



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. OF 2025
ARISING OUT OF SLP (C) Nos. 19539-19540 OF 2021

S.D. JAYAPRAKASH AND ORS. ETC.

...APPELLANT(S)

VERSUS

THE UNION OF INDIA & ORS.

...RESPONDENT(S)

J U D G M E N T

PAMIDIGHANTAM SRI NARASIMHA, J.

1. Leave granted.
2. These appeals arise from the Karnataka High Court's order dated 23.03.2021¹ by which it held that the appellants, who were initially appointed on contractual basis and subsequently regularised, will not be entitled to seniority, service benefits, and pension for the period of their contractual service. Upon consideration of the relevant rules and the decision of this Court in *State of H.P. v. Sheela Devi*,² we have partly allowed the present

¹ In W.P. No. 4712/2016 (S-CAT) c/w W.P. No. 4714/2016 (S-CAT).

² 2023 SCC OnLine SC 1272.

appeals and directed the respondent, i.e., Union of India to grant pensionary benefit to the appellants in accordance with law.

3. The short facts that are necessary are as follows. The appellants were appointed as Data Entry Operators under the Plan Scheme called 'Rationalisation of Data Processing Facilities' on temporary and contractual basis between 1996 and 1999. Pursuant to an order of the Central Administrative Tribunal³ dated 01.04.2013⁴, the respondents issued an Office Memorandum dated 05.01.2015 to regularise the appellants' service from a prospective date, i.e., from the date of issuance of this order. Pursuantly, the appellants were appointed on a regular basis by order dated 01.04.2015, w.e.f. 05.01.2015. The appellants preferred an Original Application before the CAT, with a prayer to regularise their services from the date of initial appointment or at least from the date of completing 10 years of service, and to protect their pay and to grant seniority, service benefits and pension by counting their period of contractual service. The CAT allowed the same by order dated 19.01.2016 and directed as follows:

"31. Therefore, after considering the entire facts and circumstances of the case, we order as follows:

³ Hereinafter "CAT".

⁴ In O.A. No. 339/2011 before CAT, Bangalore. The High Court upheld the same in W.P. Nos. 57381/2013 (S-CAT) and connected matters by order dated 22.04.2014.

1. The pay and other allowances drawn by the applicants prior to their appointment on regular basis on 1.4.2015 shall be protected and they shall be allowed the pay being drawn by them immediately prior to their regularisation as their basic pay as on 1.4.2015. Their annual increment shall be determined accordingly.

2. The applicants from whose salary, the GPF and other contributions made right from the date of their appointment on contract basis shall be entitled to come under the old pension scheme and the entire period of service right from the date of initial appointment on contract basis shall be counted towards pensionary benefits.

3. For the purpose of seniority, ACP and other service benefits etc., the regular service of the applicants shall be reckoned from the date of completion of 10 years of service from their initial appointments on contract basis.

32. The Respondents are directed to fix the salary of the applicants and grant the consequential benefits in terms of the above direction within a period of two (2) months from the date of receipt of a copy of this order.”

4. The respondents challenged the above order by way of a writ petition, which was partly allowed by the impugned order. The High Court set aside the CAT's directions to the extent of counting the period of contractual service for grant of seniority, service benefits, and pension on the ground that the initial appointment was on a contractual basis and not pursuant to the recommendation of the Staff Selection Commission. It held that the appellants will be entitled to regularisation and its consequential benefits only from 01.04.2015. However, the Court upheld the CAT's direction regarding protection of pay while fixing the pay scale.

5. We have heard Mr. MC Dhingra, learned senior counsel for the appellants. He relied on this Court's decision in *Sheela Devi* (supra) to contend that as per Rule 17 of the Central Civil Services (Pension) Rules, 1972⁵, the appellants would be entitled to pensionary benefits by including the period of contractual service. On the other hand, Mr. Vatsal Joshi, learned counsel for the respondents has sought to differentiate *Sheela Devi* (supra) only on the ground that the initial appointment in this case was not against sanctioned posts.

6. Before commencing our analysis, it is necessary to note the scope of prayers made before the CAT and High Court, and before this Court. The prayer before the CAT is for regularisation with retrospective effect, protection of pay, and grant of seniority and service and pension benefits by counting the period of contractual service. Pursuant to the High Court's impugned order dated 23.03.2021, only the appellants' pay has been protected while their prayers for seniority, service and pension benefits by including the contractual period have been rejected. The submissions before this Court have been limited to the grant of pensionary benefits by including the contractual period, through

⁵ Hereinafter "Pension Rules".

reliance on the decision in *Sheela Devi* (supra). The issues relating to grant of retrospective regularisation, seniority and service benefits during the contractual period have not been argued before us. We are therefore confining ourselves to the issue of pension.

7. Rule 17 of the Pension Rules deals with counting of service on contract for the purpose of granting pension, which squarely covers the issue in the present case. It is extracted below for ready reference:

“17. Counting of service on contract -

(1) A person who is initially engaged by the Government on a contract for a specified period and is subsequently appointed to the same or another post in a substantive capacity in a pensionable establishment without interruption of duty, may opt either :-

(a) to retain the Government contribution in the Contributory Provident Fund with interest thereon including any other compensation for that service; or

(b) to agree to refund to the Government the monetary benefits referred to in Clause (a) or to forgo the same if they have not been paid to him and count in lieu thereof the service for which the aforesaid monetary benefits may have been payable.

(2) The option under sub-rule (1) shall be communicated to the Head of Office under intimation to the Accounts Officer within a period of three months from the date of issue of the order of permanent transfer to pensionable service, or if the Government servant is on leave on that day, within three months of his return from leave, whichever is later.

(3) If no communication is received by the Head of Office within the period referred to in sub-rule (2), the Government servant shall be deemed to have opted for the retention of the monetary benefits payable or paid to him on account of service rendered on contract.”

8. This rule fell for consideration and interpretation in *Sheela Devi* (supra), where this Court held that although Rule 2(g) of the Pension Rules excludes contractual employees from their application, Rule 17 applies once such contractual employee is regularised on a later date. The effect is that upon regularisation, the Pension Rules become applicable and Rule 17 requires that past service as a contractual employee is to be taken into account for calculating pension.⁶ In this light, and considering that Rule 17 requires the regularised employee to exercise an option to either retain the Government's contribution to Contributory Provident Fund, or to refund such amount or forgo the same if they have not been paid in lieu of counting the service period for which such benefits may have been payable, this Court in *Sheela Devi* (supra) issued the following directions:

"11. In view of the above reasoning, this court is of the opinion that there is no merit in the appeal however, the following directions are issued:-

(i) The state shall take immediate steps to indicate the mode and manner of exercising option by all the employees concerned (who had been regularized after spells of contractual employment) regardless of the dates on which they were engaged i.e. prior to the year 2003 or subsequently, within a time frame, of within eight weeks from today.

(ii) After receiving the options within the time indicated in the notice, the concerned employee(s) who exercise the relevant options should be notified about the amounts they would have to remit in case any amount towards contribution is required, clearly.

⁶ *Sheela Devi* (supra), para 9.

(iii) *The options should be processed and completed within eight weeks from the last date of receiving options.*

(iv) *Time limit for payment too should be indicated and entire process should be completed within four months and all orders fixing pensions or family pension as the case may be, shall be issued.”*

9. In light of the clear language of Rule 17 of the Pension Rules as well as its interpretation in *Sheela Devi* (supra), the contractual service period rendered prior to the appellants’ regularisation in 2015 must be counted towards the payment of their pensionary benefits in accordance with the mechanism set out in Rule 17. In line with the directions issued in *Sheela Devi* (supra) extracted hereinabove, we direct the respondent Union of India to take immediate steps and indicate the mode and manner for the appellants to exercise the option provided under Rule 17 of the Pension Rules as well as to notify the amounts that the appellants would have to remit in case they opt for grant of pension under the Rules.

10. With the above reasoning and directions, we partly allow the present appeals arising from SLP (C) Nos. 19539-19540/2021 and set aside the impugned order of the High Court dated 23.03.2021 in W.P. No. 4712/2016 (S-CAT) c/w W.P. No. 4714/2016 (S-CAT) to the extent indicated hereinabove.

11. No order as to costs.

12. IA Diary No. 44115/2025 for bringing on record LR's of appellant no. 21 is allowed. Pending applications, if any, stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[JOYMALYA BAGCHI]

**NEW DELHI;
APRIL 29, 2025**