments of learned counsel for respondents has no force no document produced of promotion order and no application of refusal and repelled. In view whereof, OA deserves to be allowed, with all consequential benefits."



10. The letter dated 30.11.1992 clearly stipulates that the labourers who were conferred with temporary status as per the scheme dated 12.04.1991, shall be treated at par with temporary Group-D employees with effect from the date, they complete three years of service in the newly acquired temporary status. The relevant part of the said letter is reproduced as under:

“(iii) Benefits to casual labourers on completion of three years' service, In temporary status. In their judgment, dated 29-11-1989, the Hon'ble Supreme Court have held that after rendering three years of continuous service with temporary status, the casual labourers shall be treated at par with temporary Group 'D' employees of the Department of Posts and would thereby be entitled to such benefits as are admissible to Group 'D' employees on regular basis.

2. In compliance with the above-said directive of the Hon'ble Supreme Court, it has been decided that the casual labourers of this department conferred with temporary status as per the scheme circulated in the above-said circular No. 45-95/87-SPB. I, dated 12-4-1991, be treated at par with temporary Group 'D' employees with effect from the date they complete three years of service in the newly acquired temporary status as per the above-said scheme. From that date, they will be entitled to benefits admissible to temporary Group 'D' employees such as-

(1) All kinds of leave admissible to temporary employees;



(2) Holidays as admissible to regular employees;

(3) Counting of service for the purpose of pension and terminal benefits as in the case of temporary employees appointed on regular basis for those temporary employees who are given temporary status and who complete three years of service in that status while granting them pension and retirement benefits after their regularization;

(4) Central Government Employees' Insurance Scheme;

(5) General Provident Fund;

(6) Medical Aid;

(7) Leave Travel Concession;

(8) All advances admissible to temporary Group 'D' employees;

(9) Bonus.

3. Further action may be taken accordingly and proper service record of such employees may also be maintained.

[G.I. Dept. of Posts, Lr No.66-9-91-SPB, I, dated the 30th November, 1992]"

11. For 21 years, the respondent herein was not regularised, as per the provisions of the letter dated 30.11.1992. As such, the regularisation of the respondent was not done on the fault of the Department, and even then she would be entitled to the benefits at par with a regular employee. Therefore, as per



the policy dated 30.11.1992, she would be entitled to pension and other retiral benefits.

12. In light of the facts and materials available on record, we find that the order passed by the learned Tribunal does not suffer from any illegality or perversity.

13. The impugned order of the Central Administrative Tribunal dated 03.09.2024 is affirmed.

14. Accordingly, the writ application stands dismissed.

15. Interlocutory application, if any, shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.09.2025
Transmission Date	

