

[2026 LiveLaw \(SC\) 582](#)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SANJAY KAROL; J., AUGUSTINE GEORGE MASIH; J.

SLP (C) NOS.28802-28804 OF 2019; JUNE 01, 2026

BHIKHANI DEVI AND ETC. *versus* UNION OF INDIA AND OTHERS

Service Law – Department of Posts – Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1991 – Circular dated 30.11.1992 – Rule 10(1-B) of the Central Civil Services (Temporary Service) Rules, 1965 – Entitlement of temporary status casual labourers to pensionary benefits in the absence of formal regularisation – Held - A casual labourer, upon conferment of "temporary status" and subsequent completion of three years of continuous service in that capacity, is treated at par with temporary Group 'D' employees - This parity functions as a parity in substantive service benefits (including leave, increments, GPF, and pensionary benefits) rather than an identity of formal service status - The expression "after regularisation" in Clause 6 of the 1991 Scheme does not restrict or act as a mandatory prerequisite for the core entitlement to a pension; rather, it provides an additional benefit of counting 50% of the past temporary status service towards retirement benefits once a formal order of regularisation is passed - The foundational right to a pension for such employees flows independently from the operational framework of the Scheme, the Departmental Circular dated 30.11.1992, and Rule 10(1-B) of the CCS (Temporary Service) Rules, 1965 - If a temporary status casual labourer completes the minimum qualifying service of 10 years after attaining parity with temporary Group 'D' employees, they are entitled to superannuation pension, retirement gratuity, and family pension upon death, even in the absolute absence of a formal order of regularisation.

[Paras 47-76]

Service Jurisprudence – State as a Model Employer – Constitution of India, 1950 – Articles 14, 38, 39, and 43 – Equity and Social Justice – Held that long-serving employees who have rendered continuous, uninterrupted service spanning decades and have been functionally assimilated into the regular framework cannot be retained in a precarious status to deny them social security - The distinction between temporary and permanent employment becomes substantively illusory when the nature of duties performed is identical to regular employees - The State, as a model employer, is bound by constitutional mandates to ensure fair conditions of work and economic justice. *[Paras 35-40]*

Constitutional Law – Right to Pension – Nature of Pension – Plea of Financial Burden – Constitution of India, 1950 – Article 300A – Held that Pension is not a bounty, grace, or a matter of financial convenience dependent on the employer - It is a deferred wage and a hard-earned benefit amassed by virtue of long and continuous service, constituting "property" within the meaning of Article 300A of the Constitution - A

constitutional right cannot be rendered illusory or defeated on account of administrative inaction or the plea of financial burden. [Paras 41-74]

Service Jurisprudence – Delay and Laches – Continuing Cause of Action – Arrears Limitation – Held - Pensionary benefits constitute a recurring and continuing cause of action - A substantive claim for pension cannot be rejected or defeated solely on the ground of delay and laches - the grant of financial arrears must be balanced with settled principles of limitation; where the claim was not raised prior to approaching the court, arrears shall remain restricted to a period of three years and two months preceding the filing of the Original Application before the Tribunal. [Relied

on Jagrit Mazdoor Union (Regd.) and Others v. Mahanagar Telephone Nigam Ltd. and Another, 1990 Supp SCC 113; Yashwant Hari Katakhar v. Union of India and Others, (1996) 7 SCC 113; M.L. Patil (Dead) through LRs v. State of Goa and Another, (2023) 1 SCC 660; Vinod Kumar and Others v. Union of India and Others, (2024) 9 SCC 327; Jaggo v. Union of India and Others, 2024 SCC OnLine SC 3826; Paras 79-83]

For Petitioner(s): Mr. Akhilesh Kumar Pandey, AOR Mr. Amrish Kumar, AOR Mr. Sudarshan Lamba, AOR

For Respondent(s): Mr. Sudarshan Lamba, AOR Mr. Kumar Murlidhar, AOR Mr. Atul Verma, Adv. Mr. Akhilesh Kumar Pandey, AOR Mr. Sunil Kumar Verma, Adv. Mr. Shariq Ahmed, Adv. Mr. Tariq Ahmed, Adv. M/S. Ahmadi Law Offices, AOR Mr. Bijender Chahar, A.S.G. Mr. Mohan Prasad Gupta, Adv. Mr. Rohit Khare, Adv. Ms. Vimla Sinha, Adv. Ms. Seema Bengani, Adv. Mr. Rajesh Kr.singh, Adv. Mr. Jagdish Chandra, Adv. Mr. Mohan Prasad Gupta, Adv. Mr. Sushil Raaja, Adv. Mr. Amrish Kumar, AOR

J U D G M E N T

AUGUSTINE GEORGE MASIH, J.

1. Leave Granted.
2. These Civil Appeals challenge the judgments and final orders dated 14.10.2019 (“Impugned Judgments”) passed by the High Court of Judicature at Patna (“High Court”) in Civil W.P. Case No.15420 of 2019, Civil W.P. Case No.11564 of 2019 and Civil W.P. Case No.13980 of 2019, whereby the writ petitions preferred by the Respondent–Union of India were allowed, resulting in the setting aside of the Orders of Central Administrative Tribunal, Patna (“Tribunal”) dated 27.03.2018, 30.07.2018 and 03.08.2018 passed in Original Applications, filed by the Appellants herein, granting relief to them.
3. The Appellants before this Court are either former employees or legal representatives of employees who had rendered long years of service under the Department of Posts as casual labourers (Night Guards).
4. Appellant, Bhikhani Devi, is the widow of Late Suraj Sah, who was initially appointed as a paid casual labourer (Night Guard) at the Rajnagar Post Office in Madhubani District, Bihar, on 12.02.1972. Appellant, Bahuru Sahu, was appointed on 10.10.1971 and Appellant, Pitamber Jha, was similarly appointed as a casual labourer (Night Guard) on 20.06.1981.
5. It is not in dispute that all three employees rendered long, continuous, and uninterrupted service spanning several decades in the said capacity and continued to discharge duties as a casual labourer till superannuation.

6. On 12.04.1991, pursuant to directions of this Court in **Jagrit Mazdoor Union (Regd.) and Others v. Mahanagar Telephone Nigam Ltd. and Another**¹, the Department of Posts formulated the “Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1991” (“Scheme”), with the avowed objective of providing improved service conditions and a measure of social security to casual labourers. The said scheme was communicated to all concerned Departments on 15.05.1991.

7. In furtherance of the said Scheme, Late Suraj Sah, along with Bahuru Sahu and Pitamber Jha, were conferred “temporary status” vide departmental memo dated 20.11.1992, with effect from 29.11.1989. The conferment of such status marked a significant shift in the service conditions, entitling them to certain benefits and bringing them within the structured service framework of the Department.

8. Subsequently, by a circular/letter dated 30.11.1992, the Department of Posts conveyed decision being taken that the casual labourers who had been conferred with temporary status under the Scheme and have rendered three years of continuous service with such temporary status would be treated at par with ‘temporary Group ‘D’ employees’ and would be entitled to the benefits admissible to such employees, including leave, holidays and other service-related entitlements.

9. In terms of the said circular, upon completion of the requisite period of service, a further memo dated 03.05.2000 was issued directing that Late Suraj Sah, along with Appellant - Bahuru Sahu, be treated at par with “temporary Group ‘D’ employees”, thereby entitling them to the benefits admissible to that category, including consideration of service for the purpose of pension and other terminal benefits upon regularisation.

10. Notwithstanding the conferment of temporary status and the extension of benefits akin to Group ‘D’ employees, the Appellants or their predecessors-in-interest were never formally regularised in service. It is the case of the Appellants that such non-regularisation was not attributable to any lapse on their part or intimation about non-eligibility but was a consequence of administrative inaction on the part of the Respondents.

11. Late Suraj Sah continued in service until attaining the age of superannuation and retired on 31.12.2008. Appellant, Bahuru Sahu, retired earlier on 30.04.2008, while Appellant, Pitamber Jha, retired on 31.10.2015. Following his retirement, Late Suraj Sah was issued a communication dated 06.04.2010 informing him of payment under the Central Government Employees Group Insurance Scheme (CGEGIS).

12. Late Suraj Sah subsequently passed away on 10.04.2015, leaving behind his widow, Appellant, Bhikhani Devi and minor children. Thereafter, Appellant, Bhikhani Devi approached the Respondent authorities seeking grant of family pension requesting that the service rendered under temporary status be

¹ 1990 Supp SCC 113

counted for the purpose of pensionary benefits. The other Appellants similarly submitted representations in the years 2016 and 2017 seeking grant of pensionary benefits.

13. The Respondents, however, rejected their claims on the ground that the employees had not been ‘formally regularised’ as Group ‘D’ employees, which, according to the Respondents, was a mandatory prerequisite for entitlement to pension under the applicable Scheme.

14. Aggrieved by such denial, Appellant - Bhikhani Devi instituted O.A. No. 050/00372 of 2017 before the Tribunal, seeking grant of family pension under the Central Civil Services (Pension) Rules, 1972 [“CCS (Pension) Rules, 1972”], while the other two Appellants similarly approached the Tribunal by filing O.A. No. 050/00081 of 2018 and O.A. No. 050/00609 of 2017, respectively, seeking pensionary benefits.

15. The Tribunal, by order dated 27.03.2018, allowed the Original Application filed by Bhikhani Devi and directed the Respondents to consider her claim in light of earlier decisions rendered in favour of similarly situated employees. The Tribunal, by subsequent orders 30.07.2018 and 03.08.2018, allowed the Original Applications filed by Appellants Bahuru Sahu and Pitambar Jha and issued similar directions.

16. The Respondent–Union of India challenged the said orders by filing writ petitions before the High Court. The High Court, vide the Impugned Judgments, allowed the writ petitions and set aside the orders passed by the Tribunal. The High Court, inter alia, held that the claims were liable to be rejected on the ground of delay and laches, and further observed that in the absence of formal regularisation, the Appellants were not entitled to pensionary benefits. The High Court also took the view that the earlier decisions relied upon by the Tribunal did not constitute binding precedent, as they had not considered certain clauses of the Scheme.

17. Aggrieved by the Impugned Judgments, the present Appeals by way of filing Special Leave Petitions before this Court have been preferred by the Appellants.

18. Learned counsel appearing on behalf of the Appellants submits that that the claims of the Appellants could not have been rejected on the ground of delay and laches, inasmuch as the claim for pension constitutes a continuing cause of action. Reliance in this regard has been placed upon the decision of this Court in ***M.L. Patil (Dead) through LRs v. State of Goa and Another***², wherein it has been held that pension is a recurring cause and therefore cannot be denied on the ground of delay.

19. On merits, the counsel submits that the Appellants having rendered long and continuous uninterrupted service extending over decades, and having been conferred temporary status, are entitled to pensionary benefits under the

² (2023) 1 SCC 660

applicable statutory framework. It is contended that temporary government servants are not excluded from the purview of pension, reliance is placed upon the Central Civil Services (Temporary Service) Rules, 1965 [“CCS (Temporary Service) Rules, 1965”], to contend that a temporary government servant who retires upon attaining the age of superannuation after rendering not less than the prescribed period of 10 years service, shall be governed by the provisions of the CCS (Pension) Rules, 1972, and shall be entitled to superannuation pension, gratuity, and family pension.

20. He further submits that an Office Memorandum bearing No. 2/4/87-PIC dated 14.04.1987 issued under the CCS (Pension) Rules, 1972, clarifies that even temporary government servants, upon rendering the requisite period of service, are to be brought within the purview of pensionary benefits, and that the requirement of holding a substantive pensionable post stands dispensed with in such cases. It is thus urged that the statutory framework does not exclude temporary employees from pensionary entitlement, and any interpretation to the contrary would be erroneous.

21. Learned counsel submits that in similar factual circumstances, pensionary benefits have been extended to similarly situated employees. Reference is made to the Order dated 03.09.2015 passed by the Tribunal in O.A. No. 570 of 2013, granting pensionary benefits, which was upheld by the High Court, and the same has subsequently been implemented by the Respondents. It is contended that there exists no distinguishing feature between the said case and the present case.

22. Learned counsel has also placed reliance upon the decision of this Court in **Jagrit Mazdoor Union (supra)**, to contend that upon completion of three years of continuous service with temporary status, casual labourers are to be treated at par with Group ‘D’ employees and are entitled to benefits admissible to regular employees.

23. Reliance is also placed upon the decision of this Court in **Vinod Kumar and Others v. Union of India and Others**³ and **Jaggo v. Union of India and Others**⁴ to submit that employees performing essential and continuous duties over long periods cannot be treated as temporary or casual merely on account of nomenclature.

24. Learned counsel further submits that the circular/letter dated 30.11.1992 does not make regularisation a precondition for entitlement to pension, but merely provides that 50% of the service rendered under temporary status shall be counted for the purpose of pension computation. It is contended that the said circular deals with the quantum of pension, and not with the entitlement, and any interpretation to the contrary is arbitrary.

25. He further submits that the Appellants upon being granted temporary status were receiving regular pay and not contingency wages, therefore, they

³ (2024) 9 SCC 327

⁴ 2024 SCC OnLine SC 3826

cannot be said to be a part of an “extra-temporary establishment”. He rests his submissions by stating that denial of pensionary benefits to employees who have rendered long years of service, particularly those belonging to economically weaker sections, on the ground of financial burden, is arbitrary and contrary to constitutional principles of social justice and fairness.

26. Per contra, learned A.S.G. appearing on behalf of the Respondents—Union of India supported the impugned judgments and contends that the Department has strictly acted in accordance with the Scheme, which exclusively governs the service conditions of the Appellants.

27. He submits that conferment of temporary status does not confer any right to regularisation. Reliance is placed upon Paragraphs 6 and 7 of the Scheme to contend that 50% of the service rendered under temporary status is to be counted for the purpose of retirement benefits only after regularisation as a Group ‘D’ employee, and that conferment of temporary status does not automatically entail appointment against a regular post. It is contended that appointments to Group ‘D’ posts are governed by the applicable Recruitment Rules and are subject to availability of vacancies and selection in accordance with the prescribed procedure.

28. He contends that, as per Paragraph 8 of the Scheme and departmental letter dated 30.11.1992, after rendering three years of continuous service with temporary status, casual labourers are merely treated at par with temporary Group ‘D’ employees for limited purposes, such as contribution to the General Provident Fund and eligibility for certain advances. However, such parity does not extend to pensionary or retiral benefits, which are contingent upon formal regularisation.

29. Learned A.S.G. further submits that the service conditions of the Appellants are governed exclusively by the Scheme and not by the CCS (Temporary Service) Rules, 1965 or the CCS (Pension) Rules, 1972. It is contended that a clear distinction exists between a “temporary government servant” and a “temporary status casual labourer”, the former being governed by statutory service rules, whereas the latter is governed by the Scheme. Reliance is placed upon Rule 1(4)(d) and (e) of the CCS (Temporary Service) Rules, 1965, to contend that the said Rules do not apply to persons employed in extra-temporary establishments or those paid out of contingencies.

30. It is further submitted that the Department has, in fact, framed successive Recruitment Rules, which provide for a channel of regularisation, including reservation of a percentage of vacancies for casual labourers with temporary status. However, since the Appellants were never selected or regularised under these Rules during their service tenure, they cannot now claim pensionary benefits. Reliance is placed upon the decision of this Court in **Indian Council of Agricultural Research and Another v. Santosh**⁵, to contend that in the absence of regularisation, no pensionary benefits entitlement could be claimed.

⁵ (2006) 11 SCC 157

31. Lastly, learned A.S.G. submits a chart indicating the service particulars of the employees, to demonstrate that none of the Appellants were regularised prior to their retirement, and did not fulfil the eligibility criteria for pensionary benefits, and extending such benefits would have significant financial implications for the Respondents.

32. Having heard the counsel for both the parties and on perusal of pleadings and material on record, the issue that arises for consideration can be carved out as follows:

‘Whether temporary status casual labourer, in the absence of a formal order of regularisation, would be entitled to pensionary benefits on superannuation or not?’

33. Before adverting to the above question and interpreting the Scheme involved in the present factual matrix, we find it apposite to delineate the legal framework governing the rights of casual and temporary employees. This Court has over the years developed jurisprudence concerning rights of casual labourers and temporary employees which needs to be adverted to.

34. In **Jagrit Mazdoor Union (supra)**, this Court held that upon conferment of temporary status and completion of three years of continuous service, casual labourers are to be treated at par with Group ‘D’ employees and would thereby be entitled to such benefits admissible to regular employees. The Court observed that there could be no justification in withholding benefits from such employees and emphasised the obligation of the State, as a model employer, to act in consonance with the Directive Principles of State Policy as provided in the Constitution of India.

35. Further, in **Vinod Kumar (supra)**, this Court recognised that where employees have rendered continuous service, performing duties indistinguishable from those discharged by regular employees, the distinction between temporary and permanent employment becomes substantively illusory and the failure to recognise the true nature of such service would be contrary to the principles of equity and fairness.

36. In **Jaggo (supra)**, this Court reiterated that employees labelled as temporary or part-time, but who have in fact rendered continuous and essential service over long periods, cannot be denied benefits available to regular employees merely on account of nomenclature. The Court held that such engagement is neither sporadic nor casual, but is in the nature of regular employment, thereby necessitating extension of all corresponding service benefits.

37. In this context, the principle laid down by this Court in **Yashwant Hari Katakhar v. Union of India and Others**⁶ also assumes significance, wherein this Court held that where an employee has rendered long years of service and there is no justifiable reason for not conferring permanent status, it would be a

⁶ (1996) 7 SCC 113

travesty of justice to deny pensionary benefits merely on the ground of absence of formal regularisation, and such an employee is liable to be treated as having attained permanent status.

38. Perusal of the above decisions of this Court establish a consistent judicial approach that long-serving employees, whether casual or temporary, particularly those who have been conferred a recognised status and extended benefits akin to regular employees, cannot be denied corresponding benefits including social security and pensionary benefits. The emphasis must be on ensuring that the State does not retain such employees in a precarious condition while extracting services identical to those performed by regular employees.

39. This approach is firmly rooted in the constitutional mandate of equality enshrined under Article 14 of the Constitution of India. Any classification, resulting in denial of any benefits to a class of employees who are otherwise similarly situated in terms of duties and responsibilities would fall foul of constitutional ethos. Further, the Directive Principles of State Policy, particularly Articles 38, 39 and 43, cast a positive obligation upon the State to ensure social and economic justice, fair conditions of work, and a decent standard of life for labourers. Pension, in this context, is not a gratuitous benefit but a facet of social welfare and economic justice.

40. The concept of the State as a model employer, read in conjunction with the aforesaid constitutional mandate, reinforces the obligation upon the State to extend fair and equitable treatment to employees who have rendered long and continuous service and that the State cannot extract services of a permanent nature while denying corresponding benefits.

41. At this stage, it is also necessary to note that pension is not a bounty but a vested and enforceable constitutional right. This Court in **State of Jharkhand and Others v. Jitendra Kumar Srivastava and Another**⁷ has categorically held that pension is a hard-earned benefit amassed by an employee by virtue of long and continuous service and is in the nature of “property” within the meaning of Article 300A of the Constitution of India.

42. Once pension is recognised as a constitutional right in the nature of property, it cannot be taken away except by authority of law. A statutory right cannot be rendered illusory on account of inaction of the employer, and such inaction cannot defeat or deny a constitutional right. It is in the light of this above discussed judicial approach of this Court over a period of time, the provisions of the Scheme and the subsequent applicable circulars must be read, understood and interpreted.

43. Let us, now, turn to the Scheme that is applicable to the facts of the present case. The principles emanating from **Jagrit Mazdoor Union (supra)**, as discussed hereinabove, are directly incorporated in formation of the said Scheme. The relevant portion of the decision is reproduced herein:

⁷ (2013) 12 SCC 210

“...After rendering three years of continuous service with temporary status, the casual labourers shall be treated at par with temporary Grade ‘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.”

(emphasis supplied)

44. In compliance of the above, the Department of Posts formulated the Scheme for integration of casual labourers within the structured service framework, progressive extension of service benefits to such employees ultimately leading to their regularization in service. It would be apposite to refer to the text of the 1991 Scheme, which reads as follows:

“Government of India Ministry of Communications Department of Posts

Dak Bhavan, Sansad Marg

New Delhi-110001

NO: 45-95/87-SPB.I

New Delhi, dated 12.4.1991

To:

All CPMG/PMG

All Principals, PTC

Controller Foreign Mails, Mumbai

Director, Rafi Ahmed Kidwai National Postal

Academy, Ghaziabad

Heads of all other Administrative Offices.

Subject: Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

Sir,

In compliance with the directions of the Hon'ble Supreme Court, a scheme was drawn up by this Department in consultation with the Ministries of Law, Finance & Personnel, and the President has been pleased to approve the said scheme. The Scheme is as follows:

- 1. “Temporary Status” would be conferred on the casual labourers in employment as on 29.11.89 and who continue to be currently employed and have rendered continuous service of at least one year. During the year they must have been engaged for a period of 240 days (206 days in the case of offices observing five days weeks)*
- 2. Such casual workers engaged for full working hours viz., 8 hours including ½ hour's lunch time will be paid at daily rates on the basis of the minimum of the pay scale for a regular Group D official including DA, HRA and CCA.*
- 3. Benefit of increment at the same rate as applicable to a Group D employee would be taken into account for one year of service from the date of conferment of Temporary Status. Such increment will be taken into account after every one year of service subject to performance of duty for at least 240 days (206 days in establishments observing five days week) in the year.*
- 4. Leave entitlement will be one day for every 10 days of work. Casual Leave or any other kind of leave except maternity leave, will not be admissible. No encashment of leave is permissible on termination of services for any reason or on the casual labourers quitting service.*

5. Maternity leave to lady full time casual labourers will be allowed as admissible to regular Group D employees.
6. 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after regularization as a regular Group D official.
7. Conferment of Temporary Status does not automatically imply that the casual labourers would be appointed as a regular Group D employee within any fixed time frame. Appointment to Group D vacancies will continue to be done as per extant recruitment rules, which stipulate preference to eligible LD employees.
8. After rendering three years continuous service after conferment of temporary status, the casual labourers would be treated at par with temporary group D employees for the purpose of contribution to GPF. They would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary group D employees, provided they furnish two sureties from permanent Govt. Servants of this Department.
9. Their entitlement to Productivity Linked Bonus will continue to be at the rate applicable to casual labourers.
10. Temporary status does not debar dispensing with the services of a casual labourer after following the due procedure.
11. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with.
12. Casual Labourers may be regularised in units other than recruiting units also, subject to availability of vacancies.
13. For purpose of appointment as a regular group D official, the casual labourers will be allowed age relaxation to the extent of service rendered by them as casual labourers.
14. The casual labourers can be deployed, anywhere within the recruitment unit /territorial circle on the basis of availability of work.
15. The engagement of casual labourers will continue to be on daily rates of pay on need basis.
16. The conferment of temporary status has no relation to availability of sanctioned regular group D posts.
17. No recruitment from open market for group D posts except compassionate appointments will be done till casual labourers with the requisite qualifications are available to fill up the posts in question.

Further action may be taken in regard to the casual labourers by each unit, as per the above said scheme. This issues with the approval of Ministry of Finance and concurrence of Integrated Finance vide their Dy.No.1282FA/91 dated 10.4.91.

Hindi version will follow.

Sd/-
(T.S. GOVINDRAJAN)
DIRECTOR (Staff)

Copy to:

1. The Officer-in Charge, APS Record Office
2. SPB.II/Admn./Vig.I, II, III/NCG/PAP/FAP/ Pension/PE-I/PE.II/EB/SR/Inspn./SR/STN/Civil Wing (Postal)/ Postal Accounts Section of the Directorate.

3. *All recognized Unions/Associations*
4. *All dealing hands.*

Sd/-

(R. KRINSHNAMOORTHY)

Asstt. Director General (SPN)”

45. Clause 2 of the Scheme provides that casual labourers, upon conferment of temporary status, shall be paid wages on the basis of the minimum of the pay scale applicable to regular Group ‘D’ employees together with Dearness Allowance, House Rent Allowance and City Compensatory Allowance. The grant of pay and such other service benefits clearly indicates that the Scheme intended to move casual labourers away from the purely casual or daily-rated framework to progressively align their service conditions with the regular establishment.

46. Clause 4 further grants leave entitlement to temporary status employees. Though the nature of leave admissible thereunder may not be identical to that available to regular employees, the very conferment of leave entitlement signifies that such employees are no longer to be treated as mere casual labourers engaged on a day-to-day basis, but as employees occupying a recognised and continuing position within the service structure.

47. Clause 6 of the Scheme is of considerable significance and forms the central feature of the present controversy. The said clause provides for counting of a part of the service rendered under temporary status for the purpose of retirement benefits on regularisation as Group ‘D’ employee. The very incorporation of such a stipulation recognises the pensionable character of service rendered under temporary status.

48. Although clause 7 indicates that conferment of temporary status does not automatically imply appointment as a regular Group ‘D’ employee within a fixed time frame and that appointments to Group ‘D’ vacancies would continue to be governed by the applicable Recruitment Rules. However, the said clause cannot be read in isolation so as to defeat the overall beneficial structure of the Scheme. The clause merely clarifies that automatic absorption is not contemplated immediately upon conferment of temporary status; it does not dilute the clear intent of the Scheme to progressively integrate such employees within the regular service framework.

49. Clause 8 further reinforces the aforesaid position. The said clause expressly provides that after rendering three years of continuous service under temporary status, casual labourers shall be treated at par with temporary Group ‘D’ employees for purposes of contribution to General Provident Fund and grant of advances admissible to such employees. The phrase “treated at par with temporary Group ‘D’ employees” assumes considerable significance. The Scheme contemplates extension of benefits admissible to temporary Group ‘D’ employees after completion of the prescribed period of service under temporary status.

50. Clauses 12 and 13 further indicate that the Scheme was intended as a pathway towards regularisation and not as a mechanism for perpetual retention in temporary status. Clause 12 permits regularisation even in units other than recruiting units subject to availability of vacancies, thereby enlarging avenues for absorption. Clause 13 grants age relaxation equivalent to the service rendered as casual labourers for purposes of regular appointment. These provisions unmistakably demonstrate that the Scheme consciously sought to facilitate eventual integration by absorption/ regularisation of such employees into the regular establishment.

51. Clause 17 assumes equal significance in understanding the true intent underlying the Scheme. It mandates that no recruitment from open market for Group 'D' posts, except compassionate appointment, shall be undertaken so long as eligible casual labourers possessing requisite qualifications are available for appointment. Such a provision clearly manifests the intention of the Scheme to accord primacy to existing temporary status casual labourers for eventual absorption against Group 'D' posts and to ensure that such employees are not indefinitely deprived of regular service benefits despite long years of continuous service.

52. A cumulative reading of the Scheme clearly establishes that it was conceived as a beneficial and progressive framework intended to gradually extend to temporary status casual labourers the service conditions and benefits associated with Group 'D' employees and it cannot be construed in any other manner so as to restrict and defeat its object of assimilation of casual labourers to regular employees.

53. In furtherance of the Scheme, a circular dated 30.11.1992 came to be issued by the Respondents. The said circular provided that the casual labourers conferred with temporary status as per the Scheme be treated at par with temporary Group 'D' employees with effect from the date of completion of three years of service in the temporary status. It would be apposite to reproduce the said circular dated 30.11.1992, which reads as follows:

"GOVERNMENT OF INDIA MINISTRY OF COMMUNICATIONS

(DEPARTMENT OF POSTS)

DAK BHAVAN, SANSAD MARG

No.66-9/91-SPB-I

New Delhi dated the 30, Nov., 1992

To,

All Chief Postmasters

General/Postmaster General

All Principals, Postal Training Centres, Controller Foreign Mails, Bombay Director Postal Staff College, Ghaziabad.

Heads of all other Administrative Offices.

Subject: Regularisation of Casual labourers.

Sir,

Vide this office circular letter No.4595/87-SPB-I dated 12.4.1991, a scheme for giving temporary status to casual labourers fulfilling certain conditions was circulated.

2. In their judgement 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.

3. 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 abovesaid scheme. From that date they will be entitled to benefits admissible to temporary Group 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 3 years of service in that status while granting them pension and retirement benefits after their regularisation.
4. Central Government Employees Insurance Scheme.
5. G.P.F.
6. Medical Aid.
7. L.T.C.
8. All advances admissible to temporary Group D employees
9. Bonus.
4. Further action may be taken accordingly and proper service records of such employees may also be maintained.
5. Hindi version will follow.

Yours faithfully

Sd/- (R.KRISHNAMOORTHY) ASSISTANT DIRECTOR GENERAL (SPN)

Copy to:-

The Officer in Charge – APS Record Office,
Kamptee, APO

SPB-/Admn/Vig.III/III/II/NCG/PAP/Pen./PEI&II/EB/SR/STN/Civil Wing(P)/Postal Accounts
Section of the Directorate.

All Recognised Unions/Associations.

Sd/-

(R.KRISHNAMOORTHY) ASSISTANT DIRECTOR GENERAL (SPN)"

54. The enumeration of benefits listed in the circular dated 30.11.1992, includes leave, holidays, GPF, medical facilities, LTC, bonus, and other service benefits admissible to Temporary Group 'D' employees, clearly demonstrates

that temporary status employees are to be functionally assimilated into the service framework of Temporary Group 'D' employees.

55. It may be noted here that the Respondents contend that temporary status casual labourers are extended only the benefits that are specified in the Scheme and Circular dated 30.11.1992 and are not entitled for pensionary benefits. The said submission, in our considered opinion, is misconceived. The expression "*benefits admissible to temporary Group 'D' employees such as*", made use of in the circular is of considerable importance. The utilisation of the words "such as" clearly indicates that the benefits enumerated therein are illustrative and neither restrictive nor exhaustive. This is also evident from the observations in **Jagrit Mazdoor Union (supra)**, which form basis of the Scheme and Circular dated 30.11.1992, and provides to extend all benefits as admissible to temporary Group 'D' employees without any restrictions. Therefore, the circular, as earlier observed, being a beneficial legislation, cannot be read and understood in a restrictive manner rather the correct approach of interpretation would be to analyse it in the letter and spirit of the legislative and administrative intent i.e. to extend all benefits as are available to temporary Group 'D' employees, to temporary status casual labourers including pensionary benefits.

56. Before proceeding further, it becomes necessary to deal with another contention advanced on behalf of the Respondents that Clause 6 of the Scheme contemplates counting of 50% service rendered under temporary status towards retirement benefits only after formal regularisation as Group 'D' employee and, therefore, in the absence of regularisation, no pensionary benefits can be granted. The said submission cannot be accepted in the manner sought to be canvassed. Clause 6 cannot be read in isolation divorced from the principles and purpose underlying the Scheme and the circular dated 30.11.1992. The judgment of this Court in **Jagrit Mazdoor Union (supra)**, which forms the basis of the Scheme itself, categorically directed that upon completion of three years of continuous service under temporary status, casual labourers 'would thereby be entitled to benefits as are admissible to Group 'D' employees on regular basis'. The circular dated 30.11.1992 further clarifies that such employees would be entitled to counting of service for pension and terminal benefits as admissible to temporary Group 'D' employees.

57. The expression "after regularisation" occurring in Clause 6 cannot be construed in a narrow or restrictive manner so as to defeat the beneficial object underlying the Scheme and must be construed in its proper context. Clause 6 does not create the pensionary entitlement itself, rather, it provides an additional benefit by directing that half of the service rendered under temporary status to be counted towards grant of retirement benefits upon regularisation. The pensionary entitlement of temporary status employees who have completed the prescribed period of service flows independently from the Scheme and the circular dated 30.11.1992. Clause 6 has to be interpreted harmoniously and would construe to mean that in cases where formal orders of regularisation are passed, 50% of the service rendered under temporary status would be liable to be counted towards retirement and pensionary benefits as additional benefit

apart from the benefits as available under the rules which become applicable to a regular government employee. Consequently, while Clause 6 may operate to confer an additional advantage in cases where regularisation takes place, the absence of formal regularisation cannot be construed as extinguishing or defeating the underlying entitlement to pensionary benefits.

58. At this stage, it also becomes necessary to appreciate the distinction between different categories of employees engaged within the service framework in the Department of Posts. Broadly, four categories of employees emerge from the statutory and administrative work structure involved in the matter at hand, namely: (i) casual labourers; (ii) temporary status casual labourers; (iii) temporary Government employees; and (iv) regular Government employees.

59. A casual labourer is merely a daily-rated worker engaged on need basis and is entitled only to daily wages for the period during which work is performed. Such employee does not possess any structured service status nor entitled to any service benefits ordinarily available to Government employees.

60. The second category is that of a temporary status casual labourer. The conferment of temporary status not only initiates the process of integration of such employee within a structured service framework but extends certain service protections and benefits under the Scheme. Nevertheless, such employee remains a temporary status casual labourer and does not become a temporary Government servant.

61. The third category is that of temporary Government employees which are governed by the CCS (Temporary Service) Rules, 1965, while the fourth category comprises of regular Government employees governed by the regular service rules applicable to permanent Government servants.

62. It is to be noted that these aforesaid four categories are not to be conflated as stages required to be gone through to become a regular employee. It may be pointed here that a casual labourer can directly become a regular employee, if the Scheme provides for such transition. A temporary Government employee, however, definitely has two stages leading to permanent employment i.e. initial appointment as temporary Government employee and upon confirmation in service, his status is changed to regular government employee.

63. For casual labourers, the Scheme provides for a progression to regular employment. Initially the employee enters service as a casual labourer. Thereafter, upon satisfying the conditions prescribed under Clause 1 of the Scheme, he/she is conferred temporary status and continues under such status. Upon completion of the prescribed conditions and subject to the applicable Recruitment Rules, the employee becomes eligible for regularisation against Group 'D' posts and ultimately regularized and appointed as regular employee on availability of vacancies.

64. The Scheme, in question, which provides for grant of temporary status and regularisation for casual labourers recognises four categories of employees

operating within the service structure, however, the progression contemplated therein essentially unfolds in three stages i.e. engagement as a casual labourer, conferment and continuance of temporary status, and eventual regularisation against Group 'D' posts.

65. It is apposite to highlight and emphasize that although under the Scheme the temporary status of casual labourers continues till his regularization in service, however, on completion of the period of three years, the service conditions are materially changed as he is treated at par with temporary Group 'D' employees and extended all benefits that are admissible to such employees.

66. The submission advanced on behalf of the Respondents, that under the Scheme the employees continue merely as temporary status casual labourers and are distinct from the temporary Government servants, and so would be the pensionary framework applicable. At first blush, this contention appears to be correct to an extent. However, on due consideration and deliberation of the Scheme and its various clauses as a whole, the submission aforesaid is found to be misplaced.

67. Although, it may be correct to say that conferment of temporary status on a casual labourer under the Scheme does not *ipso facto* transform such employee into a temporary Government servant, however, what falls short from the aforesaid submission is that while the status of such employee continues unchanged i.e., of a 'temporary status casual labourers', the Scheme consciously and specifically extends to such employees benefits admissible to temporary Group 'D' employees upon completion of three years of continuous service under temporary status. The service conditions, at this juncture, of the casual temporary status employee under the Scheme gets substantially changed and carries all the benefits that are available to temporary government employees. Therefore, while the nomenclature and category of their service status remain unchanged, the nature and extent of benefits now available to them stand significantly enlarged and aligned with those admissible to temporary Government employees, blurring the distinction between both categories as far as benefits available to them are concerned. The distinction that remains is one relating to nomenclature, formal status and mode of regularisation but not to the nature of extended benefits.

68. In other words, the Scheme nowhere provides that upon completion of three years' service under temporary status, the employee becomes a temporary Government servant. What it specifically provides is that such employee shall be treated at par with temporary Group 'D' employees for purposes of extension of admissible benefits. The parity contemplated under the Scheme is thus parity in service benefits and not identity of service status.

69. Once the Scheme and the circular dated 30.11.1992 consciously extend benefits admissible to temporary Group 'D' employees, the Respondents cannot rely solely upon the nomenclature of 'temporary status casual labourer' to deny those very benefits. The entire framework of the Scheme proceeds upon

extension of substantive service benefits despite continuance of the original nomenclature as temporary status casual labourer.

70. As already discussed hereinabove, the Scheme and the circular dated 30.11.1992 extend to temporary status employees all the benefits that are available to temporary Group 'D' employees. Now, it becomes necessary to examine the nature of pensionary benefits available to such temporary Government employees under the statutory framework.

71. The services of the temporary Government servants are governed by the CCS (Temporary Service) Rules, 1965. It is not disputed that a temporary Government servant is entitled to terminal benefits including pension and on his death family pension. Rule 10(1-B) of the said Rules specifically provides that where a temporary Government servant retires on attaining the age of superannuation after rendering temporary service of not less than ten years, such employee shall be entitled to superannuation pension and retirement gratuity and on death family pension in accordance with the provisions of the CCS (Pension) Rules, 1972. Rule 10(1-B) is reproduced herein:

"10. Terminal gratuity payable to temporary Government servants.

xxx xxx xxx

(1-B) In the case of a temporary Government servant who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further Government service by the appropriate medical authority, after he has rendered temporary service of not less than 10 years or who has sought voluntary retirement by giving three months' notice in writing on completion of 20 years' service, provisions of sub-rule (1) shall not apply and in accordance with the provisions of the Central Civil Services (Pension) Rules, 1972-

- (i) such a Government servant shall be eligible for the grant of superannuation, invalid or retiring pension, as the case may be, and retirement gratuity; and*
- (ii) in the event of his death after retirement, the members of his family shall be eligible for the grant of family pension.*

xxx xxx xxx"

72. As is apparent from the above, the statutory framework governing temporary Government employees itself accepts and acknowledges entitlement of pensionary benefits and that the same are not confined only to regular permanent employees but are also available to temporary Government servants upon completion of the prescribed qualifying service. The CCS (Temporary Service) Rules, 1965 thus constitute the statutory source recognising pensionary entitlement of temporary employees who have rendered specified and continuous service.

73. The contention of the Respondents that the Appellants were paid out of contingencies and therefore stood excluded from the purview of the CCS (Temporary Service) Rules, 1965 also cannot be accepted in the particular facts of the present case. Such exclusion may have relevance at the stage of initial engagement as casual labourers. However, the service conditions of the Appellants underwent a substantial transformation upon extension of benefits

admissible to temporary Group 'D' employees. The continued reliance by the Respondents upon the original mode of engagement, while simultaneously extending pay parity, increments, GPF facilities, leave benefits and other service entitlements akin to temporary Group 'D' employees, would amount to selectively accepting one part of the Scheme while disregarding the other. Such an approach would defeat the very object underlying the Scheme and the circular dated 30.11.1992. Once parity in service benefits with temporary Group 'D' employees is consciously extended under the Scheme, pensionary benefits flowing under Rule 10(1-B) of the Rules of 1965 cannot be selectively denied by ignoring or overlooking the statutory right.

74. The argument founded upon financial burden is equally untenable. Pension is not a matter of grace dependent upon the financial convenience of the employer, but a deferred wage earned through long years of service. As already noticed hereinabove, this Court has recognised pension as a constitutional right in the nature of property protected under Article 300A of the Constitution of India as held in ***Jitendra Kumar Srivastava Case (supra)*** and it, therefore, cannot be denied on the plea of financial burden.

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 labourer, 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.'

77. What remains to be seen now is whether the Appellants, in the cases before us, fulfil the eligibility criteria under Rule 10 (1-B) of CCS (Temporary Service) Rules, 1965 so as to be entitled for pensionary benefits.

78. The service trajectory of Late Suraj Sah as per the material placed on record, thus falls into three distinct phases: (i) service as a casual labourer from 1972 till 29.11.1989; (ii) service as a temporary status casual labourer from 29.11.1989 till 30.11.1992; and (iii) continuance as a temporary status casual labourer with entitlement to benefits admissible to temporary Group 'D' employees from 30.11.1992 till his superannuation on 31.12.2008.

79. From the above what emerges is that Late Suraj Sah was initially engaged as a casual labourer in the year 1972 and continued as such till 29.11.1989. During this period, he remained a daily-rated worker and was not entitled to any service benefits. Upon introduction of the Scheme, he was conferred temporary status with effect from 29.11.1989. Thereafter, upon completion of three years of continuous service under temporary status on 30.11.1992, though his formal status continued to remain that of a temporary status casual labourer, he became entitled to the benefits admissible to temporary Group 'D' employees. Thus, while his nomenclature remained unchanged, his service benefits thereafter stood aligned with those admissible to temporary Group 'D' employees as per the Scheme and the circular dated 30.11.1992. He ultimately superannuated on 31.12.2008 while continuing as a temporary status casual labourer. So from 30.11.1992 till the date of superannuation i.e. 31.12.2008, the period being more than the minimum of 10 years, he became entitled for benefits under Rule 10(1-B) of the CCS (Temporary Service) Rules, 1965 read with the CCS (Pension) Rules, 1972. Thereby making him entitled to grant of superannuation pension and other retirement benefits as admissible under the above rules.

80. The service records of Bahuru Sahu and Pitamber Jha would also reflect that they were, after initial appointment as casual labourers, conferred temporary status, w.e.f. 29.11.1989 till 30.11.1992 and continued as temporary status casual labourers till their date of superannuation 30.04.2008 and 31.10.2015 respectively. The period being in excess of minimum qualifying service of ten years for entitlement of pension, they would be entitled to grant of all retiral benefits as available under the Rules.

81. Insofar as the contention of the Respondents with regard to delay and laches is concerned, it is well settled that pensionary benefits constitute a continuing cause of action, and a claim for pension cannot be defeated solely on the ground of delay. At the same time, the claim for arrears is required to be balanced with settled principles governing limitation. In the present case, nothing has been brought on record to indicate that the Appellants had raised any claim for pensionary benefits prior to filing of the respective Original Applications before the Tribunal. In such circumstances, while the entitlement of the Appellants to pensionary and consequential retiral benefits stands established, the arrears thereof, wherever applicable, shall remain confined to the period of three years and two months preceding the date of filing of the respective Original Applications before the Tribunal, consistent with settled principles governing service jurisprudence.

82. Consequently, Appellant, Bhikhani Devi, being the widow and legal representative of Late Suraj Sah, shall be entitled to pensionary benefits accrued to Late Suraj Sah, if any, together with admissible family pension. Similarly, Appellant, Bahuru Sahu shall be entitled to pensionary and consequential retiral benefits in accordance with law. However, the arrears payable to them shall remain confined to the period of three years and two

months preceding the date of filing of the Original Application before the Tribunal.

83. Likewise, Appellant, Pitamber Jha, who superannuated from service on 31.10.2015, shall also be entitled to pensionary and consequential retiral benefits in accordance with law from the date of his retirement.

84. In view of the foregoing discussion and findings recorded hereinabove, we are of the considered opinion that the Impugned Judgments passed by the High Court proceeded on an erroneous interpretation of the Scheme and the circular dated 30.11.1992. The same are unsustainable in law and are, therefore, set aside.

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.

86. The Appeals are allowed in above terms.

87. There shall be no order as to cost.

88. Pending application(s), if any, also stands disposed of.

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