

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

**CLAIM PETITION NO. 169/DB/2022**

1. Ram Nath Aswal S/o Late Sri K.B. Aswal, R/o House No.21 B Block Saraswati Vihar AjabpurKurde P.O.Ajabpur Kala District-Dehradun.
2. Rakesh Raturi S/o Sri Jamuna Swaroop Raturi, R/o Village-Upladevra P.O.-Moldhari Disrict-Uttarkashi.
3. Santosh Singh Naugai, S/o Late Sri Bachhi Ram Naugai, R/o Village-Chaumasudhar, P.O.-Kherasain, District-Puri Garhwal.
4. Dinesh Singh Negi S/o Late Sri Prem Singh Negi, R/o, Village-75/2 Smithnagar P.O.-Prem Nagar District-Dehradun.
5. Bharat Singh Rawat S/o Late Sri Prem Singh Rawat R/o Village-Kalwadi P.O.-Chauradi District-Pauri Garhwal.
6. Ramchandra Singh Rawat S/o Late Sri Bhagat Singh Rawat, R/o Village-Kesav Vihar, P.O.-Ballawala District-Dehradun.
7. Ranjeet Singh Negi, S/o Late Sri Inder Singh Negi, R/o Village-55, Mohanpur, P.O.-Prem Nagar, District-Dehradun.
8. Swaroop Singh Chaudhary S/o Late Sri Kanti Singh Chaudhry, R/o Ambiwala, P.O.-Prem Nagar, District-Dehradun.
9. Kishan Singh Lingwal S/o Late Sri Ram Dutt Singh, R/o Village-Gurudwara Colony, Clement Town, District-Dehradun.
10. Kailash Chandra Bahuguna S/o Late Sri Goverdhan Prasad Bahuguna R/o Village-Mothrowala P.O.-Kargi District-Dehradun.
11. Kunwar Pal Singh S/o Sri Raj Pal Singh, R/o Village-Doiwala P.O.-Doiwala District-Dehradun.
12. Manveer Singh Rawat S/o Late Sri Keshar Singh Rawat R/o Village-Charnadi P.O.-Hisriyakhal District-Pauri Garhwal.
13. Girish Chandra Dhulia S/o Late Sri Sitaram R/o Village-Pali P.O.-Madamakandarwal District-Pauri Garhwal.
14. Rajendra Kumar S/o Late Sri Damodar R/o Village-Raktmani P.O.-Almora District-Almora.
15. Dinesh Singh Barthwal, S/o Sri Gabar Singh Barthwal, R/o Village, Beena Malla P.O. Chamoli.

16. Jaswant Singh Topwal S/o Late Sh. Dhoom Singh R/o Village Galoto, P.O. Koladungsi, Chamoli.
17. Maden Singh Pauer, S/o Late Sh. Inder Singh Pauer R/o Village Smith Nagar P.O. Prem Nagar, Dehradun.
18. Mahabeer Singh S/o Late Sh. Mohan Singh R/oThakurpur P.O. Prem Nagar, Dehradun.
19. Badar Singh Negi S/o Late Sh. Bachan Singh Negi R/o Dallatalla P.O. Gawdi Pokhara, Pauri Garhwal.
20. Praveen Singh S/o Late Sh. Karam Singh R/o Village Jwalapur Doiwala, Dehradun

.....Petitioners

### **VERSUS**

1. State of Uttarakhand through Secretary Home, Government of Uttarakhand, Dehradun.
2. Director General of Police, Directorate, Dehradun, Uttarakhand.

.....Respondents

**Present:** Sri M.C.Pant, Sri Abhishek Chamoli & Sri Abhishek Pant, Advocates, for the petitioners  
Sri V.P.Devrani, A.P.O., for Respondents.

### **JUDGMENT**

**DATED: FEBRUARY 06, 2025.**

**Justice U.C.Dhyani (Oral)**

By means of present claim Petition, the petitioners seek the following reliefs:

*“(a) Issue appropriate order or direction to direct the respondents to count their entire length of service from date of initial appointment before the date of regularization, for the purpose of retiral benefits like pension, gratuity, etc. in terms of old pension scheme and also to declare that all the petitioners shall be entitled for old pension benefit scheme in view of the facts highlighted in the body of the petition.*

*(b) Issue appropriate order or direction to declare that the petitioners shall also be entitled for promotional avenues by counting their length of service from date of initial induction as qualifying service for the post of head constable and other posts like ASI, SI, and shall also consider the case for promotion from date of becoming eligible on the basis of length of service with effect from initial induction with all consequential benefits in view of the facts highlighted in the body of the petition.*

*(c) Issue any other direction or order as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.*

*(d) Award costs of the claim petition to the petitioner."*

2. Facts necessary for adjudication of present claim petition are as follows:

2.1 An advertisement was issued by the Director General, Police Headquarters, inviting applications from Ex-Army Personnel for appointment on contractual basis on different posts for two years. Petitioners were appointed against their respective trades, after being selected as per the selection process stipulated in the advertisement and were sent for training.

2.2 WPSS No. 1556/2004 was filed by the petitioners, seeking regularization of their services. Hon'ble High Court passed an order on 23.12.2004, extracts of which have been reproduced by the petitioners in Para 4.3 of the claim petition. Hon'ble Court disposed of the selfsame writ petition *vide* order dated 26.08.2008, by directing the respondents to decide the representation dated 09.02.2004 of the petitioners for regularization.

2.3 The petitioners moved representation on 13.12.2009 to the respondent department, which was rejected by the respondents *vide* order dated 09.07.2010. Petitioners filed Claim Petition No. 57/2010 before the Tribunal, which claim petition was partly allowed by the Tribunal *vide* order dated 03.03.2015, directing the State to consider the appointment of the petitioners on various trades on which they have been working since 2001.

2.4 Petitioners filed WPSB No. 461/2015 before the Hon'ble High Court against the judgment of the Tribunal dated 03.03.2015.

Hon'ble Court dismissed the writ petition. Petitioners sought review of the judgment and the review application was also dismissed. In the meanwhile, Deputy Inspector General of Police (Personnel), Uttarakhand, Dehradun on 10.06.2015 rejected the claim of the petitioners. There was a clerical error in the same. Execution application was filed before the Tribunal.

2.5 It has been mentioned in the petition that petitioners are being subjected to hostile discrimination in the matter of promotion and avenues of promotion, because the respondents have not counted length of their service from the date of initial induction and treated them as appointed from the date of regularization.

2.6 Petitioners are Ex-Servicemen. Whereas some of the petitioners have retired, the others are at the verge of retirement. They were appointed on contractual basis by the State, as per their own policy and against permanent work and post. Their services should be counted from the date of their initial appointment for the purpose of pension and other retiral benefits.

2.7 Claim petition is supported by the affidavit of Sri Ram Nath Aswal, Petitioner No.1. Relevant documents have been filed along with the petition.

3. Claim petition has been contested on behalf of respondents. Counter Affidavit on behalf of respondents has been filed by Ms. Shahjehan Javed Khan, Add. Superintendent of Police (Personnel), PHQ, Dehradun. Relevant documents have been filed in support of Counter Affidavit.

3.1 Ld. A.P.O., while relying on the C.A. filed on behalf of the respondents, submitted, among other things, that the recruitment of Ex-Army Personnel was duly on contractual basis for a period of two years in the Police Department. Pension, which is granted by the main Army, has not been adversely affected. Dearness Allowance, which is admissible on pension as Army Personnel, has not been altered. Contractual appointment to the 361 Ex-Army Personnel was extended

for a period of one year, from time to time, after giving one day's break in the Police Department.

3.2 Referring to Section 4(b) of the Uttarakhand Retirement Benefit Act, 2018, Ld. A.P.O. pointed out that the said rule provides that "The service shall be deemed as qualifying service for retirement benefit when the concerned personnel is substantively appointed on any post created in permanent/temporary form in any establishment."

3.3 Ld. A.P.O. further submitted that the petitioners were appointed on fixed pay of Rs.3050/-. It is undisputed that no pension contribution was made by them towards pension prior to their substantive appointment in the year 2008. The new pension scheme came into force in the year 2005. Hence the pension claim falls exclusively within the purview of new pension scheme, not the old pension scheme. Consequently, their entitlement to pension benefit must be determined under the new pension scheme as their contribution to the pension commenced only after their substantive appointment in accordance with the statutory framework pension governing the scheme.

3.4 According to Ld. A.P.O., claim petition is devoid of merit and should be dismissed.

4 Rejoinder Affidavit has been filed by Sri Ram Nath Aswal, Petitioner No.1, on behalf of all the petitioners against the C.A. filed on behalf of the respondents, reasserting the facts contained in the claim petition.

5 In reply to the arguments of Ld. A.P.O., Ld. Counsel for the petitioners submitted that here the maxim *Lex prospicit, non respicit* applies. The law looks forward and not backward. As a benevolent employer, the respondents cannot create a situation compelling each and every similarly placed employee to approach the Court for the same relief, which has been granted to the others, on the same subject.

6 Ld. Counsel for the petitioners placed reliance upon various decisions rendered by the Hon'ble Apex Court and different High Courts

in *Writ Petition No. 2046/2010, Sachin Ambadas Dawale vs. The State of Maharashtra*; *Appeal (Civil) No. 3595-2612 of 1999, State of Karnataka vs. Uma Devi and others*; *Special leave to Appeal (Civil) No. CC10388/2010, Radha Dubey vs. Govt. of NCT of Delhi and others*; *Central Inland Water Corporation Ltd. Vs. Brojo Nath Ganguly, AIR, 1986 SC 1571*; *Case of Uttarakhand Pey Jal Sansthan Vikas Nigam evam Nirman Nigam*; *Case of Mussoorie Dehradun Development Authority*; *Prem Singh vs. State of U.P.*; *Union Public Service Commission vs. Girish Jayanti Lal Vaghela and others, 2006 (2) SCALE 115*; *Som Raj & others vs. State of Haryana & others, AIR 1990 SC 1176*; *Union of India vs. Kuldeep Singh, 2004 (2) SCC 590*; and *S.G. Jai Singhani vs. Union of India*, and submitted that the Act of 2018 shall not be applicable to the facts of present case.

## **DISCUSSION**

7 In *Civil Appeal of 2023 arising out of SLP (Civil) No. 10399/2020, State of Himachal Pradesh vs. Sheela Devi*, claim of the employees was that, upon regularization they were entitled to reckon the period of contractual period for the purpose of pension. The State rejected this contention, which led them to approach the High Court. Hon'ble High Court by impugned judgment allowed the writ petition and directed the State to extend pensionary benefits on the basis of the benefit of including contractual period claimed by them upon their regularization, the period of contractual employment was also reckonable for the purposes of future benefits including- whereby applicable, pension.

Aggrieved thereby, the State approached the Hon'ble Apex Court, who was pleased to give reasons in Para 6 to 10 of the decision to conclude that there was no merit in the appeal. The appeal was disposed of with certain directions, which were given in Para 11 of such decision.

8 In *Civil Appeal No(s). 3922-3925/2017, Somesh Thapliyal and another vs. Vice Chancellor, H.N.B. Garhwal University and another*, the dispute arose relating to appointment of Teachers in the

department of Pharmaceutical Sciences which was a constituent teaching department under the self-financing scheme of H.N.B. Garhwal University. Prior to 2004, the appointments were made in the Faculty of Pharmaceutical Sciences after inviting applications through walk-in-interview on purely contractual basis. Regarding certain conditions, the appellants submitted before the Hon'ble Apex Court, which submission is reflected in Para 22 of the decision, that they were not in equal bargaining position, with no option left other than to accept the terms and conditions offered to them in the letter of appointment. Hon'ble Apex Court observed thus:

“37. From the narration of facts as being referred to supra, it clearly manifests that the appellants were appointed after going through the process of selection as contemplated under Part VI of the Act 1973 which indeed was an appointment on substantive basis and since the appellants were not in an equal bargaining position and were in the need of employment when the offer of appointment was made, left with no option but to accept such arbitrary conditions incorporated in the letter of appointment in treating it to be contractual for a limited period still recorded their protest while joining but no heed was paid. When they were allowed to continue by extending their services, they remained under the bona fide belief that as their appointment is being substantive in character, they will be made permanent/confirmed immediately after the permanent posts are sanctioned in the Department of Pharmaceutical Sciences but to their dismay, after an advertisement dated 29th August, 2011 came to be notified by the respondent Central University, no option was left with them but to approach the High Court by filing of a writ petition.

42. The submissions of the learned counsel for the respondents that the appellants have accepted the terms and conditions contained in the letter of appointment deserves rejection for the reason that it is not open for a person appointed in public employment to ordinary choose the terms and conditions of which he is required to serve. It goes without saying that employer is always in a dominating position and it is open to the employer to dictate the terms of employment. The employee who is at the receiving end can hardly complain of arbitrariness in the terms and conditions of employment. This Court can take judicial notice of the fact that if an employee takes initiation

in questioning the terms and conditions of employment, that would cost his/her job itself.

43. The bargaining power is vested with the employer itself and the employee is left with no option but to accept the conditions dictated by the authority. If that being the reason, it is open for the employee to challenge the conditions if it is not being in conformity with the statutory requirement under the law and he is not estopped from questioning at a stage where he finds himself aggrieved.”

[Emphasis supplied]

9 In *Civil Appeal of 2024 arising out of SLP (C) No. 5580 of 2024, Jaggo vs. Union of India & others*, Hon'ble Supreme Court directed that the appellants of such decision shall not be entitled to any pecuniary benefit/ back wages for the period they have not worked but would be entitled for continuity of service for the said period and the same would be counted for their post retiral benefits.

10 In *Civil Appeal No. 9721 of 2024, Rajkaran Singh and others vs. Union of India and others*, the issue for consideration was whether the appellants despite being classified as temporary employees of a scheme managed by contributory pooling of funds, can claim entitlement to pensionary benefits in accordance with the 6<sup>th</sup> Central Pay Commission. The Hon'ble Apex Court replied such question in the affirmative and observed that-

“Thus, we are of the opinion that the denial of pensionary benefits to the appellants is not tenable or justifiable in the eyes of law as the same is arbitrary and violates the fundamental rights as guaranteed by Articles 14 and 16 of the Constitution of India. It is indeed relevant to note that the appellants' batch seems to be the last in their genre of SSD Fund temporary employees and thus, manifestly, the direction to extend the benefits of the 6th CPC and the RP Rules to the appellants shall not form a precedent so as to have a detrimental effect on the financial health of the SSD Fund.”

11 Petitioners in *WPSS No. 1110 of 2014, Harswaroop and others vs. State of Uttarakhand and others*, [reported in 2016 (2) U.D., 347], were Class-IV employees in the Public Works Department. All of them were appointed between 1985 to 1990 on daily rated basis. Thereafter they were placed in the work charge employment and finally



their services were regularized in 2006 to 2012. The question, which arose before the Hon'ble Court, whether these petitioners were entitled for pension under the regular pension scheme/ old pension scheme or were covered under the new pension scheme, known as Contributory Pension Scheme, which has been introduced in the State of Uttarakhand vide order dated 25.10.2005 and was implemented from 01.10.2015 for the new entrants in the Government service. Hon'ble Court decided that they would be entitled to the benefit of Old Pension Scheme

12 In *Special Appeal No. 940 of 2018, State of Uttarakhand and others vs. Balraj Singh Negi and connected Special Appeals*, Hon'ble High Court of Uttarakhand in its judgment dated 10.04.2024 has observed that:

“5. Brief facts of the case are that respondent-writ petitioner Balraj Singh Negi was appointed as Prashikshan Mitra vide order dated 07.03.2002 on the basis of his qualification against the post of Instructor. Subsequently, an advertisement was issued by the appellants on 21.02.2010 for filling up the post of Instructor, I .T.I . Motor Mechanic. After participating in the selection process, the respondent-writ petitioner was found suitable and got appointed on said post, on 17.12.2010. The similarly situated persons, who were appointed as Prashikshan Mitras were regularized in the year 2013-2014. Respondent-writ petitioner, though was selected on 21.02.2010, but got appointment on 17.12.2014.

6) The only question for consideration before the learned Single Judge was whether the continuous service rendered by the respondent-writ petitioner from 07.03.2002 till his appointment as Instructor, I .T.I . Motor Mechanic on 17.12.2014, has to be counted for pensionary purposes by the appellant State, or not? The writ petition was allowed and a direction was given to the State to count the services rendered by the respondent-writ petitioner w.e.f. 07.03.2002 till his appointment as Instructor, I .T.I . Motor Mechanic on 17.12.2014 for all intents and purposes keeping in view the judgment of Hon'ble Apex Court in *AI R 2018 SC 233*, *Sheo Narain Nagar & others Vs State of Uttar Pradesh and others*.

7) The main ground taken by counsel for the State in the present appeal is that once the respondent writ petitioner was appointed on regular basis on 17.12.2014, he could not be given any benefit of the past services, and reliance of the learned Single Judge on the judgment of Hon'ble Supreme Court in *Sheo Narain Nagar's case* (supra) is on different facts, and respondent cannot get the benefit of said judgment because in that case the employee had been appointed in the year 1993, and he was given temporary status on

02.10.2002, and after the judgment in Secretary, State of Karnataka & others Vs Um a Devi & others, 2006 (4) SCC 01, he had completed 10 years of service on the date when he was given temporary status, i.e., 02.10.2002, and the Hon'ble Supreme Court had given directions that his services be regularized w.e.f. 02.10.2002 with all consequential benefits and arrears of salary.

8) The facts of the present case are that the respondent-writ petitioner was given regular appointment in 2014 after participating in the selection process pursuant to the advertisement dated 21.02.2010, and he cannot claim parity of benefit of regularization at par with other persons, who were regularized in the year 2013-2014. It is the ratio of the Supreme Court judgment which has to be applied. The respondent-writ petitioner in the present case is claiming parity. He was appointed on 07.03.2002, and as per the regularization policy, the persons who were appointed along with him were regularized in the year 2013-2014, and pursuant to the selection made in the year 2010, he was given appointment on 17.12.2014. Even if he was given appointment on 17.12.2014, he has been working continuously from 07.03.2002 till 17.12.2014 after regular selection also on 21.02.2010. Hence, the services rendered by the respondent-writ petitioner from 07.03.2002 till 17.12.2014 cannot be taken away for the purpose of consequential benefits. Had the respondent writ petitioner been appointed in 2010, he had completed only 10 years after his initial appointment, and he cannot claim benefit of the past services. Since he was regularized on 17.12.2014, the benefit of past service has to be given and the writ petition has been rightly allowed. However, the benefit which the respondent-writ petitioner has to be given is only with respect to counting the past services for fixation of pension only.

9) Keeping in view the judgments rendered by Hon'ble Supreme Court in Secretary, Minor Irrigation Department and others Vs Narendra Kumar Tripathi, ( 2 0 1 5 ) 1 1 SCC 8 0 , as well as in recently pronounced judgment in the case of Rashi Mani Mishra and others Vs State of Uttar Pradesh and others, 2 0 2 1 0 Supreme ( SC) 3 8 7 , where the Hon'ble Supreme Court has consistently held that the seniority of a person has to be counted from the date of substantive appointment. His ad hoc appointment prior to the date of substantive appointment cannot be made ground to give him benefit of seniority. The only benefit which a person can take is that his services from ad hoc before he was substantially appointed or regularized will be counted for the benefit of pension.

10) The past services rendered by a contractual employee had to be taken into account for the purpose of pension only. This proposition has already been considered by Hon'ble Supreme Court in State of Himachal Pradesh and others Vs Sheela Devi, SLP ( C) No. 1 0 3 9 9 of 2 0 2 0 , decided on 07.08.2023, while upholding the judgment of the Himachal Pradesh High Court relying upon Rule 17(2) of CCS Pension Rules holding that Rule 17 was engrafted essentially to cater to the eventuality where the employees working on contract basis were regularized on a later stage. It is only for the purpose of

pension that the past services as contractual employee is to be taken into account.

11) Similar view has also been taken by Punjab and Haryana High Court in the case of Som Nath and others Vs State of Punjab and others, CW P No. 1 4 3 2 of 2 0 1 2 , along with batch of writ petitions, decided on 23.01.2013, holding that the entire daily wage service of an employee from 1988 till the date of his regularization is to be counted as qualifying service for the purpose of pension

12) In view of the aforesaid, impugned judgment dated 05.07.2018, rendered by learned Single Judge in Writ Petition (S/S) No. 2684 of 2015, Balraj Singh Negi Vs State of Uttarakhand and others, is modified only with respect to the consequential benefit. The benefit of service rendered by the respondent-writ petitioner Balraj Singh Negi prior to his regular appointment, i.e. 17.12.2014 will be counted only for the purpose of pension. The said benefit will also be applicable in the cases of other respondents-writ petitioners in this bunch of appeals for the purpose of pension only.

*[Emphasis supplied]*

It may be noted here that the SLP filed by the State of Uttarakhand and others was dismissed *vide* order dated 14.10.2024

13 Similar view was taken in the decision rendered by the Division Bench of Madurai Bench of Hon'ble Madras High Court in the Director, Local Fund Audit, Chennai and others vs. A.R.D. Nayagam in W.A. (MD) No. 760/2013 and decision rendered by Hon'ble Punjab and Haryana High Court in Som Nath and others vs. State of Punjab and others (CWP No. 1432/ 2012).

14 First prayer of the petitioners is to direct the respondents to count entire length of their service from the date of initial appointment before the date of regularization, for the purpose of retiral benefits like pension, gratuity, etc. in terms of old pension scheme. Petitioners are ex-servicemen, who, as per the policy of the Govt. were appointed on contractual basis against permanent work and post. Some of the petitioners have retired, the others are at the verge of retirement. They were appointed on fixed pay of Rs.3050/-.

15 The short question for consideration of the Tribunal is, whether to count entire length of their service from the date of initial appointment (on contractual basis on fixed pay) before the date of

regularization, for the purpose of retiral benefits like, pension, gratuity etc. or not?

16 The issue is no longer *res integra*. The question for consideration before the Hon'ble High Court in Special Appeal No. 940 of 2018, State of Uttarakhand and others vs. Balraj Singh Negi and connected Special Appeals, was, whether the continuous service rendered by the writ petitioners till their regular appointment was to be counted for pensionary purposes or not?

17 The Hon'ble High Court concluded, in the clear terms, that the benefit of services rendered by the petitioners, prior to their regular appointment, will be counted (only) for the purpose of pension. In other words, the Hon'ble Court decided that the entire service of an employee till the date of his regularization shall be counted as qualifying service for the purpose of pension.

18 It is, therefore, held that the petitioners are entitled to count entire length of their services from the date of initial appointment before the date of regularization for the purpose of pension.

19 Respondents are directed accordingly.

20 The next question is, whether the petitioners are entitled to the benefit of old pension scheme or not?

21 The Hon'ble High Court in *Harswaroop 's case (supra)*, has, on the basis of facts of such case, decided this question in Paras 5 to 8, as under:

“5. Mr. Nagesh Agarwal, learned counsel appearing for the petitioners, has relied upon a Division Bench judgment of the Madurai Bench of Madras High Court passed in the case of the Director, Local Fund Audit, Chennai and others v. A.R.D. Nayagam in W.A. (MD) No. 760 of 2013, where under the similar scheme introduced in the State of Tamil Nadu, the word “new entrant” has been defined as someone who enters in service recently and, therefore, by logic a person who was already in service either as a contingent staff or temporary staff continuously and absorbed in permanent establishment, though absorbed after a cut off date, cannot be termed as new entrant in service. It was held by the Division Bench in the said case that new pension scheme can be

applied only to a person appointed for the first time as a casual, temporary or permanent employee.

6. Similar view has also been taken by Punjab and Haryana High Court in the case of Som Nath & others v. State of Punjab and others (CWP No. 1432 of 2012).

7. What is here at stake in this case is a valuable right of the petitioners, and as it has been repeatedly held by the Hon'ble Apex Court, pension is not a bounty or a gift from the Government but it constitutes a right of a retired employee under service jurisprudence. In this light the word "new entrant" must be interpreted. A new entrant would be an incumbent who has joined his service recently. In the present case the effective date of Government Order dated 25.10.2005 is w.e.f. 01.10.2005. The present petitioners are definitely not new entrants, as they were already working in the Public Works Department, though under a different category of employment i.e. work charge and prior to that on daily rated basis. By no stretch of imagination, can they be called "new entrants" since they were the existing employees in the department, though as a "work charge employee". Therefore, the stand of the Government that the petitioners being the new entrants in service and will be governed under contributory pension scheme is wholly erroneous.

8. In view of the aforesaid, writ petition succeeds and is hereby allowed. A mandamus is issued to the respondent authorities to give the petitioners regular pension under the old pension scheme, as is applicable to other employees employed prior to 01.10.2005."

*[Emphasis supplied]*

22 The facts of Harswaroop's case and present petitioners, on facts and law, appear to be on similar footing. Petitioners are working in the respondent department pursuant to an advertisement dated 27.11.2001. Hence, they are entitled to the same benefit, which was given to the petitioners of Harswaroop's case. Meaning thereby, they will be given benefit of old pension scheme.

23 Respondents are directed accordingly.

24 So far as Relief 10(b) is concerned, Ld. Counsel for the petitioners submitted that liberty may be granted to the petitioners to make representation to the Respondent No.2, who should be directed to decide the same, in accordance with law. Innocuous prayer of Ld. Counsel for the petitioners is worth considering.

25. Respondent No.2, is requested to decide the representation of the petitioners, (as regards Relief No. 10 b) by a reasoned and

speaking order, as per law, as expeditiously as possible and without unreasonable delay on presentation of certified copy of this order along with representation, enclosing the documents in support thereof.

26. The claim petition thus stands disposed of. No order as to costs.

**(ARUN SINGH RAWAT)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: FEBRUARY 06, 2025*  
*DEHRADUN*

VM