**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(S) No. 3266 of 2026**

1. Baidhnath Singh, aged about 68 years, son of Ramlakhan Singh, resident of Village-Bariyatu Jagir, Latehar, P.O. & P.S-Latehar, District-Latehar (Jharkhand)
2. Nagendra Pathak, aged about 69 years, son of Laxmi Narayan Pathak, resident of Banpur, Latehar, P.O. & P.S.-Latehar, District-Latehar (Jharkhand)
3. Krishn Deo Ram, aged about 66 years, son of Laksham Ram, resident of Village-Harkha Mongar, P.O-Mongor, PS-Latehar, District-Latehar (Jharkhand)
4. Shiv Prasad, aged about 66 years, son of Late Manohar Ram, resident of near Police Line, Village-Dharampur, Ward No.12, P.O. & P.S-Latehar, District-Latehar (Jharkhand)
5. Gouri Prasad Yadav, aged about 68 years, son of Chandu Mahto, resident of Chandandih, P.O. & PS-Latehar, Distries-Latehar (Jharkhand)
6. Kanhae Rai, aged about 72 years, son of Ram Kumar Rai, resident of Village-Dumri, P.O. & P.S-Manika, District-Latehar (Jharkhand)
7. Machhindra Prasad, aged about 70 years, son of Ramvrikash Sawk, resident of Village-Jalim Khurd, PO-Jalim, P.S-Latehar, District-Latehar (Jharkhand)
8. Santnu Kumar Pandey, aged about 69 years, son of Nand Kumar Pandey, resident of Village-Bishunpur, P.O. & PS-Latehar, District-Latehar (Jharkhand)
9. Bhirgun Pandey, aged about 75 years, son of Jagdish Pandey, resident of Village-Chandandih, P.O. & PS-Latehar, District-Latehar (Jharkhand)
10. Kadam Devi, aged about 66 years, Wie Late Bindu Ram, resident of Banpur, Ward No.2, PO & PS-Latehar, District-Latehar(Jharkhand)
11. Bishwanath Ram, aged about 70 years, sun of Tribeni Ram, resident of Village-Nawa Khas, P.O. & PS-Nawa Jaipur, District-Palamu (Jharkhand)

**... Petitioner(s)**

**Versus**

1. The State of Jharkhand.

2. The Secretary, Water Resources Department, Govt. of Jharkhand, having its office at Project Building, Dhurwa, P.O. & PS-Dhurwa, District-Ranchi (Jharkhand)

3. The Chief Engineer, Water Resources Department, (Minor Irrigation) Govt. of Jharkhand, having its office at Abhiyantran Bhawan, Kutchery Chowk Ranchi, P.O. & P.S.-Kutchery, District-Ranchi (Jharkhand)

4. The Chief Engineer, Water Resources Department, (Minor Irrigation) Govt. of Jharkhand, having its office at Medni Nagar P.O. Medni Nagar P.S. Daltonganj District Palamu **... Respondent(s)**

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**CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner(s) : Mr. Saurabh Shekhar, Advocate
Ms. Nidhi Kumari, Advocate
Mr. Anurag Kumar, Advocate
Ms. Shail Lakra, Advocate
For the State : Mr. Munna Lal Yadav, SC (L&C)-III

**Order No. 3 /Dated: 8th September 2026**

Heard learned counsel for the parties.

**2.** Petitioners have approached this Court with a prayer for a direction upon the respondents to consider their cases for grant of pension after counting the services rendered by them as daily wagers from the date of their initial appointment.

**3.** As per the factual matrix, the petitioners were working as a daily wage employee detail whereof has been mentioned in para-6 of the writ petition i.e. for the periods from 1980 to 2011 and later on regularized in the year 2011. Petitioners have already retired during the years 2011 to 2020.

The State Government had issued one Circular on 18.06.1993 providing therein that the daily rated employees, if appointed prior to 01.08.1985 and have worked regularly for a period of 240 days, they will be given preference in the matter of appointment.

**4.** The case of the Petitioners is that since they were working from the period prior to 01.08.1985 and have discharged their duties for a period of 240 days continuously and as such petitioners are entitled to be regularized in service with effect from the date of their initial appointment. However, the respondents have not followed their own Circular dated 18.06.1993 and petitioners' case for regularization was not considered.

Being aggrieved, some of the persons who were not regularized, knocked door of Patna High Court and further before Hon'ble Supreme Court in *S.L.P.(C) No. 18154 of 1999*, in which order was passed issuing directions upon the State to act in pursuance to the Circular dated 18.06.1993 and further to regularize the services of the daily rated

employees. When order of the Hon'ble Court was not complied, they moved Contempt case i.e. M.J.C. No. 606 of 2000, which was disposed of on 15.06.2002 on an undertaking given by the Secretary of the Department. However, in spite of undertaking, the order was not complied leading to another writ petition i.e. W.P.(S) No. 1213 of 2003.

Finally, the case of the petitioners was considered in light of the direction of the Hon'ble Supreme Court. The order was passed in the year 2011 by which services of the petitioners were taken to regular establishment. Petitioners worked for few years and thereafter approached the respondents by filing representation for grant of pensionary benefits. When no heed was paid, petitioners have been constrained to knock door of this Court.

**5.** Mr. Saurabh Shekhar, learned counsel representing the petitioners argues that the similar issue was raised before the Hon'ble Punjab and Haryana High Court in the case of ***Harbans Lal Vs. The State of Punjab and others [C.W.P. No. 2371 of 2010]*** wherein it has been held that the case of daily wagers have to be treated at par with the regular employees once they have been taken into regular establishment and as such, the period rendered by them as daily wagers, have to be calculated for the purpose of deciding the pensionary benefits. The said decision was upheld by the Hon'ble Apex Court in ***S.L.P.(Civil) No. 17901 of 2011*** and further in Review Petition (C) No. 2038 of 2013 also. In light of said Judgment, the petitioners are entitled for grant of pensionary benefits.

Learned counsel further argues that in view of their own Circular dated 18.06.1993, which clearly provides that the daily rated employees, if appointed prior to 01.08.1985 and have worked regularly for a period of 240 days, they will be given preference in the matter of appointment and as such, the petitioners, who had worked for the period prior to 01.08.1985 and continuously discharged their duties for a period of 240 days, are also entitled to be considered in service with effect from the date of their initial appointment for the purpose of entitlement of pensionary benefits.

**6.** Learned counsel further argues that action of the respondents in not considering case of petitioners for grant of pensionary benefits is illegal, arbitrary and fit to be interfered. The petitioners were initially appointed in the year 1980 onwards and therefore, they are not covered by the Scheme of 2004, which has stopped benefits of Old Pension Scheme for the periods post 2004 appointees and thus even though their names been taken into regular establishment in the year 2011, the past services of the petitioners as a daily wager should have been counted for grant of pension. The case of other casual/ temporary appointees like the work charge establishment employees have already been considered for the purpose of making payment of pensionary benefits, counting their earlier services rendered as temporary employees, but very strangely case of the petitioners being daily wagers, have not been considered in same light and as such the same is violative of Article 14 of the Constitution of India. There is delay and laches on part of the respondents in not regularizing the petitioners even after Judgment rendered by the Hon'ble Supreme Court on 30.10.2000 in S.L.P. No. 18154 of 1999.

**7.** To buttress his arguments, learned counsel places heavy reliance on the following Judgments:

(i) ***Gupteshwar Singh Vs. State of Bihar and others*** reported in ***(2003) 1 BLJR 84***. It has been held by Patna High Court that the employees must be given retiral benefits in terms of the principle decided by the Court in relation to similarly situated employees.

(ii) ***Harbans Lal Vs. The State of Punjab & Others*** reported in ***2010 SCC OnLine P & H 8181***, affirmed by the Hon'ble Apex Court in ***S.L.P.(C) No. 17901 of 2011***.

(iii) ***Shakuntla Devi Vs. State of Jharkhand and others*** passed in ***W.P.(S) No. 1517 of 2008.***

(iv) ***Maya Devi and others Vs. State of Jharkhand and others*** passed in ***W.P.(S) No. 1003 of 2021.***

(v) ***The State of Jharkhand and others Vs. Ramashray Dubey*** passed

in ***L.P.A. No. 588 of 2009*** wherein the order passed regarding retiral benefits and other benefits was affirmed and L.P.A. was dismissed.

**8.** On the other hand, counter affidavit has been filed by the respondents. Mr. Munna Lal Yadav, SC (L&C)-III vociferously argues that petitioners were daily wage workers and have been regularized in light of Resolution No. 5940, dated 18.06.1993, issued by the Department of Personnel, Administrative Reforms and Rajbhasha, Government of Bihar, Patna, who were working prior to 01.08.1985 and further in compliance of the Judgment dated 30.10.2000, passed by Hon'ble Apex Court in S.L.P.(C) No. 18154 of 1999 as also Judgment passed in M.J.C. No. 606 of 2000 as well as direction passed in W.P.(C) No. 1213 of 2003.

After their regularization, their services were placed under the Contributory Pension Scheme prevalent at the time of joining. Petitioners have already been paid admissible dues. They are covered under the Contributory Pension Scheme and as such their demand for grant of pension is not sustainable in the eyes of law. In view of their respective date of regularization in the year 2011, petitioners come under the purview of Contributory Pension Scheme and are not entitled for pension. It is clear from the order of regularization that they shall not be entitled for any benefits for the periods they have worked as daily wage employee.

**9.** Having heard rival submission of the Ld. Counsel for the parties and from perusal of the documents brought on record and the specific averments made in the counter affidavit, the Court is of the considered view that case of the petitioners need consideration for the following facts and reasons and their services have to be counted from the date of initial appointment for the purpose of pensionary benefits and not from the date of regularization:

**(i)** Admittedly, petitioners were appointed in the year 1980 onwards and were taken into regular establishment in the year 2011. The past services of the petitioners as a daily wager ought to have

been counted for grant of pension. The respondents have tried to distinguish the cases of appointees of work charge establishment and that of the daily wagers appointed prior to regularization. The issue fell for consideration before the Hon'ble Apex Court in the case of ***S. Sumnyan and others Vs. Limi Niri and others*** reported in *(2010) 6 SCC 791*. The Hon'ble Apex Court has held as under:

*"44. We may here also appropriately refer to another decision of this Court in G.P. Doval V. Govt. of U.P., wherein this court held that regularization of the services of a person, whose initial appointment although not in accordance with the prescribed procedure but later on approved by an authority having power and jurisdiction to do so would also relate back to the date of initial appointment. Para 13 is reproduced hereinbelow: (SCC p. 341)*

> *"13. ... If the first appointment is made by not following the prescribed procedure but later on the appointee is approved making his appointment regular, it is obvious commonsense that in the absence of a contrary rule, the approval which means confirmation by the authority which had the authority, power and jurisdiction to make appointment or recommend for appointment, will relate back to the date on which first appointment is made and the entire service will have to be computed in reckoning the seniority according to the length of continuous officiation. That has not been done in this case."*

**(ii)** The Hon'ble Supreme Court in the case of ***Deokinandan Prasad Vs. The State of Bihar and others*** reported in ***1971(2) SCC 330*** has held as under:

*"33. Having due regard to the above decisions, we are of the opinion that the right of the petitioner to receive pension is property under Article 31(1) and by a mere executive order, the State had no power to withhold the same. Similarly, the said claim is also property under Article 19(1)(f) and it is not saved by sub-article (5) of Article 19. Therefore, it follows that the order, dated June 12, 1968, denying the petitioner right to receive pension affects the fundamental right of the petitioner under Article 19(1)(f) and 31(1) of the Constitution, and as such the writ petition under Article 32 is maintainable. It may be that the Pension act (Act 23 of 1871) there is a bar against a civil court entertaining any suit relating to the matters mentioned therein. That does not stand in the way of writ of mandamus being issued to the State to properly consider the claim of the petitioner for payment of pension according to law."*

**(iii)** The Hon'ble Apex Court in the case of ***Smt. Poonamal and others Vs. Union of India and others*** and another analogous case reported in ***(1985) 3 SCC 345***, has held as under:

*"7. It is not necessary to examine the concept of pension. As already held by this Court in numerous judgments pension is a right not a bounty or gratuitous payment. The payment of pension does not depend upon the discretion of the Government but is governed by the relevant rules and anyone entitled to the pension under the rules can claim it as a matter of right [Deoki Nandan Prasad v. State of Bihar reported in 1971 Supp SCR 634; State of Punjab v. Iqbal Singh reported in (1976) 3 SCR 360 and D.S. Nakara v. Union of India reported in (1983) 2 SCR 165] Where the Government servant rendered service, to compensate which is a family pension scheme is devised, the widow and the dependent minors would equally be entitled to family pension as a matter of right. In fact we look upon pension not merely as a statutory right but as the fulfilment of a constitutional promise inasmuch as it partakes the character of public assistance in cases of unemployment, old-age,*

*disablement or similar other cases of underserved want. Relevant rules merely make effective the constitutional mandate. That is how pension has been looked upon in D.S. Nakara judgment. At the hearing of this group of matters we pointed out that since the family pension scheme has become non-contributory effective from September 22, 1977 any attempt at denying its benefit to widows and dependents of Government servants who had not taken advantage of the 1964 liberalisation scheme by making or agreeing to make necessary contribution would be denial of equality to persons similarly situated and hence violative of Article 14. If widows and dependents of deceased Government servants since after September, 22, 1977 would be entitled to benefits of family pension scheme without the obligation of making contribution, those widows who were denied the benefits on the ground that the Government servants having not agreed to make the contribution, could not be differently treated because that would be introducing an invidious classification among those who would be entitled to similar treatment."*

**(iv)** Further, the High Court of Punjab and Haryana in its order dated 31.8.2010 in the case of ***"Harbans Lal Vrs. The State of Punjab and others"*** which has been affirmed by the Hon'ble Apex Court in ***S.L.P.(C) No. 17901 of 2011***, has categorically held that the clauses of the Scheme have to be read by keeping in view the fact that pension is not a bounty of the State and it is earned by employees after rendering long service to fall back upon after their retirement. The same cannot be arbitrarily denied. The clause was subjected to the principle of 'reading down' a well-known tool of interpretation to sustain the constitutionality of a statutory provision and accordingly it was read down to mean that the qualifying service could commence either from the date of taking charge of the post to which the employee was first appointed or from the date he started contributing to the Contributory Provident Fund, whichever was earlier. The ratio of the above-mentioned judgment would apply to the facts of the instant case, inasmuch as, the provision made in clause 6(6) of the 1992 Scheme has to be read down to mean that qualifying service would commence from the date of continuous appointment, which is 17.08.1965 in the present case, or from an earlier date if the employer had started contributing to the Contributory Provident Fund whichever is earlier. Therefore, the petitioner would be entitled to count her service with effect from the date of her appointment and approval i.e. 17.08.1965."

**(v)** In the case of ***Ajit Kumar Deo and others Vs. The State of***

***Jharkhand and others*** reported in ***2017 SCC OnLine Jhar 2940***, this Court has held as under:

> *"14. The Hon'ble High Court of Punjab and Haryana in its decision dated 31.08.2010 in case of "Harbans Lal V. The State of Punjab" which has been affirmed by the Apex Court, has categorically held:*
>
> > *"Once the services of a work-charged employee have been regularized, there appears to be hardly any logic to deprive him of the pensionary benefits as are available to other public servants under Rule 3.17 of the Rules. Equal protection of laws must mean the protection of equal laws for all persons similarly situated. Article 14 strikes at arbitrariness because a provision which is arbitrary involves the negation of equality. Even the temporary or officiating service under the State Government has to be reckoned for determining the qualifying service. It looks to be illogical that the period of service spent by an employee in a work-charged establishment before his regularization has not been taken into consideration for determining the qualifying service. The classification which is sought to be made among Government servants who are eligible for pension and those who started as work-charged employees and their services regularized subsequently, and the others is not based on any intelligible criteria and, therefore, is not sustainable at law. After the services of a work charged employee have been regularized, he is a public servant like any other servant. To deprive him of the pension is not only unjust and inequitable but is hit by the vice of arbitrariness and for these reasons the provisions of sub rule (ii) of Rule 3.17 of the Rules have to be struck down being violative of Article 14 of the Constitution."*
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> *The aforesaid view was further reiterated by this Court in the cases of Joginder Singh, Hazura Singh and Nasib Singh (supra). A conjoint reading of the rules, quoted above and the observations of the Full Bench would reveal that it is by now well established that period of service rendered on daily wage/work charges prior to regularization of services is liable to be counted for the purposes of gratuity and pension."*

**(vi)** Similarly, in yet another case, this Court in case of ***"Shakuntla Devi vs. The State of Jharkhand & Ors." (W.P.(S)No.1517 of 2008)*** vide order dated 04.10.2012 taking into consideration the Rules 61 and 63 of the Jharkhand Pension Rules as well as Notification No.12928F dated 04.09.1962 was of the considered view that the period served by the Government servant on temporary or officiating basis against the substantive pensionable post shall be counted for the purpose of pension if service is made permanent or such temporary officiating post is converted into a permanent post. The substantive post existing, therefore, petitioner is entitled for the pension after counting the entire period of services even prior to regularization.

**(vii)** At this stage, it is also profitable to refer the judgment of the Hon'ble Apex Court in the case of ***Pepsu Road Transport Corporation, Patiala Vs. Mangal Singh and others*** reported in ***(2011) 11 SCC 702***, the Hon'ble Apex Court has held as under:

*"34. Pension is a retirement benefit partaking of the character of regular payment to a person in consideration of the past services rendered by him. we hasten to add that although pension is not a bounty but is claimable as a matter of right, yet the right is not absolute or unconditional. The person claiming pension must establish his entitlement to such pension in law. The entitlement might be dependent upon various considerations or conditions. In a given case (sic whether) the retired employee is entitled to pension or not depends on the provisions and interpretation of the rules and regulations. The contributory provident fund appears to be a simple mechanism where an employee is paid the total amount which he has contributed along with the equal contribution made by the employer ordinarily at the time of retirement of an employee. In short, we quote what was repeatedly said by this Court that "pension is payable periodically as long as the pensioner is alive whereas CPF is paid only once on retirement". Therefore, conceptually, pension and CPF are separate and distinct."*

**(viii)** In the case of ***State of Gujarat and others Vs. Talsibhai Dhanjibhai Patel*** reported in ***2022 SCC OnLine SC 2004***, the Hon'ble Apex Court has held that State cannot be permitted to take the benefits of their own wrong. Para-1 of the said Judgment is relevant, which reads as under:

*"1. It is unfortunate that the State continued to take the services of the respondent as an ad-hoc for 30 years and thereafter now to contend that as the services rendered by the respondent are ad-hoc, he is not entitled to pension/ pensionary benefit. The State cannot be permitted to take the benefit of its own wrong. To take the services continuously for 30 years and thereafter to contend that an employee who has rendered 30 years continues service shall not be eligible for pension is nothing but unreasonable. As a welfare State, the State as such ought not to have taken such a stand."*

**(ix)** The Division Bench of this Court in L.P.A. No. 430 of 2023 and other analogous cases, affirmed the Judgment passed by the Single Judge reiterating the same view and has held as under:

*"15. ... ... ... The very fact that the University granted age relaxation to the respondents recognized the past services rendered by them and, therefore, they are entitled for counting of their past services for pension. Moreover, there is no stipulation in the appointment letter restricting the benefit of past services. This would be not only depriving the respondents the benefits of their past services if on a technical plea it is held that their appointment is a fresh appointment, the very philosophy behind pension shall then also be overlooked. In* ***Deokinandan Prasad v. State of Bihar (1971) 2 SCC 330*** *the Hon'ble Supreme Court held that pension is not bounty or a charity, it is earned by the employee on account of meritorious past services. By laying a challenge to the writ Court's order dated 13th April, 2023, the appellant-University is trying to rob the respondents of a constitutional right under Article 300-A of the Constitution".*

**(x)** In the case of ***State of Jharkhand Vs. Bir Kuar Paswan [Civil Appeal No. 13372 of 2015]***, the Court held that the petitioner cannot be deprived of his pensionary rights and admittedly the past service rendered by the petitioner has to be counted for the purpose of

pension and other consequential benefits.

**10.** As a cumulative effect of the aforesaid rules, guidelines and judicial pronouncements, this Court takes no other view what has already been taken by the aforementioned Judgments and is of the view that admittedly petitioners are entitled for pension considering their past services rendered by them prior to date of regularization i.e. from the date of their initial appointment for pensionary benefits.

The respondents are directed to consider the same and pass order for payment of pensionary benefits. Let the entire exercise be completed within a period of twelve weeks from the date of receipt/ production of a copy of this order. Needless to say, while counting past service, the respondents shall consider not for making any payment for arrears of salary but the past services shall be counted only for the purpose of pensionary benefits.

**11.** As a result, this writ petition stands allowed in the aforesaid terms. Pending I.A., if any, also stands disposed of.

**(Deepak Roshan, J.)**

8th September 2026
Amit

*Uploaded on 21/09/2026*