

**S.D. JAYAPRAKASH AND ORS. ETC.**

**VS.**

**THE UNION OF INDIA & ORS.**

### **BACKGROUND**

Some people were hired as Data Entry Operators temporarily between 1996 and 1999 under a special plan. Years later, in 2013, a court (Central Administrative Tribunal or CAT) said these workers should be made permanent.

Following this, the government issued an order in January 2015 to make them permanent, but only from the date of the order. So, in April 2015, they were officially made permanent, starting from January 5, 2015.

These workers then asked the CAT to make them permanent from the day they were first hired (or at least after 10 years of working). They also wanted their past work to count towards their pay, seniority, benefits, and pension.

The CAT agreed with the workers in January 2016 and ordered the government to:

1. Make sure their pay remained the same as it was before they became permanent.
2. Let those already paying into a pension plan continue with the old rules and all their years of work be counted towards their pension.
3. The CAT also directed the government to count their permanent work for seniority, and other benefits, starting from the time they completed 10 years of their initial temporary positions.

The government disagreed with this decision and approached the High Court, which changed the CAT's order partially. It said these workers could only be considered permanent and avail of the benefits from April 1, 2015. The Court also disagreed with the CAT about counting their temporary work for seniority, benefits, and pension because they had been hired initially on a contractual basis and not through a regular hiring process. The High Court, however, agreed that their pay should be protected.

### **ARGUMENTS BY BOTH COUNSELS**

The appellants' lawyer argued that as per a pension rule (Rule 17) and a previous Supreme Court decision in the Sheela Devi case, the time the workers spent on contract should be taken into consideration when calculating their pension benefits.

The counsel for the respondents (government) argued that the Sheela Devi case was different, since in this case, the workers weren't initially hired for permanent, official positions so the logic of the Sheela Devi case could not be applied here.

### **INTERPRETATION OF THE RULE BY THE COURT:**

The Court looked at one specific rule in the pension rules, Rule 17. The rule states that if a person starts working for the government on a temporary contract and then becomes a permanent employee without stopping work, then the person is entitled to make a choice about the retirement money from the contract period, by either-

- a) Keeping the government's contributions to the retirement fund accrued during the contract workor
- b) Give the amount back, or not take it if the employee was entitled to it, so that the time working during the contractual basis counts towards the permanent employee pension.

The court also reminded what was said in the Sheela Devi case earlier. They clarified that even though another rule says contract workers are not covered under pension rules, Rule 17 changes that, in the event those workers become permanent. Once they become permanent, the pension rules come into effect, and due to Rule 17, the time they worked on contract has to be considered when calculating their pension benefits. Due to Rule 17 the government was required to give these newly permanent employees an option to choose whether they wanted to keep their previous retirement money or have their contract work count towards their pension.

## **JUDGEMENT**

Referring to its earlier decision in the Sheela Devi case in 2023, the Supreme Court reiterated that while general pension rules (Rule 2(g)) usually do not apply to contractual workers, a specific rule, Rule 17 does apply once the workers become permanent. As established in the Sheela Devi case, once regularized, the pension rules become applicable and Rule 17 states that the time worked under a contract must be considered when calculating pension benefits.

Based on Rule 17 and the precedent set in *Sheela Devi*, the Court ruled that the period these workers worked on contract before they were regularized in 2015, must be taken into account when calculating their pension benefits. The Court directed the government to inform the workers of the options they could exercise under Rule 17, which includes whether they keep their retirement funds from the contract period or choose to return it so it can be counted towards their permanent job pension.

The Supreme Court allowed part of the workers' appeal and overturned the High Court's decision that denied counting their service during the contractual period for pension purposes.