IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3460 of 2025

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1. The Union of India through the Secretary-cum-DG, Department of Posts, Dak Bhawan, New Delhi-110001.
2. The Chief Postmaster General, Bihar Circle, Patna- 800001.
3. The Director Accounts (Postal), Exhibition Road, Patna-800001.
4. The Superintendent, RMS NB Division, Samastipur- 848101.

... ... Petitioner/s

Versus

Indirawati Devi Wife of Late Amardeo Prasad, Resident of Village-Bhirha Gopalpur, P.O. Tiriharpur, District Balia (Uttar Pradesh).

... ... Respondent/s

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Appearance:

For the Petitioner/UOI : Mr. Alok Kumar Agrawal, Sr. CGC

For the Respondent/s : Mr. Jayant Kumar Karn, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE RAJ KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 16-06-2026

The present writ petition has been filed challenging the judgment dated 27.09.2024, passed in O.A. No.050/0003/2020 by the learned Central Administrative Tribunal, Patna bench, Patna (hereinafter referred to the "Ld. CAT") whereby and whereunder the original application filed by the sole respondent has been allowed and the impugned orders dated 11.11.2019 as also the one dated 17.03.2016, so far as the same relates to not inducting the deceased-employee in old Statutory Pension

Scheme, have been set aside and the deceased employee-husband of the sole respondent has been held entitled for pension, to be computed as per the findings arrived at in the said judgment dated 27.09.2024. The petitioners herein, by the said judgment dated 27.09.2024, have been further directed to settle the pension/family pension and all other retiral benefits and pay the arrears within a period of three months from the date of production/receipt of the said order dated 27.09.2024 with interest at the rate of 8% per annum from the date of entitlement failing which the interest shall be paid at the rate of 9% per annum from the date of entitlement till final payment.

2. The facts of the present case lie in a narrow compass inasmuch as the husband of the sole respondent, namely late Amardeo Prasad was engaged as casual labour in RMS "NB" Division, Samastipur in the year 1982 after being empaneled on being sponsored by the employment exchange. The husband of the sole respondent was conferred temporary status with effect from 01.01.2001 vide Memo No.344 dated 14.02.2001, issued by the Superintendent RMS "NB" Division, Samastipur, whereupon he was extended all the benefits of temporary status employee in terms of CCS (Temporary Services) Rules, 1965. Thereafter, upon recommendation being made by the

Departmental Promotional Committee in its meeting held on 14.03.2016, the Superintendent RMS "NB" Division, Samastipur, vide Memo No.1236 dated 17.03.2016, had issued appointment letter regarding appointment of the husband of the sole respondent as Multi-Tasking Staff against the unfilled vacancy of UR and OBC quota for the year 2015 and consequently, he was appointed in MTS cadre in Pay Band of Rs.5200-20200 (PB-1) with grade pay of Rs.1800 as also he was directed to assume charge as MTS. Unfortunately, the husband of the sole respondent died on 20.03.2016, as such he could not assume the charge as MTS. The sole respondent, being aggrieved by non-payment of family pension as well as other retiral/death benefits of her husband, preferred an original application bearing O.A. No. 92/2017, which was disposed of by an order dated 15.04.2019, passed by the learned CAT, whereby and whereunder, the respondent authorities were directed to pass appropriate reasoned and a speaking order taking into account the judgment of the Hon'ble Patna High Court, Tribunal and the department's own circular dated 15.05.1991. This led to passing of the impugned order dated 11.11.2019, by the Superintendent RMS "NB" Division, Samastipur whereby the claims of the sole respondent for grant of family pension and death/ retiral benefits were rejected. This led to the sole respondent filing the present original application bearing O.A. No.050/0003/2020, wherein the learned CAT by the impugned judgment dated 27.09.2024, after relying upon several past precedents, not only that of the learned CAT but also of various Hon'ble High Courts and the Hon'ble Apex Court, has quashed the impugned orders dt. 11.11.2019 and 17.3.2016 so far as the same relates to not inducting the deceased-employee in the old Statutory Pension Scheme and has held the husband of the sole respondent to be entitled for pension to be computed as per the findings given in paragraph no.59 of the said judgment dated 27.09.2024, which is quoted herein below:-

> *"**59.** So far as present case in hand is concerned, husband of applicant working as Casual Labour from year 1982 paid from Contingency Fund, temporary status vide Order dated 14.02.2001 (Annexure A-2) appointed in regular cadre of MTS in PB-1, GP Rs.1800/- vide Office Order dated 17.03.2016 absorbed in regular employment. Rules 13 & 14 read with OM dated 01.04.1968 entitles applicant's husband vested right of 50% of period prior to grant of temporary status to be counted for pensionary benefits and followed by regular/absorption to reckon 50% of applicant's husband total service in temporary status followed by regular appointment vide Order dated*

17.03.2016. Pensionary benefits are beneficial measures and no one has control over death and husband of applicant held to be superannuate on regular post of MTS."

3. It would be pertinent to point out here that the learned CAT in the impugned judgment dated 27.09.2024 has also referred to the case of one ***Bhikhani Devi***, wherein though the learned CAT vide order dated 27.03.2018 passed in O.A. No.372 of 2017 had allowed the case of ***Bhikhani Devi***, however a co-ordinate Bench of this court vide order 14.10.2019 passed in ***CWJC no. 15420 of 2019 (Union of India Vs. Bhikhani Devi***) had set aside the said order dated 27.03.2018 passed by the learned CAT. Nonetheless, in similar facts and circumstances, a co-ordinate Bench of this Court in the case of ***Union of India & Ors. vs. Meena Devi @ Meena Kunwar (CWJC No.7760 of 2015)*** had vide judgment dated 08.12.2022 affirmed the order dated 20.03.2013 passed by the Ld. CAT in O.A. No.164 of 2008 and granted the benefits of family pension arrears as per Rule 10(2) of the Central Civil Services (Temporary Service) Rules, 1965 and Central Civil Services Pension Rules, 1972, wherein also the employee died as temporary employee without being regularized.

4. The aforesaid Bhikhani Devi and Ors. had then

approached the Hon'ble Apex Court by filing SLP(C) No.28802-28804 of 2019 (converted into Civil Appeals) and the Hon'ble Apex Court, by a judgment dated 01.06.2026, reported in ***2026 SCC OnLine SC 1055***, has been pleased to allow the said appeal by holding that a temporary status casual labourer would be entitled to pensionary benefits on superannuation even in absence of regularization. It would be apposite to reproduce paragraphs no. 75, 76 and 85 of the said judgment passed in the case of ***Bhikhani Devi*** (supra), herein below:-

> *"75. From the above discussion what follows is that when the statutory framework including CCS (Temporary Service) Rules, 1965 is read in conjunction with the Scheme and the circular dated 30.11.1992, the inescapable conclusion which emerges is that a casual labour, on being conferred the temporary status, upon completion of three years of continuous service as temporary status casual labourer becomes entitled to benefits admissible to temporary Group D employees which necessarily includes pensionary benefits available under Rule 10(1-B) of the CCS (Temporary Service) Rules, 1965 subject, of course, to fulfilling the eligibility criteria provided therein. This right is not dependent on regularisation. What is conceived is conferring of additional benefit of previous service under the Scheme as would be available to an employee on regularisation apart from the benefits conferred under the rules*

becoming applicable on this now acquired new status of a regular employee.

76. The question as framed in para 32 above stands answered as follows:

> *'A temporary status casual labourer would be entitled to pensionary benefits on superannuation even in the absence of regularisation.'*

85. The Respondents are accordingly directed to compute and release the pensionary and consequential retiral benefits payable to the Appellants in accordance with law within a period of three months from the date of this judgment. In case of default, interest @ 6% per annum from the date of accrual till disbursement shall be payable to the appellants."

5. Now coming back to the facts of the present case, we find that the husband of the sole respondent was employed as a casual labour in the year 1982, whereafter he was conferred temporary status with effect from 01.01.2001 vide memo dated 14.02.2001 and then he had continued to work as a temporary status casual labourer till his regular appointment in the MTS cadre vide memo dated 17.03.2016, a post which he could not join, on account of his death within a few days of issuance of the said memo dated 17.03.2016. Thus, it is apparent that the husband of the sole respondent had joined as temporary status casual labourer much prior to coming into force of the new

pension scheme which is applicable to all such government servants, who have joined on or after 01.01.2004.

6. At this juncture, we would also refer to a judgment dated 15.12.2015 passed by a co-ordinate Bench of this Court in the case of ***Union of India & Ors. vs. Mukti Prasad Yadav (CWJC No.17204 of 2015),*** wherein in somewhat similar circumstances, it has been held that such casual employees, who have acquired temporary status much prior to 01.01.2004 and have been made permanent thereafter, would be covered by the old pension scheme. It would be relevant to reproduce paragraph no. 4 of the said judgment rendered in the case of ***Mukti Prasad Yadav & Ors*** (supra) herein below:-

> *"4 The Tribunal, noticing the Full Hench judgment as well as the judgment of the Karnataka High Court in this regard in favour of the employees, held that they would be covered by the Old Pension Scheme. To us, the problem is simple. The New Pension Scheme would apply to persons coming in Government Service after 1-1-2004. The applicants before the Tribunal were first casual labourers, but with effect from 1989 they acquired the temporary status or the status of a temporary employee of the Government in the Department of Posts. After three years of such continuous service, they were entitled to certain benefits, which a permanent Group-D employee gets. They were receiving the same, pending confirmation*

> *in service as a permanent employee. Towards pensionary benefits, G.P.F. deductions were made. Then came cut-off date as 1-1-2004. In the meantime, the vacancies having occurred in the year 2011, they were substantially appointed as permanent employees. They were regularized as permanent employees. To us, the answer would be evident from the fact that they were already in service prior to 1-1-2004, though in a temporary status. To us, it appears that the meaning of the Scheme, which puts the cut-off date as 1-1-2004 is that all those persons, who have come in service after 1-1-2004 would be covered by the New Pension Scheme. As noted and stated above, the applicants before the Tribunal, the respondents herein, were already in service, though in temporary status prior to the cut-off date. To them. this cut-off date would not apply, and consequently they would be deemed to be in service on 1-1-2004 having been confirmed as permanent employees in Group-D with effect from 2011. Thus, we find no error in the judgment and order of the Tribunal."*

7. We would also refer to a judgment dt. 13.02.2025, passed by a co-ordinate Bench of this Court in the case of ***Union of India & Ors. vs. Naina Devi (CWJC No. 9645 of 2024)***, paragraph nos. 3 to 5 whereof are reproduced herein below:-

> *"3. Having regard to the service record of the deceased-Rama Sah to the extent that initially he was appointment on ad hoc basis in the year 1982 and continued to work as such till 31.07.2000. Thereafter, on 01.08.2000, he had*

status of temporary. The scheme of the postal department for the purpose of regularisation of such of those temporary status persons is quota earmarked to the extent of 25% till 30.06.2018 and petitioner could not get eligibility for the purpose of regularisation or entering into the MTS cadre. Resultantly, he retired with tag of temporary status on 30.06.2018.

4. It is to be noted that with temporary status he has discharged the duties of the post w.e.f 01.08.2000 to 30.06.2018. In other words, for about 18 long years he was holding the post on temporary basis. If the principle laid down in the case of Secretary, State of Karnataka and Ors. vs. Uma Devi and Ors. reported in (2006) 4 SCC 1 read with State of Karnataka and Ors. vs. M.L. Kesari and Ors, reported in (2010) 9 SCC 247 and later decision in the case of Shripal & Anr. Vs. Nagar Nigam, Ghaziabad decided on 31.01.2025 are taken into consideration, in that event, deceased-Rama Sah is entitled to have the benefit of regularisation or appointment in MTS cadre as and when he had completed 10 years of service. In other words, he would be regular holder of Government post. We have noticed in umpteen cases Government instead of regular recruitment to various post, posts are filled on temporary basis, such procedure may be for few months depending upon exigency and the same cannot continue for decade. It is relevant to take note of Article 23 of Constitution and it commence with heading as "RIGHT AGAINST EXPLOITATION and it is in relation to prohibiton of *traffic in human beings and forced labour. In the present case, petitioners have resorted forced labour on the deceased - Rama Sah insofar as extracting work from the year 1982 till 30.06.2018, such practice is deprecated. In this regard, the concerned authority are hereby directed to pass a detailed speaking order insofar as regularizing his services while taking note of the principle laid down by the Hon'ble Supreme Court in the aforementioned decisions. Thereafter, proceed to fix his pay in a particular post and extend all monetary benefits to the respondent. Further, from 01 July, 2018 till death of the deceased-Rama Sah pension is required to be calculated and disbursed in favour of the respondent legal heir. Thereafter, respondent-Naina Devi is entitled to family pension depending upon the pension fixation, family pension is required to be fixed. On account of the aforementioned exercise respondent is entitled to monetary benefits, the same shall be calculated and disbursed in favour of respondent-Naina Devi within a period of six months from the date of receipt of this order.*

5. The petitioners have not made out a case so as to interfere with the CAT order dated 24.11.2023 passed in O.A. No. 1109 of 2019."

8. The Union of India and Ors. had then approached the Hon'ble Apex Court, challenging the aforesaid order dated 13.02.2025, passed by a co-ordinate Bench of this court in the case of ***Naina Devi*** (supra), however the special leave petition bearing SLP(C) No.26670 of 2025, filed by the Union of India

& Ors. has been dismissed by the Hon'ble Apex Court, by an order dated 17.02.2026 on merits.

9. The learned counsel appearing for the petitioners has not disputed the fact that now the law has been settled by the Hon'ble Apex Court by a judgment dated 01.06.2026, rendered in the case of ***Bhikhani Devi*** & etc. (supra) and the same would govern all such cases as the present one, hence it is submitted that there is nothing much to argue in the present case.

10. *Per contra*, the learned counsel appearing for the sole respondent has submitted that the present case is squarely covered not only by the judgment rendered by the Hon'ble Apex Court in the case of ***Bhikhani Devi*** (supra) but also by the judgment dated 15.12.2015, passed by a coordinate Bench of this Court in the case of ***Mukti Prasad Yadav (supra)*** and the one dated 13.02.2025, passed in the case of ***Naina Devi*** (supra) by a coordinate Bench of this Court, as affirmed by the Hon'ble Apex Court vide order dated 17.02.2026 passed in SLP(C) No. 26670 of 2025 ***(Union of India & Ors. vs. Naina Devi)***.

11. Having heard the learned counsel for the parties and having perused the materials available on record, we find that the law with regard to the *lis* involved in the present case is no longer *res integra*, inasmuch as the same has been set at rest by

the judgment rendered by the Hon'ble Apex Court in the case of ***Bhikhani Devi*** (supra), wherein it has been categorically held that a casual labour, on being conferred temporary status, upon completion of three years of continuous service as temporary status casual labourer becomes entitled to benefits admissible to temporary Group D employees which necessarily includes pensionary benefits available under Rule 10(1-B) of the CCS (Temporary Service) Rules, 1965 subject, of course, to fulfilling the eligibility criteria provided therein and this right is not dependent on regularization. Thus, a temporary status labourer would be entitled to all retiral benefits on superannuation even in the absence of regularization. However, in the present case not only the husband of the sole respondent was conferred temporary status and was working as temporary status casual labourer with effect from 01.01.2001 but had also stood regularized vide memo dated 17.03.2016, issued by the Superintendent RMS "NB" Division, Samastipur, though unfortunately he died prior to joining the said post of Multi-Tasking Staff in MTS cadre, hence he/his wife would definitely be entitled to all pensionary benefits.

12. Now coming to the issue concerning the entitlement of the deceased employee and the sole respondent to pension/

family pension and all other retiral benefits, i.e. as to whether the same would be computed as per the old pension scheme or the new pension scheme, we find that the said issue has also been set at rest by the aforesaid judgment dated 15.12.2015, passed by a co-ordinate Bench of this Court in the case of ***Mukti Prasad Yadav*** (supra) as also vide judgment dated 13.02.2025 passed by a co-ordinate Bench of this Court in the case of ***Naina Devi*** (supra), which has also been upheld by the Hon'ble Apex Court vide order dated 17.02.2026, passed in the case of ***Union of India vs. Naina Devi*** wherein it has been held that if an employee is in service from a period prior to 01.01.2004, though having a temporary status, such an employee would be covered under the old pension scheme and those who have come in service after 01.01.2004 would be covered by the new pension scheme.

13. In the present case, the husband of the respondent herein was conferred temporary status with effect from 01.01.2001 vide memo dated 14.02.2001, hence admittedly he was already in service, though having temporary status, prior to the cut-off date, i.e. 01.01.2004. Thus, there is no iota of doubt that he would stand covered under the old pension scheme.

14. Having regard to the facts and circumstances of the case and for the forgoing reasons, we do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

(Raj Kumar, J)

Kanchan./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20.06.2026
Transmission Date	