2026 INSC 1252

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 1458 OF 2020

UTTAR PRADESH GROUND WATER DEPARTMENT

NON GAZETTED EMPLOYEE ASSOCIATION (REGD.)

& ANR. ... PETITIONERS

VERSUS

THE CHIEF SECRETARY & ORS. ... RESPONDENTS

WITH

W.P.(C) NO. 74 OF 2021

WITH

W.P.(C) NO. 332 OF 2021

WITH

W.P.(C) NO. 333 OF 2021

WITH

W.P.(C) NO. 474 OF 2023

WITH

W.P.(C) NO. 432 OF 2024

WITH

W.P.(C) NO. 440 OF 2024

WITH

W.P.(C) NO. 459 OF 2024

WITH

W.P.(C) NO. 156 OF 2025

WITH

W.P.(C) NO. 193 OF 2025

WITH

W.P.(C) NO. 979 OF 2025

WITH

W.P.(C) NO. 342 OF 2026

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 22530 OF 2018]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. OF 2026]
@ DIARY NO. 1747 OF 2020

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 6206 OF 2020]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 13043 OF 2021]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 17982 OF 2021]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 4385 OF 2022]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 5859 OF 2022]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 6091 OF 2022]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 5393 OF 2023]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 21165 OF 2023]

WITH

MISCELLANEOUS APPLICATION DIARY NO. 3248 OF 2024
[IN CIVIL APPEAL NO. 6799 OF 2019]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 4686 OF 2024]

WITH

CIVIL APPEAL NO. OF 2026
[ARISING OUT OF SLP(C) NO. 18332 OF 2024]

WITH

CONMT. PET.(C) DIARY NO. 12683 OF 2025
[IN CIVIL APPEAL NO. 8340 OF 2019]

WITH

CONMT. PET.(C) NO. 2115 OF 2018
IN C.A. NO. 2896 OF 2018

WITH

CONMT. PET.(C) NO. 306 OF 2020
IN C.A. NO. 6804 OF 2019

WITH

CONMT. PET.(C) NOS. 309-313 OF 2020
IN C.A. NOS. 6799-6803 OF 2019

WITH

CONMT. PET.(C) NOS. 314-318 OF 2020
IN C.A. NOS. 6938-6942 OF 2019

WITH

CONMT. PET.(C) NO. 319 OF 2020
IN C.A. NO. 6805 OF 2019

WITH

CONMT. PET.(C) NO. 332 OF 2020
IN SLP(C) NO. 19326 OF 2017

WITH

CONMT. PET. (C) NOS. 429-431/2021
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DIPANKAR DATTA, J.

I. PROLOGUE

1. The extant controversy has emerged wearing a garb of novelty; however, novelty of form does not necessarily tantamount to novelty of substance. The wisdom from the eons has long recognised this distinction: in Swami Vivekananda's felicitous prose, *"Name and form come and go, but substance remains ever the same*[1]*"*. Here, the bottle may have changed but the wine it holds remains vintage – the proceedings are but a new form for an old, continuing grievance.

2. The present batch of matters has its genesis in a controversy which, spanning several decades and even receiving judicial attention before, revolves around a single factual matrix. The precise question is, whether the service rendered by employees of the State[2] prior to their regularisation – particularly service rendered in a work-charged establishment in any of the departments of the State, and in some cases, rendered in a temporary, daily-wage or muster-roll capacity – could be reckoned as service qualifying for determining the eligibility to receive pension.

3. At first sight, the protracted proceedings stem from a dispute concerning the entitlement of a class of employees to pension. Beneath

[1] Swami Vivekananda's lecture, titled "I am that I am", dated March 20th, 1900
[2] State of Uttar Pradesh

this factual thicket, lies the need for an inquiry into the limits of legislative power when exercised after a judgment of this Court has finally crystallised the legal position. The cause has travelled through the High Court[3] and this Court on previous occasions. It has further borne the incidence of executive instructions; a decision of this Court in ***Prem Singh & Ors. v. State of Uttar Pradesh***[4]; subsequent review and contempt proceedings; legislative intervention by the State, thus, seeking to overrule the judicial verdict after all earlier efforts had failed to secure reversal of the same through procedure known to law, a further enactment thereafter dealing with entitlement to pension during the pendency of the present batch of petitions (more importantly when one coordinate Bench was deep into the nitty-gritty of the controversy and had made certain, *prima facie*, observations unfavourable to the State). The dispute turns not so much on facts as on principles of constitutional importance, and thus requires a principled rather than a fact-intensive inquiry.

4. Delay in filing and refiling the Special Leave Petitions, wherever applicable, is condoned. Leave granted. The applications seeking substitution, setting aside abatement and condonation of delay in filing applications for setting aside abatement are allowed. Resultantly, the legal representatives of the deceased employees are permitted to be brought on record. Registry shall carry out the necessary amendments

[3] High Court of Judicature at Allahabad
[4] (2019) 10 SCC 516

in the array of appellants, accordingly. All pending applications stand disposed of.

II. CONTEXTUAL MILIEU

5. Petitioners in the principal group are employees or retired employees of various departments of the State, including the Public Works Department, Ground Water Department and Irrigation Department. A substantial number of them were initially engaged between the late 1970s and the mid-1980s in work-charged establishments. Their services were subsequently regularised at different points of time. The compass of consideration before us also bears out matters concerning individuals who commenced their service as daily-wage or muster-roll employees and were thereafter brought into the work-charged establishment before ultimately being regularised. In other matters, the initial engagement was on a temporary basis or as Seasonal Collection Amins.

6. The dossier in the lead petition traces the engagement of several of the employees concerned to the period between 1978 and 1986. They were appointed in various capacities in the Irrigation/Ground Water Department, Public Works Department and allied establishments of the State. The service conditions of work-charged employees were thereafter the subject-matter of repeated administrative consideration. The record refers to Government instructions issued in 1987 and 1997 concerning pension/family pension and, more

particularly, to proceedings concerning regularisation of work-charged and muster-roll employees. In proceedings arising from Writ Petition (Civil) No. 140 of 1989, this Court dealt with the question of regularisation of a large body of work-charged employees and muster-roll labourers employed in different projects of the State. It is evident from the materials placed before this Court that the State, pursuant to directions issued in those proceedings, formulated a scheme for regularisation.

7. Employees of the Ground Water Department similarly approached this Court in Writ Petition (Civil) No. 468 of 1996 seeking regularisation. The proceedings were ultimately connected, in the factual tapestry of the present batch, with the subsequent regularisation of the employees concerned. Several employees who had initially served in work-charged establishments were eventually absorbed or regularised against posts in the regular establishment.

8. The subsequent dispute did not, therefore, primarily concern whether these employees had served the State. The service rendered in its various forms is not in dispute, at least at the factual level, for the present. The controversy, however, arose from the legal character attributed to the different periods of service rendered by them at different points in time for the limited purpose of pensionary benefits. In particular, the question arose as to whether the period served in a work-charged establishment could be treated as qualifying service given the employee's subsequent regularisation of service.

III. GRAVAMEN OF THE *LIS*

9. Some of the employees, who had been earlier appointed in work-charged establishments and were subsequently regularised, approached the High Court questioning the validity and application of Rule 3(8) of the Uttar Pradesh Retirement Benefits Rules, 1961[5], and Regulation 370 of the Civil Service Regulations[6]. *Apropos* the said rules and regulations, their grievance was that the exclusion of the period spent in a work-charged establishment from qualifying service engendered the denial of pension to employees who had rendered substantial service to the State preceding their eventual regularisation.

10. The High Court, by a judgment and order dated 3rd February, 2017 passed in the relevant proceedings, dismissed the challenge. The reasoning *inter alia* was that the provisions could not be struck down merely on the anvil of arbitrariness and that the impugned provisions were not beset by Article 14 of the Constitution. Appeals emanating from the afore-mentioned controversy thereafter reached this Court. The principal decision was rendered on 2nd September, 2019 in ***Prem Singh*** (supra). The factual underpinning of ***Prem Singh*** (supra) itself has a material bearing on the present batch of petitions.

11. Prem Singh had been appointed as a welder in 1965 in a work-charged establishment of the Ram Ganga River Valley Project at Kalagarh. After completing his stint in that capacity and being transferred from one

[5] 1961 Rules
[6] Regulations

place to another, his services came to be regularised on 13th March, 2002. He was posted as Pump Operator in the regular establishment. He superannuated on 31st January, 2007. His claim for reckoning the period spent in the work-charged establishment as qualifying service was turned down by the authorities and by the High Court before the matter reached this Court.

12. This Court in its judgment dated 2nd September, 2019, *inter alia*, ultimately read down Rule 3(8) of the 1961 Rules and held that the services rendered in the work-charged establishment were to be treated as qualifying service for the grant of pension. The arrears were, however, truncated to three years preceding the date of the order, and the other ancillary benefits were directed to be paid within three months. The appeals preferred by the employees therein were accordingly allowed, whereas the appeals filed by the State were dismissed. The State, thereafter, sought review of the judgment. The review petition was dismissed on 13th February, 2020.

13. The record further discloses contempt proceedings having been instituted by some of the employees, alleging non-compliance with the judgment dated 2nd September, 2019. In the proceedings before this Court on 28th February, 2020, the issue of compliance was considered in the context of those contempt petitions. The record also contains an order in the contempt proceedings noting that the State had subsequently taken legislative action concerning pension of work-charged employees. The Court was informed by the State that an

Ordinance had been promulgated, retrospectively operating from 1961, and that the Ordinance was subsequently replaced by an Act[7] which came into force on 5th March, 2021.

14. The Ordinance and the subsequent validating legislation triggered the challenge before this Court in the present batch. The legislative response, however, did not cease with the enactment of 2021. In the year 2025, when the proceedings in the present batch were afoot, the State once again promulgated an Ordinance dealing with the entitlement to pension and the validation of actions taken in that regard. The said Ordinance was thereafter repealed by the Uttar Pradesh Entitlement to Pension and Validation Act, 2025[8], enacted as U.P. Act No. 5 of 2026, which was given retrospective operation from 1st April, 1961. The said enactment introduced, *inter alia,* the statutory expression "substantive appointee", prescribed the class of persons who are entitled to pension with reference thereto, and further entailed a validating provision in respect of the actions taken, things done and Government Orders issued time and again notwithstanding any judgment, decree or order of any court, tribunal or authority.

15. Thus, the legislative history germane to the controversy comprises not one, but various legislative responses in close succession: the Ordinance of 2020, followed by the Validation Act, 2021, then by the subsequent Ordinance of 2025, and thereafter by the Validation Act,

[7] Validation Act, 2021
[8] Validation Act, 2025

2025. The challenge to these enactments (the latter by amendment) falls for consideration as against the backdrop of the earlier legislative measure, and more fundamentally, the judgment rendered by this Court in ***Prem Singh*** (supra) which preceded both the legislative interventions.

16. For the extant purpose of dealing with the different sets of petitions engaging our consideration, they may be conveniently grouped in three categories as hereinbelow indicated, and we need not encumber the body of our decision with the factual granularities of each of these petitions. Rather, the same is conveniently encapsulated in the tables featuring in the appendix to this judgment. Nonetheless, compelled by the contextual necessity and for the sake of referential convenience, a brief conspectus of a representative case in each of these groups may be adumbrated as follows:

Group-I: Aggrieved employees/associations directly challenging the Ordinance/Validating Legislation, promulgated/enacted by the State subsequent to ***Prem Singh*** (supra), including the Validation Act, 2021 and the Validation Act, 2025 (12 petitions);

Group-II: Aggrieved individual employees whose claims had earlier been rejected by the High Court, whose individual cases differ in their factual particulars (5 petitions); and

Group-III: Appeals preferred by the State against judgments of the High Court, which were favourable to the employees. These appeals require us not only to examine the mere validity of the subsequent

legislation, but also whether the High Court correctly construed the ratio of ***Prem Singh*** (supra) and the extent to which the service of the concerned employees falls within it. No conclusiveness may be attributed to the subsequent legislation, at this juncture, since even the legislation is under assail before us on various counts (7 petitions).

IV. SUBMISSIONS

17. We have heard learned counsel appearing for the parties *in extenso.* Since the questions raised before us have bearing on the larger aspect of constitutional dimension involving the interplay between legislative power and the finality of judicial adjudication, the submissions merit notice with some fullness, though not reduced to a forensic catalogue.

A. On behalf of the Employees/Petitioners

18. Learned senior counsel/learned counsel appearing for the employees/petitioners contended that they constitute a class of employees who were initially engaged as work-charged employees in various departments of the State of Uttar Pradesh, including the Ground Water Department, Irrigation and Water Resources Department, Public Works Department and Rural Engineering Department, in the late 1970s and early 1980s. They remained in service *sans* any interruption, were subsequently regularised and, in large measure, have since superannuated. It was urged that their service was not ephemeral or casual in any real sense, and that the State, having accepted and utilised their services over decades and

subsequently regularised them, cannot now retrospectively erase the earlier period of service for the purpose of pension.

19. Learned counsel further contended that the controversy stands substantially settled by the judgment of this Court in ***Prem Singh*** (supra). According to them, this Court, while considering Rule 3(8) of the 1961 Rules, recognised the impermissibility of excluding the period of work-charged service of an employee who was concomitantly regularised from computation of qualifying service. Reliance was sought to be placed upon the reasoning adopted in ***Kesar Singh v. State of Punjab***[9] and affirmed in ***Prem Singh*** (supra), particularly the principle that once a work-charged employee is regularised and becomes a public servant, there is no rational basis for depriving him of pensionary benefits by disregarding the service which he had already rendered.

20. The next submission has been that ***Prem Singh*** (supra) was not premised upon an indulgence extended to a particular group of litigants but upon a constitutional determination that the exclusion crystallised in Rule 3(8) was impermissibly discriminatory. It was urged before us that the similarly situated employees cannot be segregated into those who happened to be parties before the Court and those who were not. Once the impugned provision was read down, its legal ramifications, as it was contended before us, necessarily extended to all persons similarly placed. Reliance was placed on ***State of Uttar***

[9] AIR 1988 P&H 265

Pradesh v. Arvind Kumar Srivastava[10], in furtherance of the proposition that equals cannot be treated unequally merely because only some of them had approached the Court.

21. It was submitted with considerable vehemence that the State thereafter unsuccessfully pursued the remedies available against ***Prem Singh*** (supra). The review petition was dismissed, and the curative petition was subsequently withdrawn. It was pointed out that, following the judgment, the State itself issued an office memorandum dated 20th November, 2019 directing compliance, and pensionary benefits were in fact released to a number of similarly situated employees. It was contended that this subsequent conduct of the State demonstrates that the judgment was treated, in practice, as laying down the governing law and not merely as conferring an individual benefit upon the original appellants before this Court.

22. The principal grievance of learned counsel for the petitioners was directed against the Validation Act, 2021. The legislation, it was submitted, does not cure the defect flagged in ***Prem Singh*** (supra) but merely seeks to restore under a different statutory formulation, the very exclusion which this Court had found constitutionally untenable. In effect, it was argued that the impugned enactment is not a proper validating law in the constitutional paradigm. The vice identified in ***Prem Singh*** (supra) was the impermissible classification between those who had rendered work-charged service and those

[10] (2015) 1 SCC 347

whose service germinated in the regular establishment. It was contended that merely redefining "qualifying service" so as to exclude the very period of work-charged service does not remove that constitutional infirmity. The legislative device, in the submission of learned counsel, changes the language but leaves the substance of the discrimination intact.

23. On the anvil of ***Punjab State Cooperative Agricultural Development Bank Ltd. v. Registrar, Cooperative Societies***[11], ***T.R. Kapur v. State of Haryana***[12] and ***State of M.P v. Yogendra Srivastava***[13], it was argued that the retrospective operation of the impugned legislation is particularly objectionable because, by the time the legislation was enacted, the petitioners had already rendered the relevant service and, in many cases, had retired. The pensionary entitlement flowing from that service, according to learned counsel, had acquired the character of a vested right and could not retrospectively be divested by an enactment which did not satisfy the standards of constitutional reasonableness.

24. It was contended on behalf of the learned counsel for the petitioners that while the hearing on the challenge against the validity of the Validity Act, 2021 was going on, the State in a clandestine manner, had promulgated the 2025 Ordinance, which was later subsumed in the Validation Act, 2025. However, nothing substantial has been

[11] (2022) 4 SCC 363
[12] 1986 Supp SCC 584
[13] (2010) 12 SCC 538.

pressed into service by the counsel on behalf of the learned counsel for petitioners on this plank of challenge as against the Validation Act, 2025 as such, rather the contentions stem from the Validation Act, 2021.

B. <u>On Behalf of the STATE</u>

25. Shri R. Venkataramani, learned Attorney General for India, appearing for the State submitted that the controversy must be examined against the settled principle that the constitution, classification and conditions of service, including the prescription of pensionary benefits, fall within the legislative and executive domain, subject always to constitutional limitations. It was argued that pension is a creature of the governing statutory rules, and there is no constitutional imprimatur that every category of employment under the State must carry identical retiral benefits. A work-charged establishment, he submitted, is structurally and legally distinct from a regular establishment, being ordinarily created for execution of specified works and governed by a different fiscal and administrative regime.

26. It was further submitted that ***Prem Singh*** (supra) proceeded upon an erroneous equation of work-charged service with regular service. According to the learned Attorney, the Note to Rule 3(8) of the 1961 Rules was intended only to protect an employee otherwise serving in a pensionable establishment from losing continuity on account of an intervening period spent in a work-charged or non-pensionable establishment; it was not a provision conferring an independent

pensionary right upon work-charged employees. When Rule 3(8), Regulations 361, 368 and 370 and the provisions of the Financial Handbook are read together, the statutory scheme, it was urged, consistently excluded work-charged service from pensionary entitlement.

27. Learned Attorney next contended that the distinction between work-charged and regular service is not merely nomenclatural but rests upon materially different modes of appointment, the existence or otherwise of sanctioned posts, the nature and duration of the establishment, and the applicable service regime. Length of service, by itself, it was argued, cannot obliterate these foundational distinctions. Regularisation, moreover, ordinarily operates prospectively and does not retrospectively convert an antecedent engagement into a substantive appointment to a regular post.

28. *Apropos* the validity of the impugned legislation, the learned Attorney contended that the State Legislature was competent to clarify the governing law and to displace the legal basis of a judicial decision by altering the underpinning statutory framework. He urged that the validating enactments do not merely declare a judgment ineffective; they redefine the statutory conditions governing qualifying service and pension entitlement by making "substantive appointee" as the eligible category for the entitlement of pensionary benefits. It was argued that such enactments satisfy the three-pronged test in ***Shri Prithvi Cotton***

Mills Ltd. v. Broach Borough Municipality[14]: legislative competence, removal of the defect identified by the Court, and adherence to Part-III of the Constitution. Reliance was, *inter alia,* placed on ***Indian Aluminium Co. v. State of Kerala***[15], ***Bakhtawar Trust v. M.D. Narayan***[16] and other decisions which, according to him, judicially sanctify the legislative power to retrospectively alter the legal fulcrum around which a judgment pivots.

29. It was further urged before us with considerable vehemence that the present case is also distinguishable from instances where legislation merely purports to annul a judicial command without altering the underlying law. The persons who were parties to ***Prem Singh*** (supra), it was submitted, would remain governed by the judgment *inter partes*; the present legislation operates upon the broader class of persons seeking to invoke the ratio of that decision for pensionary claims. The validating enactments, therefore, were said to constitute an exercise of legislative power to prescribe the substantive conditions of pension rather than an impermissible usurpation of judicial power.

30. *Qua* retrospectivity, the learned Attorney submitted that retrospective operation is intrinsic to validating legislation where the legislative object is to remove the legal substratum of past judicial decisions and to validate past actions. A valid retrospective enactment, within the legislative competence and subject to constitutional limitations, may

[14] (1969) 2 SCC 283
[15] (1996) 7 SCC 637
[16] (2003) 5 SCC 298

alter the legal consequences of past events and render a prior judicial decision ineffective. In this vein, reliance was placed upon ***State of H.P. v. Narain Singh***[17]***, NHPC Ltd. v. State of H.P.***[18]***, National Agricultural Cooperative Marketing Federation of India Ltd. v. Union of India***[19]***, Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.***[20], and ***Virendra Singh Hooda v. State of Haryana***[21]*.* It was followingly contended that the 2021 and 2025 enactments must be accorded their intended retrospective effect from 1st April, 1961.

31. Sequentially, the learned Attorney submitted that besides the validity of the validating enactments, the correctness of ***Prem Singh*** (supra) itself warrants reconsideration by a larger Bench. The judgment, it was urged, failed to adequately consider the statutory distinction between work-charged and regular establishments, the relevant provisions of the Financial Handbook and the State's Regularisation Rules, and the extant jurisprudence governing substantive appointment and regularisation. It was therefore characterised as a decision that proceeded *per incuriam* and as having, in substance, engendered a pensionary right by judicial interdiction where none existed under the relevant statutory scheme. In his submission, the Court's power and duty to reconsider an earlier decision in the rare case of manifest legal

[17] (2009) 13 SCC 165
[18] (2023) 17 SCC 1
[19] (2003) 5 SCC 23
[20] (2021) 9 SCC 657
[21] (2004) 12 SCC 588

error is well settled, and the present matter warrants such reconsideration in the interests of constitutional and legal correctness.

32. Learned Attorney's ultimate submission, pressed as the final plank of argument, was that the Validation Act, 2021 and Validation Act, 2025 are constitutionally valid exercises of legislative power, that they have altered the statutory bedrock governing qualifying service and pension entitlement and validly operate retrospectively; that claims founded upon ***Prem Singh*** (supra) must concomitantly be gauged under the altered statutory regime; and that ***Prem Singh*** (supra) itself warrants reconsideration by a larger Bench. One other submission, made in the passing by the learned Attorney, will be spelt out and dealt with at a later part of this judgment.

C. <u>On behalf of the Impleaded Petitioners/Retired personnel of the PWD</u>

33. Learned counsel appearing for the impleaded petitioners as well as a section of retired personnel submitted that the challenge to the Validation Act, 2021 had originally been raised before the High Court, but the proceedings were ultimately disposed of with liberty to the concerned petitioners to approach this Court, the validity of the enactment itself being already under consideration in the present proceedings.

34. On merits, learned counsel sought to position the controversy in its historical and administrative setting. It was submitted that over several decades, particularly in the Public Works Department, the

Government had itself followed a policy of progressively absorbing and regularising work-charged personnel into the regular establishment. Reference was made to the Government orders and office memoranda issued from 1967 onwards providing for the creation of temporary posts, absorption of work-charged employees who had completed the prescribed period of service, preservation of seniority from the date of initial appointment in the work-charged establishment, and eventual movement from muster-roll and work-charged employment to the regular establishment. They submitted that regularisation of such employees was thus not an isolated or exceptional occurrence but constituted part of the administrative practice followed by the State over a considerable period.

35. It was further submitted by learned counsel that the service of field employees had historically been dealt with through different administrative categories, including regular work-charged employees absorbed against available posts, work-charged employees appointed from district-wise seniority lists and muster-roll employees who had rendered long and continuous service. According to learned counsel, the nomenclature dovetailed to the initial engagement could not muddle the factual continuity of service rendered by these employees over several decades.

36. Reliance was placed on the decisions of this Court in ***Habib Khan v. State of Uttarakhand***[22], wherein work-charged service was held

[22] Civil Appeal No. 10805-10807 of 2017

liable to be counted for computation of qualifying service for pension, and ***Prem Ram v. Managing Director, Uttarakhand Pey Jal & Nirman Nigam***[23], to contend that belated regularisation ought not to operate to the prejudice of employees who had continued in service for long periods. Reference was further made to ***State of U.P. v. Chandra Prakash Pandey***[24] to buttress the submission that the character of the duties actually discharged by an employee, rather than merely the nomenclature of the post, may be relevant in determining his status in public employment. Reliance was also placed on ***Jaggo v. Union of India***[25] with particular emphasis on the Court's caution against employing the principle in ***Secretary, State of Karnataka & Ors. v. Umadevi***[26] selectively so as to defeat the claims of employees who had rendered indispensable services over long periods.

37. The argument was taken to its culmination with the submission that the impugned Validation Act was internally incongruous in its approach to the expression "qualifying service". While purporting retrospectively to validate the statutory definition with effect from 1st April, 1961, the enactment subsequently introduced a new conception of *"qualifying service"*, its Statement of Objects and Reasons echoing the need to overcome what it described as subjective interpretation. It was

[23] (2015) 11 SCC 255
[24] (2001) 4 SCC 78
[25] 2024 SCC OnLine SC 3826
[26] 2006 (4) SCC 1

contended that this alteration, coupled with the asserted ambiguity in the statutory framework, demonstrated that the legislation did not merely clarify the existing position, rather sought to alter the legal position retrospectively, and was therefore liable to be struck down.

V. QUESTIONS OF LAW

38. The rival submissions, unencumbered by tangential issues, crystallise into the following questions of law to which answers are to be sought in their proper constitutional sequence as follows:

i. Whether, having regard to the law laid down in ***Prem Singh*** (supra) and the subsequent dismissal of the review petition and withdrawal of the curative petition, the legislature could, by promulgating the Ordinance followed by enactment of the Validation Act retrospectively, alter the legal position governing qualifying service and thereby affect the legal consequences flowing from the judgment? If that be the case, whether such legislative interdiction is constitutionally permissible only to the extent of removal of the defect which constituted the basis for such judicial determination?

ii. Whether the Validation Act, 2021 and the Validation Act, 2025, insofar as they retrospectively exclude service rendered in a work-charged establishment from qualifying service and purport to validate past orders, actions and denials of pension, would amount to a genuine alteration of the legal substratum

of the rights declared in ***Prem Singh*** (supra), or constitute, in substance, an impermissible legislative annulment of a binding judicial determination?

iii. Whether the impugned validating enactments comply with the settled requirements governing the field of validating legislation, namely, legislative competence, removal of the defect highlighted by the Court, and even its standalone adherence to Part-III of the Constitution?

iv. Whether on regularisation of the service of an employee and integrating him into the mainstream of public service, the birthmark of his initial appointment stands obliterated? Or, whether the State can, by a legislative measure, resurrect that erased distinction to deprive him of the retiral benefits attached to their regular status?

VI. ANALYSIS

39. At the threshold, lies the need to identify the precise nature of the controversy. Neither the State nor the employees seem to have qualms with the State's general legislative competence or overarching prerogative to regulate conditions of service or to prescribe the circumstances in which pension may be granted; nor is the proposition in dispute that, subject to constitutional fetters, legislation may operate retrospectively if in the wisdom of the legislature it is deemed necessary. The controversy may profitably be viewed as a

constitutional sequence rather than as a succession of statutes. A rule entailed exclusion; this Court intervened; the legislature responded; and the question arising now is whether, in so responding, it altered the law or merely altered the vocabulary of earlier exclusion. Between these two possibilities across the spectrum lies the entire controversy.

40. In our pursuit to answer this question, we would have to pass through three gates – legislative competence, removal of the defect, and conformity with Part III of the Constitution – and only then decide the distinct questions and the competing claims of the parties.

A. Validity of the Validating Acts – Validation or Disguised Perpetuation of the Exclusion?

41. We may now come to the heart of the controversy. Learned Attorney has placed considerable reliance upon the jurisprudence of validating legislation as such, by urging that there is nothing constitutionally suspect in a legislature acting within its field giving retrospective operation to a law, thereby changing the course of the consequences flowing from a judgment. ***Prithvi Cotton Mills*** (supra) and ***Indian Aluminium Co.*** (supra) are pressed into service for the proposition that a judgment does not acquire an immutable characteristic merely because it has been pronounced, thus, rendering nugatory the legislature's competence to alter the foundation of the law upon which the judgment had proceeded. The proposition, canvassed at this level of generality, is unexceptionable. However, the difficulty lies in the second prong of the proposition: legislature may change the law or

basis of the judgment; but, can it by mere change of language, change the judgment?

42. These arguments rest on a characterisation of ***Prem Singh*** (supra) which, in our considered view, is a subterfuge. ***Prem Singh*** (supra) did not proceed on the abstract basis that every work-charged employee, irrespective of the conditions of appointment, is entitled to pension. Our plain reading of the decision is this: when seized with examining the validity of the exclusion of service rendered in a work-charged establishment from the computation of qualifying service, upon examining the statutory and regulatory scheme, this Court had found the exclusion impermissible, and consequently read down Rule 3(8) of the 1961 Rules. The same can be evinced from the operative portion of the decision, expressed in the following terms:

> 37. In view of reading down Rule 3(8) of the U.P. Retirement Benefits Rules, 1961, we hold that services rendered in the work-charged establishment shall be treated as qualifying service under the aforesaid rule for grant of pension. The arrears of pension shall be confined to three years only before the date of the order. Let the admissible benefits be paid accordingly within three months. Resultantly, the appeals filed by the employees are allowed and filed by the State are dismissed.

43. The basis of the decision, therefore, matters. This Court did not create a pensionary entitlement in disregard of the statutory scheme, as the learned Attorney contended. It interpreted the existing framework so as to eschew an exclusion, which could not constitutionally survive. The distinction is crucial because the legislative response must be

gauged against the defect identified by the judgment, and not against a proposition never laid down thereby in the first place.

44. A prefatory conspectus of the decisions illumining this domain would be necessary, which is as follows:

a. The starting point of the jurisprudence concerning validating legislations may safely be traced back to ***Prithvi Cotton Mills*** (supra), wherein the controversy arose from municipal taxes, which had been levied on the basis of the capital value of lands and buildings. This Court had earlier held in ***Patel Gordhandas Hargovindas v. Municipal Commissioner***[27] that the expression "rate", as employed in the governing legislation, carried a settled legal meaning and that the levy based upon capital value was therefore beyond the statutory authority of the municipality. The legislature thereafter enacted a validating law which retrospectively authorised the imposition of the tax on land or buildings on the basis of capital value and validated the assessments already made. Upholding the legislation, the Bench drew the foundational distinction which has since governed this branch of constitutional law: the legislature cannot simply declare a judicial decision to be wrong, but it can alter the law retrospectively so as to remove the legal foundation upon which the decision rested. The Court identified two essential conditions for such validation: first, legislative

[27] 1964 2 SCR 608

competence over the subject-matter; and secondly, removal of the defect identified by the Court. The validation was sustained because the legislature did not merely pronounce the earlier levy valid; it changed the underlying law by expressly providing for the very basis of taxation which the earlier law, as judicially interpreted, did not countenance.

b. The converse principle finds lucid expression in ***Janapada Sabha v. Central Provinces Syndicate***[28]*.* Therein, certain increases in coal cess had been effectuated without the sanction of the local Government which the governing statute required. This Court had concomitantly declared the enhanced levies illegal. The subsequent legislation sought to deem those increases valid as though the original statute had, at all times, conferred the requisite power upon the local authority. The enactment, in effect, did neither remove the requirement to obtain sanction, nor it introduced any legal fiction, which cured the absence of such sanction. The validating enactment was henceforth held ineffective. Of specific significance was the Court's observation that the legislature could not declare the earlier judgment to be invalid or erroneous, whether as *inter partes* or as a precedent under Article 141 of the Constitution.

[28] (1970) 1 SCC 509

c. The subsequent decision in ***Madan Mohan Pathak v. Union of India***[29] decided by a 7-Judge Bench further illumines the precincts, particularly where the judicial adjudication culminated in an operative mandamus. The dispute pertained to a settlement between the Life Insurance Corporation of India[30] and its Class III and IV employees providing for annual bonus. The High Court at Calcutta had issued a writ of mandamus, directing LICI to honour the settlement. Parliament thereafter enacted the Life Insurance Corporation (Modification of Settlement) Act, 1976, purporting retrospectively to render the relevant bonus provisions otiose. This Court held the enactment invalid. In distinguishing ***Prithvi Cotton Mills*** (supra), this Court emphasised that the validating legislation therein had not purported to undo the judicial interpretation; rather it had changed the law by expressly providing for taxation on the basis of capital value. *Per contra*, in ***Madan Mohan Pathak*** (supra), the High Court's judgment had culminated in a specific mandamus directing payment, and the legislation did not remove the basis of that adjudication.

d. Indeed, the decision in ***Delhi Cloth & General Mills Co. Ltd. v. State of Rajasthan***[31] is further instructive in this regard. Therein, the State Legislature had enacted a validating statute

[29] (1978) 2 SCC 50
[30] LICI
[31] (1996) 2 SCC 449

purporting to deem certain villages to have always constituted part of the municipal limits and, commensurately, to deem taxes collected within those areas to have always been lawfully levied. The difficulty was that the earlier judicial decision had proceeded upon the failure to adhere to the mandatory statutory requirements regarding the alteration of municipal limits. Those statutory criteria themselves had not been amended and, hence, the Court struck down the enactment and directed the consequent refund of the octroi. Interestingly enough, ***Prithvi Cotton Mills*** (supra) itself was noticed while the validating legislation before the Court was nevertheless found constitutionally wanting.

e. The silos were strung together in the decision in ***Indian Aluminium Co.*** (supra), wherein the controversy related to surcharge on electricity which was imposed by the State Government under the delegated legislative authority. The High Court of Kerala and, thereafter, this Court concurrently held that the State Government merely acting as a delegate under the earlier enactment, did not possess competence to impose what was, in substance, a tax, and a mandamus that had been issued for refund of the amounts collected. The State Government came up with a legislation subsequently validating the past collection, which was upheld by this Court. In doing so, it expressly formulated the requirements crystallised in

Prithvi Cotton Mills (supra): the legislature must possess competence; the validating legislation must remove the defect identified by the Court; and the enactment must otherwise conform to Part III of the Constitution.

45. There is, in our considered view, no doctrinal conflict running between ***Prithvi Cotton Mills*** (supra) and the decisions in which the validating enactments have been struck down. Indeed, the apparent tension vanishes once the constitutional inquiry is kept in view. The answer lies in ***Prithvi Cotton Mills*** (supra) itself, for it did not lay down that the legislature may *simpliciter* declare that an earlier judicial decision shall no longer bind. Inherent in it was the recognition that the legislature may alter the legal basis upon which the Court had pronounced its decision, and having done so, may retrospectively validate the consequences flowing therefrom the altered law. *Sublato fundamento cadit opus*! The power sanctified therein is, therefore, not the one to overrule the judgment as a judgment; it is a power to change the law so fundamentally that the defect upon which the judgment rested, no longer survives in the altered legal field. The inquiry, therefore, is two-fold: *first*, whether the legislature possesses legislative competence over the subject-matter; and, *secondly*, and more importantly for the present purpose, whether the defect identified by the Court has in fact been removed by the validating enactment. Competence is the threshold; removal of the defect constitutes the substance. A validating enactment satisfying the first

requirement but leaving untouched the very infirmity which occasioned the judicial decision, cannot derive constitutional validity merely from the fact that it has been enacted by a competent legislature. The legislature may alter the law; it cannot merely pronounce that the law, as judicially found defective, shall henceforth be treated as though it had never been defective.

46. This is why the authorities relied upon by the learned Attorney, including ***Prithvi Cotton Mills*** (supra) and ***Indian Aluminium Co. Ltd.*** (supra), must be understood in their own factual and legal setting. The said decisions sustained the validity of the respective validating legislations not upon the mere presence of a retrospective or validating clause but upon the removal of the judicially-identified defect effectuated by such legislations. The decision in ***Madan Mohan Pathak*** (supra) itself underscores that the Court must examine the precise defect and the precise legislative response, rather than fixate on what the enactment is called. The question is never answered by what the legislature has called its enactment a "Validation Act". As Juliet asked, what's in a name?[32]

47. As has already been delineated, there is no warrant for reading ***Janapada Sabha*** (supra) as laying down a doctrine contrary to ***Prithvi Cotton Mills*** (supra). The absence of any doctrinal conflict between the two is evinced by the absence of discussion of ***Prithvi Cotton Mills*** (supra) in ***Janapada Sabha*** (supra), for the ratio in the

[32] Shakespeare's Romeo and Juliet, Act 2, Scene 2

latter ought to be construed as an extension of, rather than an exception to, the ratio in the former. The principle which emanates from the line of authorities is consistent: the legislature may remove the foundation of a judicial decision by changing the law, but cannot, under the guise of retrospective legislation, merely declare the judicial determination to be ineffective while leaving the underlying defect untouched.

48. The decision in ***Delhi Cloth & General Mills Co. Ltd.*** (supra), underscoring the ratio of ***Prithvi Cotton Mills*** (supra), does not conclude the inquiry in favour of the State. It reinforces the need to ask, whether the conditions which make validation constitutionally permissible have actually been fulfilled.

49. The decision in ***Indian Aluminium Co.*** (supra) serves as a doctrinal bridge between the two converse sets of cases, bringing the divergent lines of authorities in tandem – those in which validating legislation had been sustained because the defect had been rectified and those in which it had failed because the legislature had merely attempted to abridge the judicial determination through a legislative subterfuge. The illustration falling from the decision itself would suffice: where a tax was held invalid because the authority levying it did not have the requisite legislative competence, the defect could be removed by a competent legislature itself imposing or authorising the tax. What cannot be countenanced is merely to declare that the tax which was declared invalid shall be deemed always to have been valid.

50. A survey of the extant scholarship presents before us two apparently opposite lines of decisions. ***Prithvi Cotton Mills*** (supra) and ***Indian Aluminium*** (supra) recognise the legislature's power to change the law and thereby alter the legal substratum of a judicial decision. On the other hand, ***Janapada Sabha*** (supra), ***Madan Mohan Pathak*** (supra) and ***Delhi Cloth & General Mills Co. Ltd.*** (supra) bear out the converse: the legislature cannot change the result while leaving the law and, therefore, the defect substantially untouched. The two lines of authority are not antithetical to each other, rather are complementary manifestations of the same constitutional limitation.

51. Our present inquiry ought not to be truncated to ascertaining whether the impugned enactment has a validating clause, or even whether it has been given retrospective operation, since these features are not determinative. The anterior question is this: what was the defect identified by this Court; what has the legislature altered in response thereto; and does that alteration take away the defect or merely declare the consequence of the earlier law to have been valid ever since?

52. Learned Attorney has placed particular emphasis upon the statutory introduction of the expressions "qualifying service" and "substantive appointee" and submitted that the new enactments constitute a fresh legislative policy under which pension is confined to those satisfying the newly stipulated statutory conditions and, thereby, the highlighted defect was removed. There is force in the argument that pension is a

creature of statute and that it is the prerogative of the State to lay down the conditions for its grant. But the existence of a new definition does not, by itself, establish that the defect identified by ***Prem Singh*** (supra) has been cured. If the vice identified in ***Prem Singh*** (supra) was the exclusion of long and continuous service rendered in a work-charged establishment from the computation of qualifying service, then merely defining the bounds of beneficiary class so as to exclude the same service does not necessarily remove that vice. The State must demonstrate why the altered classification is constitutionally sustainable and how the new statutory basis answers the reason for which the earlier exclusion was found impermissible.

53. The employees contend that it does neither. According to them, the 2021 enactment and the later 2025 enactment simply resurrect, through statutory language, the exclusion which ***Prem Singh*** (supra) had judicially disapproved. The impleaded petitioners reinforce this contention by drawing attention to the State's own historical practice of progressively absorbing work-charged employees into the regular establishment, preserving seniority from initial appointment and framing successive measures for regularisation.

54. The defect was not simply that the State had failed to grant pension to a particular group of employees; rather the defect rudimentarily lay in the exclusion of service rendered in a work-charged establishment from qualifying service, despite the character and subsequent treatment of that service, and the consequences of exclusion under

the pension scheme. This Court, therefore, read down Rule 3(8) of the 1961 Rules. The legislative response was necessitated to sustain the exclusion with retrospective effect, by curing the underlying legal and constitutional defect. The Validation Act, 2021 did not do so. For ease of understanding, the validating provisions of the said Act are reproduced hereunder:

> 2. Notwithstanding anything contained in any rule, regulation of Government order for the purposes of entitlement of pension to an officer, "Qualifying Service" means the services rendered by an officer appointed on a temporary or permanent post in accordance with the provisions of the service rules prescribed by the Government for the post.
> 3. Notwithstanding any Judgement, decree or order of any Court, anything done or purporting to have been done and any action taken or purporting to have been taken under or in relation to sub-rule (8) of rule 3 of the Uttar Pradesh Retirement Benefit Rules, 1961 before the commencement of this Act, shall be deemed to be and always to have been done or taken under the provisions of this Act and to be and always to have been valid as if the provisions of this Act were in force at all material times with effect from April 1, 1961.
>
> (emphasis ours)

55. The Validation Act, 2025 does not do so either. It instead reiterates the exclusion by redefining the class of persons entitled to pension and then declares that past denials of pension to those falling *de hors* the definition shall be deemed valid. The sequence is striking. Clause 4 of the 2025 Validating Ordinance reads as under:

> 4. Notwithstanding any judgement, decree or order of any Court, Tribunal or Authority, all actions taken, things done or Government orders issued or purporting to have been taken, done or issued, by which pension has been denied to any persons or class of persons who are not substantive appointees and who are or have been subscribers to any Contributory Provident Fund or the Employees' Provident Fund, shall be deemed to be and always to have been validly taken, done or issued under the provisions of this Ordinance and to be and always to have been valid as if the provisions of this

Ordinance were in force at all material times with effect from April 1, 1961.

(emphasis ours)

56. Repealing the 2025 Ordinance, the Validation Act, 2025 came to be passed; and the germane provisions thereof read thus:

> 3. Notwithstanding anything contained in any rules, regulations or Government orders, no person who,—
>
> (a) is not a substantive appointee in any department or in any organization under any department of the Government; and
>
> (b) is or has been a subscriber to any Contributory Provident Fund or the Employees' Provident Fund;
>
> shall be entitled to pension under any rules, regulations or Government orders relating to the grant of pension.
>
> 4. Notwithstanding any judgement, decree or order of any Court, Tribunal or Authority, all actions taken, things done or Government orders issued or purporting to have been taken, done or issued, by which pension has been denied to any persons or class of persons who are not substantive appointees and who are or have been subscribers to any Contributory Provident Fund or the Employees' Provident Fund, shall be deemed to be and always to have been validly taken, done or issued under the provisions of this Act and to be and always to have been valid as if the provisions of this Act were in force at all material times with effect from April 1, 1961.

(emphasis ours)

57. The foregoing discussion, taken as a whole, points to this conclusion: the vice identified in ***Prem Singh*** (supra) lay not in the nomenclature employed in the Pension Rules, but in the exclusion, for pensionary purposes, of service actually rendered by the employees in the work-charged establishment antecedent to their induction in the regular establishment. That legal standpoint could legitimately have been altered by a valid enactment, which removed the basis of the Court's conclusion. But Section 3 substitutes the expression "substantive appointee" as a new criterion for pensionary entitlement, thereby

reproducing the same exclusion, although in a new statutory dress, which ***Prem Singh*** (supra) had earlier found impermissible.

58. What is the test for determining the legality / validity of a validating enactment? The test of a validating enactment is more peculiar *vis-à-vis* the test of an ordinary legislation. The former has to be gauged alongside the defect which was identified in the earlier judgment, in addition to its general adherence to the provisions of the Constitution, whereas the latter is not exposed to the rigour of an additional test of "removal of defect" in the rung of scrutiny. The test for the validating legislations impugned before us, therefore, is not whether it has supplied a new verbal formula for an old exclusion; but whether it has removed the infirmity which rendered the exclusion constitutionally unsustainable. Tested on that touchstone, the legislative response before us does seem to fall short of the threshold.

59. In ***Prem Singh*** (supra), the Court did not stop with merely identifying the deficiency in the plain language of Rule 3(8) of the 1961 Rules; it went on to examine the substance and consequence of excluding work-charged service from the computation of qualifying service for pension; and rendered the exclusion incapable of being sustained in the form in which it operated. The Validation Act, 2021 does not countervail that objection. What it rather does is to recast qualifying service by reference to appointment against a temporary or permanent post in accordance with the stipulated service rules, but does not eschew the exclusion, which was interdicted earlier, thereby

constituting the core of the controversy emanating herein. The subsequent Validation Act, 2025 does not carry the argument any further. Usage of the expression *"substantive appointee"* may be novel; but the consequence sought to be achieved is not. The earlier attempt was: the employee's service was excluded by reference to the nature of the establishment in which it was rendered, and now to be excluded by referring to the nature of the appointment *per se.* The same exclusion was perpetuated in the present format; a change in the description of the excluded class is not, without more, a constitutional justification to sustain the exclusion. The legislature has not demonstrated as to why service actually rendered, accepted by and ultimately followed by regularisation, should be denied recognition by a rule carved out with retrospective effect, for the purposes of pension alone. The post-judgmental legislative attempt has marched forward on the premise that the exclusion must stand and declare that the past denials, if any whatsoever, founded upon it to have been valid all along. This, in effect, reverses the constitutional inquiry: it presupposes the validity of law, which the law was required to establish. ***Prithvi Cotton Mills*** (supra), forming the *locus classicus* in the canvas of our extant inquiry, permits the legislature to remove the foundation of a judgment – provided the defect is removed; and instead of the same, the judgment cannot be legislatively deprived of its effects.

60. Section 4 further entrenches the exclusionary approach. It does not merely give prospective operation to the newly prescribed rule; it retrospectively declares that the past denial of pension to persons falling outside the new definition "shall be deemed to be and always to have been valid", notwithstanding any judgment, decree or order of a court. The legislation, thus, does not remove the legal defect which engendered the judgment; it validates the very consequence which the judgment had interdicted. At the cost of repetition, both in ***Prithvi Cotton Mills*** (supra) and ***Indian Aluminium*** (supra), the legislature altered the law so as not to be bound by the factors, which played out during judicial determination, thereby ensuring *tabula rasa.* However here, the foundation is left substantially undisturbed, and the consequence is attempted to be rescued through a deeming fiction, i.e., pensionary entitlement contingent upon the introduction of the words "substantive appointee". Section 4 read with Section 3, changes the statutory label, but not the identified legal vice. On the whole, the learned Attorney's submission that the newly enacted 2021 and 2025 Validating Acts effectively cured the defect identified in ***Prem Singh*** (supra) is untenable, and the conditions for the validity of validating enactments are not fully complied with.

61. We find it apposite to punctuate the foregoing analysis with what Dr. B.R. Ambedkar presciently echoed in the Constituent Assembly as:

> "… The forms of the administration must be appropriate to and in the same sense as the form of the Constitution. The other is that it is perfectly possible to pervert the Constitution, without changing its

> form by merely changing the form of the administration and to make it inconsistent and opposed to the spirit of the Constitution."[33]
>
> (emphasis ours)

62. The aforesaid foresight of Dr. B.R. Ambedkar is strikingly conspicuous in the present series of litigation. The repeated re-enactment of the same provisions, which have been struck down by the judiciary, evinces that the "form of the administration" is being calibrated in a manner "inconsistent" with the spirit of the Constitution, as highlighted by Dr. B.R. Ambedkar.

B. The Mandamus that has attained Finality Inter Partes

63. The significance of the foregoing conclusion is not limited to the validity of the legislations in the abstract. The State, through these not-so-piecemeal legislative steps, does not merely seek to stipulate a different regime for the pensionary entitlement by infusing the enactments with retrospective operation and expressly validating the past denials "notwithstanding" judgments of this Court *inter alia*, it seeks to annul the legal consequences of a judgment which attained finality and had entailed positive directions calling for its implementation. Hence, it would be a miscarriage of justice to end the enquiry at whether the legislature was competent to alter the governing law. The enquiry must go further: whether without disturbing the foundation of the judgment, can such legislation dislodge a judicial imprimatur that has already crystallised into an

[33] Constituent Assembly Debates Vol. VII, dated November 4th, 1948

enforceable obligation between the parties? It is at this juncture that the principle governing the fate of a final mandamus against the backdrop of an altered legislation, assumes relevance and significance.

64. The question acquires a sharper edge when tested against the operative directions issued in ***Prem Singh*** (supra), and the principle elucidated in ***Madan Mohan Pathak*** (supra). Learned counsel for the petitioners submitted that ***Prem Singh*** (supra) did not merely declare the law; it also culminated in a positive obligation to be performed by the State. The State, on the other hand, contended that no judgment can preclude the legislature from subsequently altering the law, and that the Validation Act, 2021 and the Validation Act, 2025 supplied a new statutory canvas to look into. Again, we may fall back on the decisive question, as answered for different purposes, in the earlier section, which is: has the law been changed so as to remove the foundation of the mandamus, or has the mandamus been legislatively declared ineffective?

65. *Apropos* the discussion, the decision of this Court in ***Madan Mohan Pathak*** (supra) again comes to the fore. There, too, the legislature exercised the power to alter the general law governing the entitlement in question, but the subsequent enactment could not, without more, efface a mandamus which had attained finality. The significance of the mandamus lay not merely in the proposition of law which it embodied, but in the judicial obligation which had thereby crystallised between the parties. Once the judgment had become final, the State was no

longer confronted only with an abstract question of what the general law permitted; it was confronted with a subsisting judicial command governing its conduct towards the successful litigants.

66. The rationale is not difficult to appreciate. A mandamus is not merely a declaratory pronouncement of general law capable of being altered like any other statute upon which it rests; it is a specific, enforceable command addressed to a named party enjoining it to do a particular thing for the benefit of a specific set of persons, thereby operating *in personam*. Once it has attained finality, the relationship between those parties, *qua* that obligation, ceases to be governed by the general law alone; it partakes the character of a judicially crystallised right. A validating law operates *in rem*, upon the general edifice of law; it is analytically unsuited to reopen what a court has settled *inter partes* through the exercise of its judicial power, unless the constitutional amendment route, or removal of the very basis of the judgment, is resorted to.

67. As a corollary, we are invited to address the submission advanced by the learned Attorney that the impugned enactments stand on a different constitutional footing merely because they are targeted at a class of employees larger than the parties before this Court in ***Prem Singh*** (supra), projecting the *in rem* nature of the enactments; and the alleged *in personam* reliefs in the judgment. The said submission, though artfully crafted, mistakes the reach of the relief for the reach of the constitutional vice. The mere fact that ***Prem Singh*** (supra) had

granted relief to some employees before the Court therein does not truncate the said decision to a private dispensation, nor does it parochialize the constitutional principle therein to the four corners of the cause title of that decision. The relief granted therein had stemmed from the principle enunciated; and the former cannot be divorced from the latter. The *lis* may have been *inter partes*; but the vice discerned in the governing norm was not thereby rendered so. The legal edifice of exclusion of the work-charged employees for the purposes of pensionary benefits was examined *in extenso*; the consequence thereto was reading down Rule 3(8) of the 1961 Rules; striking down Regulation 370 and paragraph 669 of the Financial Handbook. The State's answer to the infirmity flagged therein cannot be the satisfaction of the obligation engendered by the judgment only *qua* the parties therein; while changing its form but preserving the substance of exclusion intact. Fidelity to the judicial command does not countervail the constitutional infirmity.

68. That, indeed, is the difficulty confronting the State in the present case. The argument grounded upon retrospectivity proffers no answer to it. Retrospectivity is a characteristic of a legislation; and not a cure for the constitutional vice of legislative annulment of a judicially-crystallised right. The enquiry still hinges upon whether the legal basis upon which ***Prem Singh*** (supra) had proceeded is taken away. As we have held above, Sections 3 and 4 of the Validation Act, 2025 do not do so.

69. The intervening contempt proceedings reinforce, rather than water down, this conclusion. The proceedings go on to show that ***Prem Singh*** (supra) continued to operate as a subsisting judicial covenant while the legislative measures went on back and forth – enacted and challenged in the course. The subsequent legislation cannot undo the consequences of earlier non-compliance with the subsisting judicial command by declaring the underlying denial valid *simpliciter.* The fate of the contempt petitions must, therefore, be taken to their logical conclusions and, thus, dependent on the precise obligations alleged to have been disobeyed and the legal effect of the conclusions arrived at in the present judgment, which we propose to analyse at the end. The mere existence of the intervening contempt proceedings *prima facie* takes the controversy beyond the pale of pension law, and it ventures into the extent to which a final judicial command, once issued, may be transplanted by a legislation.

70. We, therefore, find ourselves in agreement with the submission of the learned counsel for the petitioners in this narrow compass: ***Madan Mohan Pathak*** (supra) does not place a final judgment beyond legislative reach as such; in fact, it places the judicial determination embodied therein beyond legislative interference, unless the law is validly altered so as to remove the legal foundation upon which that determination rests. The Constitution permits the legislature to change the law; however, the Constitution does not permit the legislature, under the garb of changing the law, to command that a final judicial

determination shall be construed as though it had never been made in the first place. Here, the former has not occurred; it is the latter which the impugned validating provision attempts to achieve.

71. Pertinently, adjudication in ***Prem Singh*** (supra) did not merely offer an advisory interpretation of an abstract provision and left the parties simply where they stood; rather this Court allowed the employees' appeals, dismissed the appeals preferred by the State; and held that the relevant service was to be treated as qualifying service for pension, and issued operative directions concerning payment of admissible benefits. The judgment was confirmed in review and the curative proceedings were withdrawn by the State. Thus, the adjudication had traversed the full distance from contest to finality. The distinction between a declaration and a mandamus is of constitutional significance, wherein the former says what the law is and the latter commands the party before the Court to do what the law requires. Where the mandamus has been issued and the litigation has attained finality, the right of the successful litigant cannot be reduced merely to a hope resting upon an uncertain interpretation of law; rather the same has crystallised through adjudication. This was the gravamen in ***Madan Mohan Pathak*** (supra), wherein the question was answered not merely by saying that Parliament possessed legislative competence over the subject of bonus: that proposition was too broad to meet the constitutional difficulty; and hence, this Court distinguished a situation

in which the legislation seeks to extinguish the consequence of a final judicial imprimatur *sans* touching the foundation of that command.

72. In our considered opinion, insofar as the impugned validating enactments purport to extinguish the operative effect of the final adjudication in ***Prem Singh*** (supra) without removing the legal defect upon which the adjudication premised, they are constitutionally infirm.

C. The Independent Test for Challenge under Articles 14 and 21

73. Apart from the foregoing, there is a further and independent constitutional difficulty for the State to contend with. Even if the impugned enactments were to satisfy the requirements of legislative competence and retrospective validation, that would not put a quietus to the inquiry. A validating enactment is not positioned beyond the discipline ingrained in Part III merely because it is enacted to alter the legal consequences of an earlier judgment. Its provisions must themselves withstand constitutional scrutiny on a standalone basis. The question is not simply whether the legislature possessed the power to enact the law, but whether that power has been exercised in a manner consistent with the guarantees of equality and dignity. The yardsticks upon which the validating enactments have to be tested were succinctly encapsulated in the following passage in ***Indian Aluminium Co. Ltd*** (supra) as follows:

> **36.** The validity of the Validating Act is to be judged by the following tests: (*i*) whether the legislature enacting the Validating Act has competence over the subject-matter; (*ii*) whether by validation, the

> legislature has removed the defect which the court had found in the previous law; (*iii*) whether the validating law is inconsistent (*sic* consistent) with the provisions of Chapter III of the Constitution. If these tests are satisfied, the Act can confer jurisdiction upon the court with retrospective effect and validate the past transactions which were declared to be unconstitutional. The legislature cannot assume power of adjudicating a case by virtue of its enactment of the law without leaving it to the judiciary to decide it with reference to the law in force. The legislature also is incompetent to overrule the decision of a court without properly removing the base on which the judgment is founded.
>
> (emphasis ours)

74. Flowing from the above, the third requirement, i.e., consistency with the provisions of Part-III of the Constitution, now falls for our consideration. Even if a validating enactment satisfies legislative competence and cures the basis of the earlier judicial decision, compliance with Part III of the Constitution remains indispensable. The further question, therefore, is whether the distinction drawn by the legislature and the retrospective consequences attached to that distinction, are themselves constitutionally sustainable.

75. A perusal of the provisions of the impugned enactments could shed light in this regard. The following table provides the necessary context to commence with.

PREM SINGH JUDGMENT (2019)	**VALIDATION ACT, 2021**	**VALIDATION ACT, 2025**
Rule 3(8), U.P. Retirement Benefits Rules, 1961: read down; relevant service rendered in a work-charged establishment held countable as qualifying service for pension.	**Section 2:** redefines "qualifying service" by reference to service on a temporary or permanent post in accordance with applicable service rules. **Contention:** whether this removes the defect identified in ***Prem Singh***	**Section 2(d):** introduces "substantive appointee", tied to appointment to a temporary or permanent post in a permanent establishment. **Contention:** whether the new classification supplies a constitutionally

	(supra) or reproduces the exclusion through a revised definition?	adequate basis for excluding prior work-charged service?
Court rejected the exclusion in the circumstances before it.	**Retrospective effect:** deemed operative from 1 April 1961. **Contention:** whether the revised criterion can constitutionally govern service already rendered and past pension claims?	**Section 3:** denies pension to the specified class of non-substantive appointees who are or have been subscribers to the specified provident funds. **Contention:** whether this cumulative classification passes muster under Article 14?
		Section 4: retrospectively validates past actions and denials notwithstanding judicial orders, with effect from 1 April 1961. **Contention:** whether it rectifies the defect or merely neutralises ***Prem Singh*** (supra) without removing the underlying constitutional infirmity?

76. Reiterating what has already been incorporated in the table hereinabove, the Validation Act, 2021 defines "qualifying service" by referring to service rendered by an officer appointed to a temporary or permanent post in accordance with the applicable service rules. The Validation Act, 2025, in turn, introduces a new term "substantive appointee" and defines the same as under Section 2(d) by reference not merely to appointment in accordance with the prescribed procedure, but also to appointment to a post in a "permanent establishment of the Government". Section 3 further denies pension to a person who is not a substantive appointee or who is or has been a

subscriber to a Contributory Provident Fund or the Employees' Provident Fund. Section 4 retrospectively validates the past denials of pension to that class, notwithstanding judgments, decrees or orders of courts, tribunals or authorities by deeming the impugned actions valid from the stipulated cut-off date, i.e., 1st April, 1961. Thus, the constitutional vice must be examined through the three-fold lens of these provisions in tandem: the definition carving out the class; the entitlement provision attaching disqualification; and the validating provision so as to validate the past denials as well.

77. The State is well-entitled to distinguish between different modes of appointment and different kinds of establishments. Article 14 does not enjoin upon the State to afford equal treatment to every temporary, work-charged and regular appointment for all purposes of service law. But that proposition is of little help to answer the question before us. The classification impugned before us is not *simpliciter* a distinction between modes of entry into public employment. It is rather the provision, pressing this distinction into service, to deny pensionary entitlement to those services of whom have been regularised subsequently by the State.

78. Does the distinction between service rendered in a permanent establishment and service rendered in a work-charged establishment have any rational nexus to the object of determining pension entitlement, where the employee's prior service was real, continuous and accepted by the State, and ensued in regularisation? The statutory

description of the establishment may be relevant to that inquiry; it cannot, without more, conclude it. The status of the appointment and the fact and duration of the service are distinct matters. To treat the former as necessarily dispositive of the latter is to assume the very proposition that requires constitutional justification. The State's reliance on the administrative and fiscal distinction between the regular establishments and the work-charged establishments, as contended by the learned Attorney, must be considered, but the same cannot be taken as self-justifying. The existence of different establishments may, at best, justify the different appointment systems existing for different categories. However, *sans* a rational connection, it does not explain why the entire period of service should be discarded for pension after the employees have subsequently entered the regular establishment.

79. Section 3 of the Validation Act, 2025 warrants a further and distinct examination. Its plain statutory text strings two conditions together: the person must not be a substantive appointee, and the person must be or have been a subscriber to a Contributory Provident Fund or the Employees' Provident Fund. The constitutional objection is not that provident-fund membership can never be factored in to determine eligibility for pension. It is that the legislature must explain why the combination of non-substantive appointment and past or present fund membership justifies the denial of pension under the statutory scheme, including where the employee's service was subsequently

regularised. Unless that combination is demonstrated to have a rational relation to the pensionary consequence imposed, the conjunction of the two conditions does not serve as a panacea for the arbitrariness in the result. A classification cannot be rendered constitutional merely because it is framed through more than one condition.

80. The relevant comparison, therefore, is not between every work-charged employee and regular employee, regardless of the governing service rules or the facts of the particular case. The distinction is between employees whose prior service is excluded solely by reason of statutory classification and those employees whose service is counted for pension. Such distinction bears no rational nexus to the object of the pension scheme.

81. Section 4 of the Validation Act, 2025 surmounts a greater difficulty. It declares that past actions, things done and Government orders denying pension to the specified class shall be deemed valid as though the Act had been in force at all material times from 1st April, 1961. The words *"notwithstanding any judgment, decree or order"* make the intended reach of the provision lucid; however, they do not establish its constitutional validity. When the substantive classification which engenders the denial itself is incongruous with Article 14, Section 4 cannot render such denials automatically valid by creating a deeming fiction to render it valid all along. A validating provision cannot be permitted to direct indirectly what the Constitution forbids directly. In

the totality of the scheme, the impugned legislations fall afoul of Article 14 of the Constitution.

82. We are unable to be persuaded by the submission of the learned Attorney that the defect identified by this Court in ***Prem Singh*** (supra) stood definitionally or interpretationally cured by the introduction of the expressions "qualifying service" and "substantive appointee" through the Validation Act, 2021 and the Validation Act, 2025, respectively. The contention advanced was that ***Prem Singh*** (supra) had, under the guise of interpretation, engendered judicial legislation; that the enactment of both Validation Acts was necessitated to remedy the perceived anomaly and alleviate the financial burden upon the State; and that the definitions so introduced continued to remain open to interpretation. The submission, however, begets the more fundamental question: who, indeed, is to interpret these definitions, and within what permissible limits? What cannot be lost sight of is that the Validation Acts were brought into force in the face of interpretation authoritatively rendered by this Court in ***Prem Singh*** (supra). The question, therefore, is not merely whether the legislature has introduced new definitions, but whether, by doing so, it has truly removed the very basis of the defect identified by this Court. At this juncture, we deem it equally apposite to note that the basis on which a classification can be mounted across categories is not the province of the judiciary to venture into. We are conscious of the incisive

observations in the opinion of Hon'ble Vivian Bose, J. (as His Lordship then was) in ***State of W.B. v. Anwar Ali Sarkar***[34], as follows:

> **46.** What, after all, is classification? It is merely a systematic arrangement of things into groups or classes, usually in accordance with some definite scheme. But the scheme can be anything and the laws which are laid down to govern the grouping must necessarily be arbitrarily selected; also granted the right to select, the classification can be as broad based as one pleases, or it can be broken down and down until finally just one solitary unit is divided off from the rest. Even those who propound this theory are driven to making qualifications. Thus, it is not enough merely to classify but the classification must not be "discriminatory", it must not amount to "hostile action", there must be "reasonable grounds for distinction", it must be "rational" and there must be no "substantial discrimination". But what then becomes of the classification? and who are to be the judges of the reasonableness and the substantiality or otherwise of the discrimination? And, much more important, whose standards of reasonableness are to be applied?—the Judges'?—the Government's?—or that of the mythical ordinary reasonable man of law which is no single man but a composite of many men whose reasonableness can be measured and gauged even though he can neither be seen nor heard nor felt? With the utmost respect I cannot see how these vague generalisations serve to clarify the position. To my mind they do not carry us one whit beyond the original words and are no more satisfactory than saying that all men are equal before the law and that all shall be equally treated and be given equal protection. The problem is not solved by substituting one generalisation for another.
>
> (emphasis ours)

83. In a similar vein, the classic exposition of Hon'ble S.R. Das, J. (as the Chief Justice then was) in the same decision in ***Anwar Ali Sarkar*** (supra) on the classification test as a guide for the present inquiry attracts attention. The instructive passage reads thus:

> **85.** It is now well established that while Article 14 is designed to prevent a person or class of persons from being singled out from others similarly situated for the purpose of being specially subjected to discriminating and hostile legislation, it does not insist on an

[34] (1952) 1 SCC 1

> "abstract symmetry" in the sense that every piece of legislation must have universal application. All persons are not, by nature, attainment or circumstances, equal and the varying needs of different classes of persons often require separate treatment and, therefore, the protecting clause has been construed as a guarantee against discrimination amongst equals only and not as taking away from the State the power to classify persons for the purpose of legislation. This classification may be on different bases. It may be geographical or according to objects or occupations or the like. Mere classification, however, is not enough to get over the inhibition of the article. The classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (*1*) that the classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others, and (*2*) that that differentia must have a rational relation to the object sought to be achieved by the Act. The differentia which is the basis of the classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between them. In short, while the article forbids class legislation in the sense of making improper discrimination by conferring privileges or imposing liabilities upon persons arbitrarily selected out of a large number of other persons similarly situated in relation to the privileges sought to be conferred or the liability proposed to be imposed, it does not forbid classification for the purpose of legislation, provided such classification is not arbitrary in the sense I have just explained. The doctrine, as expounded by this Court in the two cases I have mentioned, leaves a considerable latitude to the Court in the matter of the application of Article 14 and consequently has the merit of flexibility.
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> (emphasis ours)

84. Accordingly, *apropos* the third limb of consideration in ***Indian Aluminium Co. Ltd.*** (supra), the impugned legislations falter not only in removing the defect earlier identified in ***Prem Singh*** (supra), but also falls afoul of its standalone conformity with Article 14 of the Constitution.

D. <u>The Substantive Question – Obliteration of Birthmark upon Regularisation</u>?

85. Although placed last in the order of issues but far from the least, we find ourselves confronting a foundational question, distinct from the challenge grounded on Article 14: whether an employee, once regularised in public service pursuant to a duly formulated scheme, continues to bear the birthmark of his initial appointment for the purpose of determining his retiral entitlements.

86. This question is not *res integra*. The principle finds lucid expression in two decisions of this Court, which merit notice.

87. First, we may profitably refer to the 3-Judge Bench decision in ***Shailendra Singh v. Union of India***[35] in this regard. The controversy arising therein, pertained to the antecedent character of service *vis-à-vis* retiral benefits of Judges appointed to the high courts from two distinct sources, namely, the district judiciary and the Bar. Petitioners therein, who had initially served in the district judiciary and were subsequently elevated to the high court, contended that upon such appointment, they became part of the same constitutional institution as Judges drawn from the Bar and could not, therefore, be subjected to a differential treatment in the matter of their service conditions and retiral benefits on the basis of their source of recruitment. The issue arose, *inter alia*, in the context of their entitlement to subscribe to the

[35] (2024) 16 SCC 517

General Provident Fund under Section 20 of the High Court Judges (Salaries and Conditions of Service) Act, 1954[36], notwithstanding their prior service in the district judiciary and the pension scheme applicable thereto. Hon'ble D.Y. Chandrachud, CJI (as His Lordship then was) speaking for the Bench concluded:

> **34.1.** The High Courts are constitutional institutions and upon appointment as Judges of the High Court, all Judges, irrespective of the source from which they are drawn, partake the character of holders of constitutional offices in equal measure;
> **34.2.** Neither Article 221(1) of the Constitution which empowers Parliament to determine the salaries of the Judges of the High Court nor Article 221(2) which empowers Parliament to determine the allowances and rights in respect of the leave of absence and pension permits discrimination between Judges of the High Court based on the source from which they are drawn;
> **34.3.** Article 217 of the Constitution specifies distinct sources of recruitment for Judges of the High Court from the district judiciary or, as the case may be, the Bar. But once appointed to the High Court, all Judges form one homogeneous class of constitutional office holders;
> **34.4.** Judicial independence is a part of the basic structure of the Constitution and there is an intrinsic relationship between financial independence of Judges and judicial independence;
> **34.5.** The significance of provisions pertaining to the guarantee of service conditions, while in service and post retiral benefits for Judges is evidenced by the fact that the salaries and allowances of sitting Judges and the pensions of retired Judges are in the nature of a charge on the Consolidated Fund of the State and the Consolidated Fund of India, respectively;
> **34.6.** Any determination of the service benefits of sitting Judges of the High Court and the retiral benefits which are payable to them including pension, must take place on the basis of the fundamental principle of non-discrimination between Judges of the High Court who constitute one homogeneous group; and
> **34.7.** All Judges of the High Court, irrespective of the source from which they are drawn, are entrusted with the same constitutional function of discharging duties of adjudication under the law. Once appointed as Judges of the High Court, their birthmarks stand obliterated and any attempt to make a distinction between Judges, either for the purpose of determining their conditions of service while in service or any form of retiral dues would be unconstitutional.
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> (emphasis ours)

[36] 1954 Act

88. Close on the heels of the said decision, this Court treaded upon a similar line of reasoning in ***High Court Judges Pension Refixation Considering Service Period in District Judiciary & High Court, In re***[37]. In the factual panorama, unfolding therein, this Court was seized with a batch of matters raising diverse, though interconnected, issues concerning the pensionary and other retiral entitlements of Judges who had served in the district judiciary before their elevation to the high courts. The issues, *inter alia*, concerned the computation of pension by taking into account the service rendered as District Judges; the denial of full pension on account of an alleged break in service between retirement from the district judiciary and assumption of charge as a high court Judge; the pensionary entitlement of Judges who had entered the stream of State judiciary after the introduction of the New Pension Scheme; and the entitlement of Additional Judges, as well as their surviving spouses, to pension, gratuity and family pension. The said batch also raised the question whether Judges appointed to the high courts after the introduction of the New Pension Scheme could be denied the benefit of provident fund under Section 20 of the 1954 Act, on that account. Thus, at the heart of the controversy was the question whether, after appointment as a Judge of a high court, the source and antecedent character of a Judge's service could continue to operate as a basis for differential treatment

[37] (2025) 7 SCC 674

in the matter of service and retiral benefits. Hon'ble B.R. Gavai, CJI (as His Lordship then was), speaking for the Bench, opined as follows:

> **58.** A perusal of all the aforementioned judgments would reveal that a common thread running in all the judgments is that there cannot be any discrimination in the matter of payment of pension to the retired Judges on any basis. This Court emphasised on the principle of *one rank one pension* for a constitutional class i.e. the office of High Court Judge. This Court found that, for ensuring independence of judiciary, it is necessary that like the salary to which a Judge is entitled to as a serving Judge, even after retirement he should get the same terminal benefits as that of a High Court Judge. Any discrimination on the ground of source of entry as a High Court Judge has been frowned upon. It has been emphasised that once a Judge enters into a constitutional office of the High Court Judge, then the dignity of the constitutional office demands that all Judges be paid the same pension. In this respect, it will be relevant to note that the ceiling of Rs 15,00,000 p.a. in the case of a Chief Justice and Rs 13,50,000 in the case of any other Judge as provided in Para 2 of Part I as well as Part III of the First Schedule to the HCJ Act is identical. It is thus clear that even such of the Judges who enter as High Court Judge from the District Judiciary shall be entitled to the maximum pension of Rs 13,50,000 p.a. irrespective of whether they opt for Part I of the First Schedule to the HCJ Act or not. As held by this Court in *M.L. Jain (2)* [*M.L. Jain* v. *Union of India*, (1991) 1 SCC 644 : 1991 SCC (L&S) 694], any restriction imposed in any of the clauses of Para 2 of Part III of the First Schedule to the HCJ Act which would result in reducing the pension than the one provided in Para 2 of both Part I and Part III of the First Schedule to the HCJ Act, would be patently discriminatory and therefore violative of Article 14 of the Constitution of India.
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> ***
>
> **65.** In this respect, it is to be noted that, when a Judge of the High Court is in office irrespective of his/her source of entry, he/she is entitled to the same salary and the same perquisites. When all the Judges of the High Courts, when in office, are entitled to the same salary, perks and benefits, any discrimination amongst them on the ground of their source of entry, in our view, would be patently discriminatory and violative of Article 14 of the Constitution of India. When an equal treatment is given to all the Judges of the High Courts when they are in service and forming a class of Judges of the High Court, discrimination amongst them on any ground after their retirement for terminal benefits, in our considered view, would be violative of Article 14 of the Constitution of India.
>
> (emphasis ours)

89. The relevant consequence attached to regularisation, as can be distilled from the aforementioned decisions is this: the character of service rendered antecedent to regularisation cannot be taken as a determinant to decide upon the entitlement of service and retiral benefits of the employees, since the act of regularisation obliterates the source or birthmark of the appointment *simpliciter.*

90. Conscious as we are that the aforesaid decisions were rendered in a distinct constitutional setting, dealing with Judges of the High Courts, and that the status and conditions of service of such constitutional functionaries can never be equated with those of the employees we are concerned with, we cannot, for that reason alone, brush aside the principle of wider import, underlying those decisions. Its application in the present context would, of course, be subject to the terms and conditions of the scheme governing regularisation. The determinative question, therefore, is whether, upon regularisation in public service under a duly formulated scheme, the antecedent character of an employee's appointment can nonetheless be invoked to curtail or deny the service and retiral benefits otherwise available to employees forming part of the regular establishment?

91. Transposing the afore-canvassed principle herein, having regard to the subject matter of challenge in ***Prem Singh*** (supra) and the ultimate adjudication as well as the legislative history that ensued, which is the non-consideration of the services put in by the work-charged employees for the purposes of regularisation, let us now articulate our

views premised on the settled law on obliteration of birthmark upon regularisation. The proposition has three limbs:

92. *First*, regularisation confers a substantive status; once regularised under a scheme, the employees are no longer *ad hoc*. They enter the regular stream. *Secondly*, regularisation erases the birthmark and the appointment becomes regular. *Thirdly*, denial of retiral benefits by resurrecting the birthmark by a retrospectively applicable law is impermissible.

93. *Ad hoc* / casual / daily-rated employees, once regularised in public service pursuant to a duly formulated scheme, acquire the status of substantively appointed public servants and become entitled to all benefits flowing from such regularisation. The birthmark of being *ad hoc* / casual / daily-rated employees stands obliterated and they are integrated into the regular stream of service, with all consequential benefits.

94. After such status is acquired, the employer cannot thereafter seek to deny retiral benefits by resurrecting the obliterated birthmark, even by resorting to legislation with retrospective effect. Such an attempt would be vitiated as being opposed to Articles 14, 16 and 21 of the Constitution, as it seeks to create a class within a class and to deprive a regular employee of a vested right.

95. Also, pension not being a bounty, such deprivation of a vested right to pension, which is a facet of Article 21, and classification based on a vanished birth-mark would be arbitrary and discriminatory.

96. In view of the foregoing discussion, the position that emerges is that regularisation, once effected pursuant to a duly formulated scheme, marks the transition of an employee into the regular establishment and his integration in service while obliterating the birthmark of the initial appointment. The antecedent nature of such appointment, having ceased to bear legal relevance upon regularisation, cannot thereafter be resurrected as a ground to disentitle or curtail the service and retiral benefits stemming from the employee's status as a member of the regular establishment. Consequently, the initial source or character of appointment of the employees concerned cannot be pressed into service to deny them the service and retiral benefits otherwise admissible to them as regular employees.

E. <u>The Onerous Burden</u>?

97. Having addressed the questions formulated, we now turn to a point mentioned in the passing by the learned Attorney. In course of hearing, we heard him express an apprehension that should this Court rule in favour of the employees, settlement of the claims for pension would impose an onerous financial burden upon the State running into thousands of crores of rupees.

98. The submission is entirely unpersuasive. Judicial notice is taken that not too long back, the State had itself committed substantial public funds, worth thousands of crores, towards the construction and beautification of parks and public spaces. Not for a moment do we suggest that expenditure on public infrastructure, development or

beautification is, by itself, unjustified. However, the contrast assumes pronounced significance when the State seeks to invoke financial constraints to resist or defer the discharge of obligations lawfully owed to individuals, who are its subjects, as in the present case. Expenditure undertaken at the State's discretion for aesthetic enhancement and public embellishment cannot be positioned on a higher pedestal than the obligation to honour legal entitlements, such as those flowing from ***Prem Singh*** (supra). The public exchequer exists not merely to finance projects reflecting the priorities of a particular dispensation, but also to fulfil the State's obligations under law. Fiscal considerations may inform the manner and mechanism of compliance; they cannot become a ground for indefinitely proroguing the same. Our endeavour is not to question the State's spending choices, rather this is a question of priorities in the public expenditure by the State. In our considered opinion, the bogey of financial constraints of the State should never be raised, even in the passing, to defeat a legal obligation.

F. Proceedings at the instance of Associations – A Necessitated Detour

99. One more important aspect, umbilical to the controversy at hand, warrants consideration to provide necessary guidelines for abidance in future. Evidently, the writ petition which is first in the series and was treated as the lead matter in this cluster of proceedings has been presented by an Association. An Association must first build consensus amongst its members, secure authority to litigate on their behalf, and

then pursue a collective claim where the interest of no single member, generally, can be isolated or settled separately. Once authorised in terms of its memorandum/bye-laws, the Association espouses the cause of its members and seeks relief on their behalf. Such proceedings, by their very nature, traverse a long and protracted course often spanning years across multiple fora before culminating in a final determination. In the interregnum, however, the composition of the Association may undergo a change. Many a time, whether the individuals who constituted its membership at the time of institution of the writ petition continue to remain its members as on the date of the final decision is not readily discernible from the material placed on record. The difficulty, as in the present case, is compounded by the fact that the names of all the members of the Association are not even disclosed in the writ petition.

100. A brief digression seems apposite to clarify the legal position governing the institution of writ petitions at the instance of Associations.

101. An Association may invoke the writ jurisdiction of this Court where its own legal rights or interests are affected. It may also, in an appropriate case, espouse the cause of its members in a representative capacity, provided that it is duly authorised under its memorandum or bye-laws to do so and the proceedings are instituted through persons competent to represent it. The mere fact of registration or existence of an

Association however does not, by itself, confer an unrestricted or independent right to invoke writ jurisdiction.

102. The maintainability of a writ petition at the instance of an Association would, therefore, depend upon the nature of the grievance projected, the rights sought to be vindicated and the capacity in which the Association approaches the Court. Where the grievance concerns a common cause affecting its members, and the Association is duly authorised to represent them, the proceedings may be maintained in a representative capacity, subject to the requirements of law. This is distinct from a case where the Association seeks to assert an independent legal right despite neither its own rights nor interests having been affected.

103. The governing principle, therefore, is that the writ jurisdiction is not foreclosed merely because the proceedings are instituted through an Association; equally, the Association's registration or representative character cannot, on its own, dispense with the requirement of establishing its competence to maintain the proceedings. The question must be examined in the context of the nature of the relief sought and the capacity in which the Association has approached the Court.

104. In light of the foregoing discussion and to obviate any complication as regards identity of the members of an Association presenting a writ petition, we wish to observe, prospectively, that subject to rules framed by each high court, it would be eminently desirable if writ courts insist on a list of members of the petitioning Association being

appended to each writ petition whenever such petition is presented by an Association espousing the cause of its members. Such list ought to duly disclose and contain the names of all individuals borne on the Association's membership roll, as on the date of presentation of the writ petition. Further, to claim benefit of the final adjudication, the writ courts could consider whether such persons have continued to be members of the Association on the date the decision is pronounced. As regards individuals inducted into the Association after presentation of the writ petition, the question of their entitlement should be left open for the respective writ courts to determine in the facts and circumstances of each case. Any concomitant additions to the membership, which are sought to be brought within the sweep of the relief claimed, ought also to be necessarily brought to the notice of the writ courts, so that their entitlement may be appropriately considered.

105. Be that as it may, since the directions proposed to be issued in this judgment are to operate *in rem*, and not confined *inter partes*, the entitlement to the benefits flowing therefrom shall not be contingent upon an employee being a member of the Association. Every employee falling within the ambit of this judgment shall, irrespective of such membership, be entitled to its benefit.

G. A Final Reckoning

106. Before parting, one significant aspect of the decision in ***Prem Singh*** (supra) cannot be overlooked from the remit of our consideration. This Court had restricted the monetary benefits therein to a period of three

years preceding the institution of the writ petition. Consistency in the application of the principle would posit that the present judgment also adheres to the same measure. Accordingly, the benefits stemming from this judgment should ideally stand restricted to a period of three years, in consonance with the principle enunciated in ***Prem Singh*** (supra), read with the decisions in ***Shiv Dass v. Union of India & Ors.***[38] and ***Union of India v. Tarsem Singh***[39].

107. However, yet another aspect would seem to merit clarification at this stage. A coordinate Bench of this Court in its recent decision in ***Maya Banerjee v. Union of India***[40] (delivered after judgment was reserved by us) chose not to follow ***Tarsem Singh*** (supra); instead, it chose to follow the earlier decision in ***S.K. Mastan Bee v. GM, South Central Rly***[41] reasoning that it was not noticed in ***Tarsem Singh*** (supra). Relevant paragraphs from ***Maya Banerjee*** (supra) read as follows:

> **14.** The principle laid down in *S.K. Mastan Bee* (supra) is also by a two-Judge Bench like that in the matter of *Tarsem Singh* (supra). However, *S.K. Mastan Bee* (supra) is directly related to the case of family pension claim by a widow like in the present case. This Court, while taking a view in *Tarsem Singh* (supra) that the consequential relief of recovery of arrears should be restricted by the High Courts normally to a period of three years prior to the date of the filing of the writ petition, has not taken into consideration the earlier view of this Court in *S.K. Mastan Bee* (supra). In a situation like this, this Court is required to ponder as to what course is open when there is conflict in the views taken in two judgments of this Court rendered by the Benches of equal strength.
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[38] 2007 (9) SCC 274
[39] (2008) 8 SCC 648
[40] 2026 SCC OnLine SC 1928
[41] (2003) 1 SCC 184

> **21.** In our considered view, considering the right of an individual to receive family pension which is held akin to a valuable right and property in her hand and is no longer treated as a bounty, restricting the same from 2014 onwards would not only be arbitrary, but it will amount to inflicting injustice upon a poor widow who was earning livelihood by working as a house maid in the neighbourhood when her husband died in harness. Not only that her husband was dismissed after his death which was impermissible as per the Railway Board's own circular, the appellant's subsequent representation claiming family pension was rejected on the ground of incongruity as to the date of death of her late husband. The appellant had to file a civil suit to obtain a declaration as to the exact date of death of her husband, for which otherwise, a death certificate, a statutory document, had already been issued in her favour. Thus, the appellant was not at fault in laying the delayed challenge to the Railways' refusal to grant family pension to her. In our view, the ratio in *S.K. Mastan Bee* (supra) has dealt with the specific issue of restricting the past arrears of pension in more appropriate manner and the same having not been considered by the latter Bench of equal strength in *Tarsem Singh* (supra), the only choice open to us is to rely on *S.K. Mastan Bee* (supra) to allow the present Appeals.
>
> (emphasis ours)

108. The said conclusion, arrived at while dealing with a claim for family pension by a widow, is based on facts which are singularly singular. The coordinate Bench, it would appear, was justified in not restricting the benefits following ***S.K. Mastan Bee*** (supra) which, too, dealt with a widow's claim for pension and was rendered in the factual setting obtaining therein. The said two decisions of this Court, i.e., ***S.K. Mastan Bee*** (supra) and ***Maya Banerjee*** (supra) must be viewed through the prism of clause (3) of Article 15 of the Constitution, which is not the case here, and hence are distinguishable. On the contrary, ***Prem Singh*** (supra) happens to be a larger Bench decision which adopted the course of action conceived in ***Shiv Dass*** (supra), since followed in ***Tarsem Singh*** (supra), and has the efficacy of a binding

precedent on restricting pensionary benefits to three years preceding institution of proceedings when the jurisdiction of the court is belatedly invoked.

109. What emerges as a matter of importance regarding applicability of precedents is that the mere non-consideration of an earlier decision in a subsequent decision does not furnish a legally sustainable basis for not following its ratio. A judgment rooted in its own facts cannot be lifted out of context and applied as a uniform principle. As a corollary, the doctrine of *per incuriam* may not be invoked merely because an earlier decision has not noticed another judgment, without first establishing that the latter laid down a binding proposition of law directly governing the controversy and that its omission occasioned a manifest disregard of the applicable law.

110. Nonetheless, as stated earlier, the only course left for us is to tread upon the zone delineated by the trifecta of decisions in ***Shiv Dass*** (supra), ***Tarsem Singh*** (supra) and ***Prem Singh*** (supra) with the latter being a decision of a 3-Judge Bench, which binds us.

VII. Operative Directions

111. To sum up, the retrospective exclusion of service rendered in a work-charged establishment or as temporary / daily-wage / muster-roll employee, upon regularisation of service, from the computation of qualifying service for pension cannot be sustained merely by introducing a new statutory definition or validating past denials of

pension. For the detailed reasons assigned in the earlier segments, the consequential directions flowing therefrom are as follows:

a. The Uttar Pradesh Qualifying Service for Pension and Validation Act, 2021, and the Uttar Pradesh Entitlement to Pension and Validation Act, 2025, are declared *ultra vires* the Constitution of India in exercise of the power of judicial review of this Court;

b. The rights and claims of eligible work-charged employees for pension shall be considered in light of the decision in ***Prem Singh*** (supra) and the law made applicable thereby;

c. Every retired Government employee, falling within the ambit of this judgment, may approach the competent authority with his claim for pension and other retiral benefits with full particulars of service rendered over the years.

d. As and when a claim is received, the competent authority shall consider and determine the same in accordance with law within a period of 6 (six) months of receipt thereof and extend the benefits, wherever found due.

e. The benefits towards pension shall be calculated for each employee, including employees who have passed away after the decision in ***Prem Singh*** (supra), bearing in mind the restriction of monetary benefits to a period of three years preceding institution of the writ petition by Prem Singh.

f. However, the above restriction will not apply in case any claim is lodged by the heir(s) / legal representative(s) of an employee

who, upon retirement, passed away prior to the decision in ***Prem Singh*** (supra) being delivered by this Court. In such case, the claimant(s) will be under an obligation to produce unimpeachable proof to succeed in any claim as heir / legal representative of the deceased employee, as the case may be.

g. Should any claim *prima facie* seem unacceptable, an opportunity of hearing must precede final rejection of claim; and, needless to mention, such rejection must be by a reasoned order.

h. While disposing of each claim favourably, the competent authority shall furnish to the employee concerned a chart of all payments made towards settlement thereof including the head under which each payment was made.

i. The State is not saddled with any interest in view of the law it enacted which, for the conclusions reached, would henceforth have no existence and effect. But, if payment is not released to the eligible employee within the time frame(s) given above, the State shall be liable to bear simple interest @ 9% per annum till such time payment is finally released.

j. The judgments and orders of the High Court, under challenge in the civil appeals filed by the employees, shall stand set aside.

112. The writ petitions and the civil appeals (Groups I & II), thus, stand allowed on the aforesaid terms, while the civil appeals (Group III) are dismissed. The Miscellaneous Application shall stand disposed of.

113. Connected applications, if pending, shall also stand disposed of.

VIII. FATE OF THE CONTEMPT PROCEEDINGS

114. There are multiple contempt petitions which have accompanied the present controversy through its various stages. The contempt petitions before us comprise: Contempt Petition (C) No.2115 of 2018 in Civil Appeal No.2896 of 2018; Contempt Petition (C) No.306 of 2020 in Civil Appeal No.6804 of 2019; Contempt Petition (C) Nos.309–313 of 2020 in Civil Appeal Nos.6799–6803 of 2019; Contempt Petition (C) Nos.314–318 of 2020 in Civil Appeal Nos.6938–6942 of 2019; Contempt Petition (C) No.319 of 2020 in Civil Appeal No.6805 of 2019; Contempt Petition (C) Nos.429–431 of 2021 in Civil Appeal Nos.7029–7031 of 2019; Contempt Petition (C) No.332 of 2020 in SLP(C) No.19326 of 2017 and Contempt Petition (C) D. No.12683 of 2025 in C.A. No.8340 of 2019. These petitions stem from the asserted failure to implement the judgment in ***Prem Singh*** (supra), concerning the treatment of service rendered in a work-charged establishment as qualifying service for pension, subject to the directions enshrined therein.

115. The relevant procedural trajectory is crucial. On 28th February, 2020, notices were directed to be issued in the contempt petitions and the matters were ordered to be tagged together. Thereafter, *vide* order dated December 07th, 2023, this Court recorded that the State was unsuccessful in the review of the judgment dated 2nd September, 2019, the review petition having been dismissed on 13th February, 2020, and the subsequent withdrawal of the curative petition. This Court also

recorded the State's submission that it was ready and willing to comply with the judgment in respect of the contempt petitioners and directed compliance within four weeks. The record of proceedings thereafter bears out a further statement made on behalf of the State before this Court on 23rd January, 2024. Learned Attorney submitted that steps had been taken to comply with the judgment and that pension payment orders had been issued in favour of the contempt petitioners, with the transfer of money to their accounts expected within two weeks. This statement was taken on record, and the State was directed to ensure compliance within the time sought. Affidavits on behalf of the State and the concerned departments were subsequently filed in several of these proceedings, including affidavits stated to have been filed in compliance with the order dated 7th December, 2023.

116. The issuance of pension payment orders is, indeed, a material step taken towards compliance; and it is not, without more, a conclusive proof that every amount due has reached every beneficiary. Equally, the filing of an affidavit asserting compliance cannot be brushed aside merely because the original grievance occasioned contempt proceedings. The Court must distinguish between an obligation acknowledged, a direction acted upon, and a benefit actually received. Each has its own evidentiary significance.

117. The State cannot shield itself from the consequences of non-compliance by taking shelter in the passage of time; change of governmental policy, or the mere enactment of subsequent legislation

as dispositive of the history of compliance with a subsisting judicial command. Amongst the aforementioned, the enactment of subsequent legislative measures raises a distinct constitutional question, which has been examined in the main judgment. The validity or propriety of those measures and their effect upon the enforceability of the earlier judgment cannot be transposed in the factual inquiry whether, and to what extent, the specific directions in the contempt petitioners' cases have been obeyed. A legislative response, cannot be taken to mean as a proof of payment; equally, the pendency of a challenge to that response, does not fasten the personal guilt upon any alleged contemnor. These two strands of inquiries must be kept distinct.

118. In fact, the conclusions drawn by us in the foregoing discussion, *apropos* the unconstitutionality of the legislative measures occasioned subsequent to the judgment in ***Prem Singh*** (supra), tested in light of the yardsticks peculiar to the validating legislations as well as the general compliance with Part-III, in effect, fortify the gravamen of the contempt proceedings emanating herein, since the ratio of ***Prem Singh*** (supra) has hitherto been not validly dislodged.

119. The material presently at hand, establishes that compliance was directed, that the State represented that pension payment orders had been issued, and that affidavits were filed in the subsequent proceedings, showing the disbursement of amounts due to some of the parties. However, the office reports available to us do not, on their own footing, establish that the complete amount due to every contempt

petitioner was actually credited, nor do they furnish an adequate basis for a uniform finding of wilful disobedience against each alleged contemnor. Such findings must flow from the relevant affidavits, payment records, individual claims and explanations on record, considered in the light of the precise operative directions applicable to each case. Thus, we refrain from making any conclusive findings as to the extent of non-compliance with the directions given in ***Prem Singh*** (supra), at this stage, without having the benefit of perusing the compliance material.

120. For ensuring full and complete compliance, the State is hereby granted one further and final opportunity to comply with the directions issued in ***Prem Singh*** (supra) insofar as they relate to payment of the amounts found payable to the concerned petitioners. Such payment, together with the admissible arrears, shall be effectuated within a period of six months from the date of this order. The State, in default of compliance, shall be liable to bear simple interest @ 9% per annum till such time payment is finally released.

121. It is made clear that the period of six months granted herein is a special and final indulgence in the contempt proceedings and is distinct from the time frame stipulated in the main judgment. The State shall not construe this indulgence as an extension or dilution of the directions contained in the main judgment, nor shall it be construed as granting any further latitude for delayed compliance.

122. In view of the final opportunity now granted, no contempt petition shall remain pending and all the pending contempt proceedings are accordingly disposed of, without prejudice to the consequences that may follow in the event of further non-compliance. It is expressly clarified that any failure on the part of the State to comply with the payment directions in ***Prem Singh*** (supra) within the aforesaid period shall be viewed extremely seriously and may constitute aggravated contempt, warranting appropriate proceedings and orders in accordance with law, as and when such occasion arises. All questions concerning such subsequent non-compliance and the responsibility of the persons concerned are left open.

.....J.
(DIPANKAR DATTA)

.....J.
(SATISH CHANDRA SHARMA)

New Delhi;
November 18, 2026.

APPENDIX

CATEGORISATION OF THE PETITIONS INVOLVED

Group I (12 Petitions):

Group of Employees/Employee Organizations Impugning either the 2020 Ordinance/2021 Validating Act/Judgement of HC against them.

Case No.	Case Title and Brief Facts	Impugned
WP (C) No. 1458/2020 (Head Petition/Main Petition)	**U.P. Ground Water Department Non-Gazetted Employee Association (Regd.) & Anr. v. The Chief Secretary & Ors.** • Members of this organization were employed as work-charged employees from period starting from 1978-1986. **(Annexures, P-1 to P-10)** • With regard to regularization, they filed a WP 468/1996 **(Annexure P-13, pg. 63)** before SC which was disposed of with directions that the matter of regularization shall be considered in accordance with a previous case WP 140/1989 **(Annexure, P-12, pg.59-62**), wherein a scheme framed by UP for regularization was reviewed and directions regarding regularization was given. • Some employees of PWD, who were previously work-charged employees were later regularized. They filed WP at Allahabad HC **(Annexure P-14, pg. 64-83**) to challenge the vires of Rule 3 (8) of the Retirement Benefits Rules, 1961 and Regulation 370 of the Civil Service Regulations which excluded work-charged employees from claiming pensionary benefits unless after regularization they had completed minimum 10 years of regular service. **Note: -** The rules bar period of work-charged employment to be counted towards qualifying service to be eligible for grant of pension. **(Annexure P-15, pg. 148-149**). • HC vide judgement dt. 03.02.2017 dismissed the WP reasoning that the rules are not liable to be struck down on the basis of arbitrariness and are not hit by Article 14. **(Annexure P-15, pg. 152-156).** SC in CA 6798/2019, **"Prem Singh and Others vs State of UP"[42]** allowed the appeal of employees/dismissed appeals of State and read down the impugned Rule and Regulation **(Annexure P-16, pg. 212 pp.32,33)** and held that service rendered as work-charged employee shall be counted towards qualifying service for grant of pension and further directed that	Uttar Pradesh Qualifying Service For Pension And Validation Ordinance 2020.

[42] [coram : Hon'ble Arun Mishra, Hon'ble S. Abdul Nazeer & Hon'ble M.R. Shah, JJ. (as their Lordships then were)].

	arrears of pension shall be restricted to 3 years from date of order. **(Annexure P-16, pg. 213, pp.36)** • Review Petition was filed. Dismissed. **(Annexure P-21, pg. 229).** • After dismissal, R issued direction for compliance with ***"Prem Singh"*** to Director, UP Groundwater Deptt. **(Annexure, P-23, pg.233).** Consent was granted multiple times to calculate length of service **(Annexures P-24, P-26).** Fresh letter issued by R to comply with SC Judgement • Respondents enacted impugned Ordinance which effectively nullified the directions given in Prem Singh. Dept. cancelled earlier orders of compliance vide order dt. 09.11.2020. **(Annexure P-29, pg. 257-259)**	
WP (C) No. 332/2021	**Brijendra Bahadur Singh & Ors. v. The Chief Secretary, Secretariat, State of U.P. & Ors.** • Group of employees employed as work-charged employees b/w 1978-1986. Services regularized similarly to **WP 1458/2020(Head Petition).** This group also petitioners in Prem Singh judgement **(pg. 18 pp.4.17).** Some of the petitioners filed contempt petition for repeated non-compliance of *Prem Singh* judgement **(pg.20, pp. 4.23).** Thereafter, Rs passed impugned ordinance.	The Uttar Pradesh Retirement Benefit Rules 1961, Rule 3(8). Ordinance, 2020.
WP (C) No. 74/2021	**Narayan Dutt Sharma & Ors. v. State of U.P. & Ors** • 11 Ps – all employed as work-charged employees with Groundwater Dept. Services regularized similarly to **WP 1458/2020**(Head Petition). 2 Ps – still in service, rest retired **(pg. 4, pp.2)** Ps were parties to SLP 19362/2017 which was disposed of in same terms to Prem Singh Judgement **(Annexure P-3, pg. 111).** Review Petition also dismissed. Ps have also filed contempt petition pending disposal. **(pg. 33-34, pp.12,13)** • P-2, P-5 and P-7 were directed to get pension which they received on various dates in 2020. However, this was later stopped after the impugned ordinance was passed **(pg. 31-32, pp.4).**	Ordinance,2020.
WP (C) No. 333/2021	**Rakesh Kumar & Ors. v. The Chief Secretary, Secretariat, State of U.P. & Ors.** • **[Almost Identical to Brijendra Bahadur**] • Group of employees employed as work-charged employees b/w 1978-1986. Services regularized similarly to **WP 1458/2020** (Head Petition). This group	The Uttar Pradesh Retirement Benefit Rules 1961, Rule 3(8). Ordinance, 2020.

	also petitioners in ***"Prem Singh"*** judgement **(pg. 17 pp.4.17).** Some of the petitioners filed contempt petition for repeated non-compliance of *Prem Singh* judgement **(pg.20, pp. 4.26).** Review filed by State dismissed. Letters and Office Memos were issued for compliance with ***"Prem Singh"*** **(Annexures P-15 to P-18).** Thereafter, Rs passed impugned ordinance.	
WP (C) No. 432/2024	**Banshi Dhar Chandola & Ors. v. State of U.P. & Ors.** • 11 Ps – All first employed as daily wage workers between 1982-1986 in PWD **(pg. 5 pp. C),** thereafter placed in work charge establishment **(pg. 5 pp. D).** All regularized in 2011, all except P-9 have retired **(pg. 8, pp. L).** Ps filed WP 32130/ 2017 stating that they are entitled to get the benefits of *Prem Singh* judgement **(Annexure P-5, pg. 38-51**). WP disposed of vide order dt. 28.11.2019 with direction that Ps entitled to move representation for grievances **(Annexure P-6, pg. 52-53).** • Principal Secretary, PWD filed compliance affidavit stating that Ps not entitled to pension as per OM dt 18.11.2020 **(pg. 8, pp. L).** Allahabad HC dismissed contempt petition of Ps regarding non-compliance of HC direction in order dt. 28.11.2019 reasoning that after the compliance affidavit order complied with, however Ps at liberty to approach appropriate forum w.r.t. OM dt 18.11.2020 denying them pensionary benefits. **(Annexure P-7, pg. 54)**. • Reliance placed on WP(C) 23912/2020 ***"Jai Prakash and Others Vs. State of U.P.& Others"*** which challenged Validation Ordinance, 2020 and then Validation Act, 2021 before Allahabad HC, Lucknow Bench. • This WP (along with batch of 75 Petitions) was disposed of vide order dt. 18.03.2021 with reasoning that since WP 1458/2020 (Head Petition) is pending before the SC which is also impugning the same act and ordinance, liberty is granted to Ps therein to approach the SC for appropriate relief. **(Annexure P-9, pg. 58-69)**	The Uttar Pradesh Qualifying Service for Pension and Validation Act, 2021
WP (C) No. 156/2025	**Babulal & Ors. v. State of U.P.** • **<u>[Identical To Banshi Dhar Chandola]</u>** • 26 Ps – all first employed on muster roll then in work charge establishment and then subsequently regularised in PWD. P-26 retired, rest on verge of retirement. **(pg. 8 pp. II)**	-ditto-

	• Reliance has again been placed on WP(C) 23912/2020 ***"Jai Prakash and Others Vs. State of U.P.& Others"*** **(Annexure P-8, pg. 113,114)**	
WP (C) No. 193/2025	**Krishan Kumar Dixit & Ors. v. State of U.P.** • **[Similar to Head Petition]** • 40 Ps – all retired employees from PWD/Groundwater/Irrigation Deptt. who were first work-charge employees and later regularized. They were also parties to the 1996 WP which was disposed of with directions for regularisation. Some of the Ps filed WP before Allahabad HC to challenge the vires of Rule 3 (8) of the Retirement Benefits Rules, 1961 and Regulation 370 of the Civil Service Regulations. **(pg. 11, pp. 4.11-4.15)** which was dismissed. SLPs filed by colleagues of P which led to the Prem Singh Judgement. Representation of Ps to comply with the direction given in Prem Singh disposed of vide OM dt. 18.11.2020 in view of the 2020 Ordinance. **(pg. 27, pp.4.31, Annexure P-11**). • Ps filed WP before Allahabad HC, disposed of with direction that since WP 1458/2020 (Head Petition) is pending before the SC which is also impugning the same act and ordinance, liberty is granted to Ps therein to approach the SC for appropriate relief. **(Annexure P-16, pg. 194).**	-ditto + Rule 3(8)-
WP (C) No. 979/2025	**Subodh Kuldeep Tiwari & Ors. v. State of U.P** • **[Similar to Head Petition]** • 22 Ps – all employed in work charge establishment later on regularized in Ground Water Deptt. **(pg. 8).** • Have relied upon multiple HC judgements which have granted to pensionary benefits to Ps as well as other similarly situated persons. **Note:** Ps are impugning The Uttar Pradesh Entitlement to Pension and Validation Ordinance, 2025 (has been enacted since then). Act passed during pendency of these bunch of matters. The Impugned Act has included another rider to entitlement of pension; that of being a substantive employee. • S. 2(d) defines substantive appointee as one being appointed as per rules and procedures to any temporary or permanent post in a permanent establishment • S. 3 excludes persons **not being substantive appointees or those who had subscribed to any Contributory/Employee Provident Fund** from getting pensionary benefits. • S. 4 is the Validating Provision.	-ditto- +The Uttar Pradesh Entitlement to Pension and Validation Ordinance, 2025.

WP (C) No. 474/2023	**Lal Singh & Ors. v. State of U.P. & Ors.** • **<u>[Similar To Banshi Dhar Chandola]</u>** • 3 Ps – all work charged employees, regularized; P-2 retired. • Pleading that similarly situated to Ps in Prem Singh, hence entitled to benefit and also have apprehension that due to Impugned Act would not get benefit of pension.	Validation Act, 2021.
WP (C) No. 440/2024	**Mohd. Nafis Ahmed & Ors. v. State of U.P.** • **<u>[Identical To Banshi Dhar Chandola]</u>** • 33 Ps – all work charge employees who were later regularized in PWD. • Reliance has again been placed on WP(C) 23912/2020 ***"Jai Prakash and Others Vs. State of U.P.& Others"*** **(Annexure P-8, pg. 105-106)**	-ditto-
D. No. 3248/2024	**Ram Naresh Yadav and Ors. v. The State of U.P. and Others** **<u>Note: -</u>** In the file provided there are only permission to implead/direction applications filed on behalf of Ps to be made parties in **CA 6799-6803 OF 2019 [Prem Singh Bunch Matters].** • Ps were also work-charged employees who were regularised in UP Groundwater. They want to be impleaded in view of *Prem Singh* Judgement.	-ditto-
WP (C) No. 459/2024	**Kalika Prashad & Ors. v. State of U.P. and Ors.** • **<u>[Identical To Banshi Dhar Chandola]</u>** • 28 Ps – all employed as first muster roll employees, then work charge and finally regularized and all retired from PWD. • Reliance has again been placed on WP(C) 23912/2020 ***"Jai Prakash and Others Vs. State of U.P.& Others"*** **(Annexure P-7, pg. 102-104)**	-ditto-

Group II (5 Petitions):
Employees Impugning Judgement of HC against them.

Case No.	Case Title and Brief Facts	Impugned
SLP(C) No. 22530/2018	**Aqil (Dead through LRs) v. State of U.P. & Ors.** • P – hired on work-charge basis as Beldar in PWD. Regularized on 05.04.1999 (**Annexure P-1, pg.43-49).** Retired in 2007. • P approached for grant of pension. R refused citing GO 02.12.2000 (10-year minimum regular service). P filed WP 7427/2010 in same regard. Disposed of vide order dt. 11.02.2010 with direction that representation of P be decided within 3 months. **(Annexure P-3, pg. 50)** P's representation dismissed on grounds that he has not completed 10 years as regular employee **(Annexure P-4, pg. 51-52).** P provided details of employees who had not completed 10 years requisite service but still receiving pension. R did not consider the same. **(Annexure P-5, pg. 53).** • P filed WP 1269/2014 before HC which was dismissed vide judgement dt. 01.03.2016 (pg. 2) citing a judgement of HC in **Babu @ Babu Ram Vs. State of U.P. & Ors** dt. 18.02.2016 in which it was held that service under work charge establishment shall not be counted towards qualifying service **(pg. 12).** As per P, HC did not consider the single judge decision in Prem Singh dt. 17.01.2014 which was later confirmed by SC.	Judgement dt. 01.03.2016 by Allahabad HC
SLP D. No. 1747/2020	**Amrit Singh v. State of Uttar Pradesh & Ors.** • P – initially appointed on temporary basis in 1975. **(Annexure P-1, pg. 25-27).** Retired in 2015. P filed WP 22696/2016 before HC for post-retirement dues. HC disposed of WP with direction that unless there is any legal impediment P entitled to such dues within 4 months **(Annexure P-6, pg. 34-39).** Regularized w.e.f. 2010 vide order dt.08.09.2016 **(Annexure P-7, pg. 58-59).** However, not entitled to pensionary benefits as did not complete requisite 10 years. • P filed WP 1897/2017. Vide judgement dt. 14.02.2017, HC dismissed the WP on grounds that requisite 10 years of regular service have not been completed and relied upon **Babu @**	Judgement dt. 20.04.2017 dismissing the Special Appeal filed by P against judgement dt. 14.02.2017 denying him pensionary benefits.

	Babu Ram. **(Annexure P-9, pg.71-74)** P filed Special Appeal also dismissed vide judgement dt. 20.04.2017 **(Annexure P-10, pg. 75-79).**	
SLP(C) No. 6206/2020	**Jawahar Lal Kushwaha v. State of U.P. & Ors.** • P – employed in work charged establishment. Regularized after WP 29814/1997 was disposed of with direction to consider regularization; w.e.f. 2000 after due consideration. • P filed WP 48159/2000 to consider regularization from actual date of appointment i.e. 1981. Dismissed by Single Judge vide judgement dt. 18.11.2004 **(Annexure P-2, pg. 15-16).** **Note:** In the judgement P relied upon a Govt. Order dt. 1992 which stated that all daily wage workers who had completed at least 3 years of service shall be considered for regularization in case of future vacancies. However, the Court had dismissed P's claim stating that there is no averment that any vacancy had arisen after this Order **(pg. 15)** • Special Appeal preferred; dismissed for want of prosecution. • In 2011, P retired. P made representation for fixation of pension after adding years of work as work charge employee. Thereafter filed WP 16820/2019; dismissed citing the previous dismissal of WP 48159/2000. SA Defective 1089/2019 filed; also dismissed vide impugned judgement dt. 13.12.2019.	Judgement dt. 13.12.2019
SLP (C) No. 4686/2024	**Bharat Sharma v. State of U.P. & Ors.** • P – appointed as temporary godown watchman with office of R-3 in 1984. Made multiple representations for regularization. Regularized vide order dt. 12.12.2011 **(Annexure P-3, pg. 20-23).** • P made representation for counting service from 1984. Thereafter, P filed WP 21253/2017, disposed of vide judgement dt. 16.05.2017 with direction to R-3 to consider the grievances of P. **(Annexure P-5, pg. 25-26).** • R-3 rejected claim of P vide order dt. 20.09.2017 **(Annexure P-6, pg. 27-29).** P retired from service. SC gave Prem Singh Judgement. P filed WP 58545/2017 against order dt. 20.09.2017, allowed by Ld. Single	Judgement dt. 12.04.2023

	Judge vide judgement dt. 12.04.2023 granting pensionary benefits and setting aside aforesaid order **(Annexure P-7, pg. 31-33).** Thereafter, State filed appeal 782/ 2023, allowed vide judgement dt. 12.04.2023 and judgement of Single Judge was set aside after considering the Act of 2001 **(Impugned Judgement, pg. 1-3.)**	
SLP (C) No. 21165/2023	**Ganesh Prasad Yadav & Ors. v. State of U.P. & Ors** • 9 Ps – all appointed as Seasonal Collection Amins (Seasonal Land Revenue Collection Officials) b/w 1983-1993. • Services regularized; thereafter all retired. Ps filed WP before Allahabad HC for consideration of their case for pension/qualifying service. WP 30661/2021 disposed with direction to consider representation of Ps. **(Annexure P-16, pg. 84-85).** • Ps filed representations. DM, Pratapgarh dismissed representations stating that Ps do not qualify for pension in accordance with established rules vide order dt. 12.05.2022 **(Annexure P-18, pg. 96)** • Ps filed WP 6005/2022 against said order. Single Judge allowed WP, held Ps entitled to grant of pension **(pg. 126-127)** • R preferred Appeal, HC allowed appeal vide impugned judgement. **Note:** In the appeal, HC has placed reliance upon the 2021 Validating Act. The Judgement rendered in Prem Singh was brought into the notice of the Court, however the Court held that the 2021 Act was not into force when the Prem Singh Judgement was passed and therefore the judgement is not an authority to interpret the said Act. **(Pg. 11, pp. 36).**	Impugned Judgement dt. **31.05.2023**

Group III (7 Petitions):
State Appeals against HC Judgements Favourable to Employees

Case No.	Case Title and Brief Facts	Impugned
SLP (C) No. 4385/2022	**State of U.P. & Ors. v. Love Prasad Dwivedi & Ors.** • State filed Appeal against 3 Rs. Rs appointed as Co-Operative Supervisors (Non-Pensionable/Irregular) in UP Co-operative Union Ltd. in 1978; were granted ad-hoc promotion to Assistant Development Officer (Regular) for 90 days; Rs reverted back to original post vide order dt. 1990. • WP 33208/1990 preferred against this, interim order was passed for continuing ad-hoc promotion ultimately, WP dismissed vide judgement dt. 07.02.2012. **(Annexure P-3, pg. 32).** • Rs preferred Special Appeal 401/2012; remanded back to Single Judge for fresh consideration. **(Annexure P-4, pg. 33-35).** R-3 retired without regular promotion to post. R-1 & R-2 promoted and retired from ADO post. • Writ-A 33208/1990 disposed of directing Ps to finalise pension treating them as promoted to ADO on regular basis from 2001. • Review application dismissed, Special Appeal dismissed vide impugned judgement after due consideration of 2020 Ordinance.	Judgement dt. 26.07.2021 HC in Special Appeal.
SLP (C) No. 5859/2022	**Nagar Ayukt, Nagar Nigam Bareilly & Ors. v. Rakesh Babu Saxena** • R – appointed as daily wager 1986; later on, engaged as a clerk in 1989. Regularized in 2008. Retired in 2020; R made representation that his services prior to regularization be counted for pension purposes. • Sheet prepared by Account Officer of P, stating that while R has completed 11 years of regular service; his regular service was started after the cutoff date of 01.04.2005 (**After NPS**) and hence not entitled to any pension **(Annexure P-5, pg. 24.)** • Writ A 9577/2020 filed by R disposed of with direction that P to considered representation in view of **Prem Singh (P-6, pg. 25,26).** P rejected R's claim vide order dt. 08.02.2021 **(P-7, pg. 27-29).** R filed Writ A 4224/ 2021 for quashing of said order. HC vide impugned judgement allowed R's writ. **Note**: - While the disposal order mentions that representation is being disposed of due to R not providing relevant details. In the impugned judgement; P has taken the argument that in view of the ordinance of 2020 R not liable to get pension **(pg.2).**	Judgement dt. 24.08.2021 in Writ A 4224/ 2021.

SLP (C) No. 13043/2021	**State of U.P. & Ors. v. Mahendra Singh** • **[Similar to previous petitions]** • R – appointed as Chowkidar with P-2 in 1981. Regularized from 1997. Retired in 2010. Pensionary benefits given from 1997. R filed representation for refixation of his pension. R filed WP; disposed of with direction to decide representation. P-2 dismissed representation. R filed WP; allowed in view of Prem Singh, SA filed by P dismissed vide impugned judgement. Ordinance of 2020 discussed in the impugned judgement. (**Note**: HC reasoned that u/s 2 of the ordinance there is inclusion of temporary service period in qualifying service; since R employed as temporary officer b/w 1981-1997, entitled to claim pension (**pgs. 5-8**)	Judgement dt. 04.02.2021 in Special Appeal Defective 1003/2020
SLP (C) No. 17982/2021	**State of U.P. & Anr. v. Jai Chandra** **[Identical to Mahendra/Same Post/Same Deptt.]** • Only difference w.r.t to appointment date which is 1975 in temporary post and 1992 in permanent post.	Judgement dt. 07.07.2021
SLP (C) No. 6091/2022	**State of U.P. & Ors. v. Rakesh Kumar & Ors.** **[Almost Identical to previous cases]** • 6 Ps – all employed on temporary basis (1978-1983) then regularized b/w 1983-1985 in Irrigation Dept. G.O. dt. 23.12.2016 stated that employees retiring after 2006 shall only be eligible for pensionary benefits after 20 years of regular service **(P-2, pg. 15).** Rs started getting pensionary benefits from date of regular appointment Rs filed WP they are entitled to Assured Career Progression from date of temporary appointment. HC disposed of with direction to decide representation. Ps disposed of representation. Rs filed WP 6627/2021. HC allowed WP vide impugned judgement.	Judgement dt. 15.09.2021
SLP (C) No. 5393/2023	**State of U.P. & Ors. v. Chandrama Yadav & Ors.** • R-1 to R-4 – appointed as Seasonal Collection Amins b/w 1978-1990 **(Governed by U.P. Collection Amin Service Rules, 1974)**. Regularized in 2009. All retired from service b/w 2014-2017. Rs. filed WP 6846/2014; disposed with direction that Rs pensionary benefits should be given as per their appointment dates in temporary service. **(Annexure P-4, pg. 35-36)**; Meanwhile Ordinance of 2021 was passed. Ps filed Special Appeal Defective 585/2021. Dismissed vide impugned judgement after considering the judgement in Prem Singh.	Judgement dt. 24.08.2021
SLP (C) No. 18332/2024	**State of U.P. & Ors. v. Kalpnath** • R – appointed as Ameen in PWD as daily wager in 1979; placed in work charge establishment in 1989; regularized in 1999.	Judgement dt. 21.12.2023

	Retired in 2001. P did not sanction pension. R approached HC by filing WP; WP disposed of with direction to consider representation. Claim of R rejected. WP 38969/2004 filed against rejection order. • WP dismissed by Single Judge relying upon Babu Ram Judgement, Article 370 of Civil Service Regulations and Rule 3 of UP Retirement Benefit Rules, 1961 **(Annexure P-7, pg. 49-51).** R filed SA 1040/2019 against this order. Disposed of in view of and in the same terms as Prem Singh Judgement vide impugned judgement.	