

GOVERNMENT OF INDIA  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS  
(DEPARTMENT OF PENSION & PENSIONERS' WELFARE)

**RAJYA SABHA**  
**UNSTARRED QUESTION NO. 425**  
(TO BE ANSWERED ON 22.07.2021)

**BENEFITS OF OLD PENSION SCHEME**

**425 SMT. CHHAYA VERMA:**  
**SHRI VISHAMBHAR PRASAD NISHAD:**  
**CH. SUKHRAM SINGH YADAV:**  
**SHRI NEERAJ SHEKHAR:**

Will the **PRIME MINISTER** be pleased to refer to answer to Unstarred Question 428 given in the Rajya Sabha on 4th February, 2021 and state:

- (a) whether Supreme Court has dismissed the Special Leave to Appeal (C) 173/2021 on 04/02/2021 and has allowed the Central Government officials under NPS, the benefits of old pension scheme whose advertisement were advertised before 01/01/2004 and results/joining occurred after 31/12/2003;
- (b) if so, the details thereof;
- (c) whether Government would issue general orders for similar cases to ease out litigation and undue burden on resources and exchequer of Government and its own officials on the line of above judgment; and
- (d) if not, the rationale therefor?

**ANSWER**

**MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE**  
**(DR. JITENDRA SINGH)**

(a) to (d) : A Writ Petition No. 756/2020 was filed by Dr. Davinder Singh Brar before the Hon'ble High Court of Delhi. Hon'ble Court vide its order dated 28.01.2020, allowed the Writ Petition. The operative portion of the order reads as under:

*"12. Mr. Anurag Ahluwalia, CGSC sought to draw a distinction between the aforesaid case and the one at hand by pointing out that the Petitioner here had been selected pursuant to a selection process that concluded only in February, 2004, whereas, in other instances where this Court had granted relief, the selection process had concluded before 1st January, 2004.*

*13. The Court is not persuaded that the above distinction can constitute a ground for denying to the Petitioner coverage under the Old Pension Scheme (OPS). The fact remains that for an advertisement that came to be issued on 24th May, 2003, the Respondents only concluded the selection process in February, 2004. It is not the case of the Respondents that this delay was attributable to the Petitioners. Further, the OM dated 13th April, 2018, referred to hereinabove, does not recognize any such distinction for the purpose of deciding eligibility of personnel to the OPS.*

14. *In that view of the matter, the impugned order dated 17th August 2019 is hereby set aside. A direction is issued to the Respondents to extend the benefit of the OPS to the Petitioner in terms of the CCS (Pension) Rules, 1972 by issuing appropriate order within a period of 12 weeks from today. The petition is disposed of in the above terms."*

Since, the above judgement was not in consonance with the provisions of notification issued by Ministry of Finance ( Department of Economic Affairs) on 22.12.2003, an SLP No. 173/2021 was filed before Hon'ble Supreme Court. Hon'ble Supreme Court vide its order dated 04.02.2021, dismissed the SLP.

National Pension System (NPS) was introduced for Central Government employees by a Notification of Ministry of Finance (Department of Economic Affairs) dated 22<sup>nd</sup> December, 2003. NPS is mandatory for all new recruits to the Central Government service from 1<sup>st</sup> January, 2004 (except the armed forces). However, in some specific court cases, like WP(C) No. 3834/2013 titled Parma Nand Yadav Vs. Union of India and WP(C) No. 2810/2016 titled Rajendra Singh Vs. Union of India, where the selection of candidates had been made before 01.01.2004 but their actual appointment in the Government service could be made on or after 01.01.2004 due to various reasons, on the direction of the Hon'ble High Court of Delhi, the benefit of old pension scheme was allowed to the petitioners.

After considering all the relevant aspects and to extend the benefit to similarly placed Government servants in order to reduce further litigation, the Government has decided, vide an Office Memorandum No. 57/04/2019-P&PW(B) dated 17th February, 2020 of the Department of Pension & Pensioners' Welfare, that in all cases where the results for recruitment were declared before 01.01.2004 against vacancies occurring on or before 31.12.2003, the candidates declared successful for recruitment shall be eligible for coverage under the Central Civil Services (Pension) Rules, 1972. Accordingly, such Government servants who were declared successful for recruitment in the results declared on or before 31.12.2003 against vacancies occurring before 01.01.2004 and covered under the National Pension System on joining service on or after 01.01.2004, may be given a one – time option to be covered under the Central Civil Services (Pension) Rules, 1972.

In view of the specific provisions of the Notification dated 22.12.2003, the date of advertisement for the vacancies or the date of examination for selection against those vacancies is not considered relevant for determining the eligibility for coverage under the Old Pension Scheme or the National Pension System.

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