

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 14291 of 2025**

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1. The Union Of India through Secretary, Ministry of Communications, Department of Posts, New Delhi.
  2. The Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
  3. The Chief Post Master General, Department of Posts, Bihar Circle, G.P.O. Complex, Patna.
  4. The Post Master General, Patna GPO, Department of Posts, East Region, Bhagalpur at Patna (Bihar).
  5. The General Manager, Finance (Postal), Patna.
  6. Superintendent of Post Office, Bhagalpur Division, Bhagalpur.

... .. Petitioner/s

Versus

Nawal Kishor Thakur S/o Rambhato Devi, Wife of Late Ranjit Thakur Retrd. G.R.D. Multi Tasking Staff (MTS) Bhagalpur H.O. in Bhagalpur Postal Division, Resident of Village-Akagora, P.O.-Barahat, District-Banka-813211.

... .. Respondent/s

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with

**Civil Writ Jurisdiction Case No. 14268 of 2025**

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1. The Union of India through Secretary, Ministry of Communications, Department of Posts, New Delhi.
2. The Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
3. The Chief Post Master General, Department of Posts, Bihar Circle, G.P.O. Complex, Patna.
4. The Post Master General, Patna GPO, Department of Posts, East Region, Bhagalpur at Patna (Bihar).
5. The General Manager, Finance (Postal), Patna.
6. Superintendent of Post Office, Bhagalpur Division, Bhagalpur.

... .. Petitioner/s

Versus

Panchanand Singh Son of Late Mahendra Narayan Singh, Retrd. G.R.D Multi Tasking Staff (MTS) Bhagalpur H.O. in Bhagalpur Postal Division, Resident of village and P.O.- Kurma, District- Banka - 813211.

... .. Respondent/s

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**Appearance:**

(In Civil Writ Jurisdiction Case No. 14291 of 2025)

For the Petitioner/s : Mr. Radhika Raman, Sr. CGC  
Mr. Ram Tujabh Singh, CGC

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 14268 of 2025)

For the Petitioner/s : Mr. Radhika Raman, Sr. CGC  
Mr. Ram Tujabh Singh, CGC

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

**and**

**HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)**

**Date: 25-11-2025**

The aforesaid two writ petitions have been filed against the same impugned judgment dated 14.01.2025, passed by the learned Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the “Ld. CAT”) in O.A. No. 050/00947/2022 and O.A. No. 050/00948/2022, hence the same have been taken up for hearing together and are being disposed off by the present common judgment and order. As far as the first writ petition i.e. CWJC No. 14291 of 2025 is concerned, the Respondent is son of the deceased original applicant, who happens to be wife of the deceased employee, hence the deceased employee shall be referred to as the husband of the original applicant in the present Judgment.

2. The Ld. CAT, by the aforesaid impugned judgment dated 14.01.2025 has allowed the connected original applications filed



by the applicants and has directed to include the said two applicants in the old pension scheme and fix their pension/pensionary benefits as per the Old Pension Scheme.

3. The short facts of the case are that the husband of the original applicant of the first case and the original applicant of the second case were initially appointed as Gramin Dak Sevak/ Extra Departmental Stamp Vendor at Bhagalpur Postal Division in the year 1974-76. Thereafter, the petitioners herein had initiated the process of filling up Group-D vacancies of the year 2000-03 from amongst the Extra Departmental Employees on the basis of seniority, however the DPC could not be held in the month of November, 2003, as scheduled, hence the said employees were promoted to the Group-D Cadre on 26.04.2005 against the vacancy of the year, 2003. The applicants were then promoted to the post of MTS Cadre. At this juncture, it may be relevant to mention here that the husband of the original applicant of the first case had superannuated on 31.1.2016, however he subsequently died on 09.08.2021 while the original applicant of the second case had retired from service on 31.12.2018. It is the grievance of the said employees that they are not being given the benefits of the old pension scheme.

4. The original applicants, being aggrieved had filed the



connected original applications before the learned CAT, *inter alia* praying therein to direct the Respondent authorities to calculate the length of service of the said applicants so as to make them eligible for pension and other pensionary benefits with effect from the year, 2003 i.e. the year of vacancy.

5. We find from the pleadings that the issue which arises for consideration is as to whether the husband of the original applicant / the original applicant would be entitled to the benefits of the old pension scheme or the new pension scheme, which has come into effect from 01.01.2004.

6. The learned counsel for the petitioners submits that since the original applicants were initially engaged as Gramin Dak Sevak/ Extra Departmental Stamp Vendor at Bhagalpur under the Bhagalpur Postal Division in the year 1974-76 and after getting promotion in the Group-D Cadre / MTS Cadre, they had joined on the promotional post in the year 2005, they cannot be granted the benefit of the old pension scheme since the same had lapsed on 31.12.2003.

7. We find from the pleadings that the original applicants had contended before the learned CAT that since the husband of the original applicant / the original applicant were granted promotion in the Group-D Cadre / MTS Cadre for the vacancy



of the year 2003, though in the year 2005, on account of lapses on the part of the authorities, however there being no lapse on the part of the original applicants, the original applicants cannot be made to suffer, hence they are entitled to be included in the old pension scheme. On the said issue, certain precedents were relied upon, i.e. the one rendered by the Hon'ble Apex Court in the case of ***P. N. Premachandran vs. State of Kerela***, reported in ***(2004) 1 SCC 245*** and the other rendered by the learned Division Bench of this Court on 28.8.2020 in CWJC No. 17285 of 2018 (***The Union of India & Others vs. Uma Kant Jha***).

8. The learned CAT, by the impugned judgment dated 14.01.2025 has directed the Respondents to grant the benefits of old pension scheme to the original applicants, relying on a judgment dated 28.8.2020, passed by the learned Division Bench of this Court in the case of ***Uma Kant Jha*** (supra), relevant paragraphs whereof are reproduced herein below:-

*“Briefly stated the facts of the case is that respondent was initially appointed as Extra Departmental Branch Postmaster in Banka division in account of Banka post office on 26.10.1976., where he served as Extra Departmental Branch Postmaster for about 28 years 6 months and after getting promotion in MTS cadre he joined in the departmental cadre on 26.04.2005 as a regular employee and retired on 30.11.2016 and his total*



*length of service in the departmental cadre as MTS was counted as 11 years 06 months and 20 days. His pension was fixed under New Pension Scheme which was made effective from 01.01.2004.*

*It was submitted before the Tribunal that respondent was promoted as MTS employee on 26.04.2005 but same was against the vacancy of 2003 as such his service ought to have been counted from 2003 itself and respondent is entitled for pensionary benefit under Old Pension Scheme.*

*Issue before the Tribunal was whether the applicant who was appointed in regular cadre by way of promotion after 01.01.2004 would be governed by Old Pension Scheme or New Pension Scheme which was made effective from 01.01.2004.*

*Respondent has entered in service in postal department as extra departmental employee on 26.10.1976 in Banka Postal Division. Extra departmental employees form a separate cadre and are governed by separate service conditions and recruitment rules. They are not the regular employees of the postal department. They are brought in the regular cadre of postal department by way of promotion for which 25 % of the MTS vacancies are filled up by promotion from extra departmental staff cadre, which is conducted by the departmental promotion committee. In order to qualify for such promotion, extra departmental employee has to serve the department for a specified period.*

*New pension scheme which was made effective from*



*01.01.2004 is applicable to the central government employees, who entered into the service of the central government after 01.01.2004. Respondent entered into the service of central government on 26.10.1976 although not as a regular employee but as extra departmental employee and thereafter was promoted in the regular establishment on 26.04.2005 after his name was recommended by the D.P.C. in its meeting held on 26.04.2005 against 2003 vacancies as such his entry in central government cannot be said to be after 01.01.2004. Many benefits for which regular central government employees are entitled are extended to extra departmental employees as well. However, qualifying service for grant of pension will be service rendered as regular MTS employee as service rendered as Extra Departmental employee is not pensionable.*

*A Division Bench of this court in **C.W.J.C No.17204 of 2015 (The Union of India & Ors. Vs. Mukti Prasad Yadav)** since reported in **PLJR 2016(2) 480** while considering the issue of New Pension Scheme vis a vis Old Pension Scheme with respect to employees who are not serving as regular employees in the department in para no. 4 has held as following:*

*“4. The Tribunal, noticing the Full Bench judgment as well as the judgment of the Karnataka High Court in this regard in favour of the employees, held that they would be covered by the Old Pension Scheme. To us, the problem is simple. The new Pension Scheme would apply to persons coming in Government Service after 01.01.2004. The applicants before the Tribunal were first casual labourers, but with effect from 1989 they*



*acquired the temporary status or the status of a temporary employee of the Government in the Department of Posts. After three years of such continuous service, they were entitled to certain benefits, which a permanent Group-D employee gets. They were receiving the same, pending confirmation in service as a permanent employee. Towards pensionary benefits, G.P.F. deductions were made. Then came cut-off date as 01.01.2004. In the meantime, the vacancies having occurred in the year 2011, they were substantially appointed as permanent employees. They were regularized as permanent employees. To us, the answer would be evident from the fact that they were already in service prior to 01.01.2004, though in a temporary status. To us, it appears that the meaning of the Scheme, which puts the cut-off date as 01.01.2004 is that all those persons, who have come in service after 01.01.2004 would be covered by the New Pension Scheme. As noted and stated above, the applicants before the Tribunal, the respondents herein, were already in service, though in temporary status prior to the cut-off date. To them, this cut-off date would not apply, and consequently they would be deemed to be in service on 01.01.2004 having been confirmed as permanent employees in Group-D with effect from 2011. Thus, we find no error in this judgment and order of the Tribunal.*

*The Central Administrative Tribunal on the basis of several judgments pronounced by Tribunal as well as High Court and relying upon different circulars issued by the central government has held that respondent is entitled for benefit under the old pension scheme.*

*After hearing counsel for the parties and perusing the judgment and order passed by the Central Administrative Tribunal, this Court does not find any error or infirmity*





*in the order passed by the Central Administrative Tribunal, Patna Bench Patna, requiring any interference of this court in its writ jurisdiction and accordingly writ petition is dismissed.”*

9. This Court had put a query to the Ld. Counsel appearing for the petitioners as to whether the case of the respondents is distinguishable from the judgment rendered by a co-ordinate Bench of this Court in the case of ***Uma Kant Jha*** (supra), to which the answer is that there is no difference and the present cases are fully covered by the judgment rendered in the case of ***Uma Kant Jha*** (supra).

10. Now coming back to the present cases, we find that the pension scheme which was made effective from 01.01.2004 is applicable to the central government employees, who entered into the service of the central government after 01.01.2004, however the employees in the present cases entered into the service of central government in the year 1974-76 although not as a regular employee but as Gramin Dak Sevak/extra departmental employee and thereafter, were promoted on 26.04.2005, after their names were recommended by the D.P.C. against the 2003 vacancies as such their entry in central government cannot be said to be after 01.01.2004, thus they are entitled to be included in the old pension scheme and



accordingly their pension/ pensionary benefits are required to be fixed as per the Old Pension Scheme. This aspect of the matter stands squarely covered by the judgment rendered by the learned Division Bench of this Court in the case of *Uma Kant Jha* (supra), facts and circumstances whereof are more or less identical to the present cases.

11. Having regard to the facts and circumstances of the case, considering the submissions advanced by the learned counsel for the petitioners as also taking into account the judgment rendered by the Hon’ble Apex Court and the one rendered by the learned Division Bench of this Court in the case of *Uma Kant Jha* (supra), which fully covers the present case, we do not find any error in the impugned judgment dated 14.01.2025, passed by the learned CAT in O.A. No. 050/00947/2022 and O.A. No. 050/00948/2022, hence the aforesaid two writ petitions stand dismissed, being bereft of any merit.

(Mohit Kumar Shah, J)

(Soni Shrivastava, J)

Ajay/-

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| AFR/NAFR          | AFR        |
| CAV DATE          | NA         |
| Uploading Date    | 29.11.2025 |
| Transmission Date | NA         |

