

## Smt. Girija C & Ors Vs State Of Kerala

**Court:** High Court Of Kerala

**Date of Decision:** Jan. 27, 2025

**Acts Referred:** Kerala Khadi and Village Industries Board Act, 1957 " Section 4, 31

**Hon'ble Judges:** Mohammed Nias C.P., J

**Bench:** Single Bench

**Advocate:** N.Unnikrishnan, N.Rajagopalan Nair, S. P. Aravindakshan Pillay, Bijoy Chandran

**Final Decision:** Allowed

### Judgement

Mohammed Nias C.P., J

1. In WP (C) 13434 of 2017, the petitioners challenge Exhibit P49 order dated 13.01.2016, issued by the 3rd respondent Kerala Khadi and Village

Industries Board, rejecting the claim for counting prior service rendered by Spinning/Weaving Inspectors before regularisation for pensionary benefits.

It is stated that the petitioners are retired employees of the Khadi Board, who joined the service between the 1970s and 80s and worked as Spinning

Instructors and Weaving Instructors. They were regularised in service from 07.07.1999 through an order issued by the 1st respondent, but the period

of service before the date of regularisation was not counted for pension. At the same time, all the petitioners have received gratuity through the order

passed by the Controlling Authority under the Payment of Gratuity Act, 1972 by counting the entire service as a qualifying service.

2. In WP (C) 3730 of 2021, the petitioners, eight in number, challenge Exhibit P9 Order, dated 22.02.2005, issued by the 1st respondent, to the extent it

denied reckoning the total service including continuous service rendered before regularisation by the Spinning Instructor/Weaving Instructor for the

pensionary benefits and Exhibit P10 dated 17.05.2005 issued by the Government of Kerala, Exhibit P11 Government Letter dated 06.10.2006 and

Ext.P12 Government letter dated 17.03.2009. It is stated that the petitioners are retired Spinning and Weaving Instructors from the service of the 3rd

respondent Khadi Board. Initially, petitioners 1-6 being aggrieved by the non-reckoning of the total service in computing gratuity, approached this

Court by filing WP (C) Nos. 16156/2020, 11502/2020 and 11506/2020 which were disposed of with a direction to reckon the total period of service for

payment of gratuity and to pay the outstanding gratuity amount. Petitioners 1, 4 and 5 viz. Smt. Sulatha, Smt. Radha O. and Smt. M N Kuttimani were

petitioner Nos. 11, 13 and 14 respectively in WP (C) No. 36274/2005.

3. In WP(C) No. 4219 of 2021, the petitioners prayer for a direction for quashing Exhibit P9 Government Order and to quash Exhibit P10 Government

Order, Exts.P11 and P12 Government letters by which the request to reckon prior continuous service of Spinning Instructor and Weaving Instructor

before regularisation was rejected by the 1st respondent for pensionary benefit. It is stated that petitioners are retired from the service of the 3rd

respondent, Khadi Board. They retired as Spinning Instructors. Petitioners 9, 10 and 14 viz. Smt. M.M Padmavathi, Smt. Retnakumari P.K. and Sri.

P.P. Mohan Babu was petitioner Nos. 33, 26 and 3 respectively.

4. In W.P. (C) No. 18456/2021, the petitioners (Total of 13) are retired as Weaving Instructors and Spinning Instructors from the Khadi Board. They

were absorbed in the regular service only on 07.07.1999 and on retirement they were denied the pension they are entitled to, based on their total

period of service including continuous service they worked for decades on a daily wage basis for a meagre wage. The petitioners prayed for a

direction to the 1st, 2nd and 3rd respondents to revise the pension of the petitioners by reckoning the entire service of the petitioners as regular

service and pay and release to them the arrears of pension without delay and continue to pay them pension at the revised rate.

5. In W.P. (C) No. 6155/2021, the petitioners ( 41 in number ) are retired from the service of the Khadi Board. The petitioners 1-27 retired as

Spinning Instructors and the rest of them are retired as Weaving Instructors. The petitioners challenge Exhibit P9 Government Order, so far as it

denies to reckon the total service including service rendered before regularisation by the Spinning Instructor/Weaving Instructor for pensionary

benefits and also to quash Exhibit P10 Government Order, Exts.P11 and P12 Government letters by which the request to reckon prior continuous

service of Spinning Instructor and Weaving Instructor before regularisation was rejected by the 1st respondent for pensionary benefit. Petitioners 2, 3,

8, 10, 11, 12, 28, 29, 30 and 32 viz. Smt. Mary A.M, Smt. K. Thulasi Bai, Smt. Remadevi E, Smt Marykunju P.D., Smt. Jessy M. L., Smt. Annamma

N.T., Sri. T.V Ravi, Smt. V.K Elsy, Smt. T.C. Vasanthi and Smt. T.L. Reetha were petitioners 23, 32, 24, 25, 27, 28, 19, 31, 29 and 30 respectively in

WP (C) NO. 36274/2005.

6. In WP (C) No. 37554 of 2024, the petitioners ( 32 in number) challenge Exhibits P6 and P7 to the extent they deny reckoning the total service prior

to the regularisation of the petitioners. The Petitioners challenged Exhibit P6 and P7 orders and prayed for quashing the same to the extent it denies to

reckon the total service including service rendered before regularisation by the Spinning/Weaving Instructors for pensionary benefits.

7. The 3rd respondent, the Kerala Khadi and Village Industries Board, submits that the writ petition is filed as an experimental measure as their claim

is hit by estoppel and acquiescence. The petitioners did not challenge the orders passed by the Government. The petitioners have accepted the said

pay scale and drawn their salary during their entire period of service and even the pension benefits according to the said scale of pay. It is stated that

the Kerala Khadi and Village Industries Board is a grant-in-aid institution with its own special rules viz, Kerala Khadi and Village Industries Board

(Classification and Conditions of Recruitment of Staff) Regulations, 2006, governing the service conditions of the staff and the provisions of Kerala

Service Rules Part III are made applicable for the computation of & connected cases pension, gratuity and other pensionary benefits of its employees.

The petitioners were initially appointed on daily wages under the Special Employment Generation Scheme and later regularised by the Government on

compassionate grounds through a Government Order dated 07.07.1999. The petitioners were working as technical staff in various departmental

production units under the Kerala Khadi and Village Industries Board with effect from the date of the order giving them pay and allowances

equivalent to the part time contingent employees of the State Government subject to the following conditions.

(i) No further recruitment will be made to the above categories.

(ii) Surplus staff, if any, in one District may be appointed to the vacant posts in the other Districts.

(iii) The date of retirement should be on completion of 55 years for all the above posts.

8. Later the salary of the petitioners was revised as equivalent to that of last-grade servants and 50% of the additional expenditure for the same will

only be met by the Government. The scale of pay with effect from the order dated 22.02.2005 was fixed at the entry level with effect from the date

of order and their previous service will not count for pay fixation, leave, pension, grade promotion etc. Later the words 'pension' and 'leave' were

deleted vide Order dated 17.05.2005. Therefore, the service of the regularised instructors between the date of regularisation, i.e. 07.07.1999 and the

date of sanctioning of Pay Scale, i.e. 22.05.2005 can only be taken for grade fixation etc. which may take place beyond 22.05.2005. Therefore, the

period prior to regularisation i.e. 07.07.1999 could not be considered for any service benefits including pension.

9. The said posts of Spinning and Weaving Instructors are created on compassionate grounds to accommodate the daily wage employees and these

posts are thereby not provided in classes and categories of posts under each service provided in Regulation 4 (b) of CCR and these posts are not

borne in cadre. Petitioners do not possess qualifications for being regularly appointed in the sanctioned posts and therefore, the government had

regularised all 346 persons including the petitioners working as technical staff with the condition that no further recruitment will be made to the above

categories. The Government has made clear that their previous service would not be reckoned for service benefits as it will create a huge additional

financial burden to the government. The subject matter of dispute has already been considered by this Court in O.P. No. 29876/2002 and decided

against the petitioners. This Court also considered the question of reckoning the service from the date of entry in service and granting pay and other

allowances applicable to such posts in WPC No. 36274/2005.

10. Heard Sri.N.Unnikrishnan, learned counsel for the petitioners in WP(C). No. 13434/2017, Sri. G. Krishna Kumar, learned counsel for the

petitioners in WP(C).Nos. 3730/2021, 4219/2021, 6155/2021, 18456/2021, Sri.K.P.Rajeevan, learned counsel for the petitioners in WP(C). No.

37554/2024, Sri. S.P.Aravindakshan Pillay instructed by Sri. N. Rajagopalan Nair, learned Standing Counsel for the Kerala Khadi and Village

Industries Board and Sri. Bijoy Chandran, the learned Government Pleader.

11. It is urged on behalf of the petitioners that they were appointed on the basis of a Rural Employment Scheme introduced by the Khadi Board to join

the Spinning units of the Board as spinners on a piece-rate basis. Out of the persons working as spinners, those who have completed SSLC and with

good performance were sent for 10 months of training and post the successful training, they were called for interview and based on the marks secured

in the interview conducted by the Board, they were appointed as Spinning Instructors on daily wage basis at Rs. 10 per day. Weaving Instructors

were also appointed by following a similar mode of appointment adopted in 1986. From among the weavers, those who are well experienced have

teaching skills and who passed the 8th standard were selected for various training programmes for weaving instructors and appointed as Weaving

Instructors in the weaving unit of the Board.

12. It is stated that all of the petitioners hail from the lower strata of the society and were working from 1978 onwards. Initially, they worked for daily

wages of Rs. 10/- per day and subsequently enhanced to Rs. 12/- per day. On 8.11.1990, the Khadi Board granted a consolidated remuneration of Rs.

700/- and later it was enhanced to Rs. 1050/- per month. After decades of continuous service on a daily wage basis, they were absorbed into the

regular service as per a Government Order dated 07.07.1999 and the scale of pay was fixed as that of Part-time Contingent Workers. It is stated that

they were full-time employees and were working on a full-time basis right from the day of appointment till the date of retirement. While this remained

the fact, they were paid a salary equivalent to Part-time Contingent Workers and for pension, the period of service before the regularisation date was

not considered.

13. It is stated that through a Government Order dated 22.02.2005, the government sanctioned the pay equivalent to the last grade employees and it

was mentioned in Exhibit P4 that their previous service will not count for pay fixation, leave, pension, grade promotion etc. Later Government issued

orders on 17.05.2005 by which the earlier order was modified by deleting "pension" and "leave" from the last sentence. It is stated that on

reading the above Government Orders together, the petitioners are entitled to get counted their provisional service/ daily wage period also as qualifying

service for pension. The Government through letter dated 17.03.2009 has rejected the request to issue orders to reckon the period of service of

persons as that of petitioners from 1.11.1990 as qualifying service for pension. The petitioners are only provided with ex-gratia pension by denying

them the actual pension they are entitled to, based on their total period of service. It is stated that Kerala Service Rules, in particular, Rule 10, Part III

KSR relate to pension which permits in individual cases and subject to such conditions as they may think fit to impose in each case, allow service

rendered by an employee to count for pension.

14. Under Rule 11 of KSR, Part III, the Government is competent to declare that any specified kind of service rendered by an employee shall qualify

for pension inferentially even without a specific prescription. Rule 14 A, Part III, KSR provides for counting the temporary service for the regular

pension if is regularised later. The duties and responsibilities of the Spinning Instructor were to manage the entire spinning unit in which they were

posted, impart training to unemployed persons, pay wages based on the work done to the spinners, prepare and maintain accounts, wage register,

repair and upkeep the machinery in the unit. They were also subjected to transfer from one unit to another and even to other Districts like regular

employees. They argue that their duties were neither sporadic nor project-based, but permanent and integral to the daily functioning of the

respondent's office. In the Irrigation Department and Kerala Water Authority, orders were issued for reckoning the CLT/SLR service prior to

absorption into regular service of the Irrigation department in respect of CLR/SLR employees.

15. In the Judgment dated 31.05.2016 of the Kerala High Court in WP(C) No. 3218 of 2014 (Exhibit P8) held that Khadi Board admitted that the non-

inclusion of the post of Spinning and Weaving Instructors in the Special Rules (CCR) 2006 is due to a mistake or omission on the part of the authority

and thereafter as per the notification dated 26.02.2024, amended the CCR regulation and in 4 (a) of Part I after serial No. VI, Serial No. VII, Casual

Field Service was included.

16. The Petitioners relied on the following judgments:

Kesar Chand resident of village Naroli v. State of Punjab and Others [AIR 1988 Punjab and Haryana 265] S heela Devi v. State of H.P. and

others (CWPOA No.195 of 2019), Board of Revenue through its Chairman U.P. Lucknow and others v. Prasad Narain Upadhyay [2005 SCC

Online All 1248], Geeta Devi v. State of U.P. and 6 others (Writ -A No. 9201/2018), Ram Deo Tiwari v. State of Uttar Pradesh and Others

[(2019) 10 SCC 546], Laila T.M. and Others v. State of Kerala and Others [2014 (2) KHC 395], Sukumaran V. v. State of Kerala and Another

[2020(5) KHC 571], Punjab State Electricity Board and Another v. Narata Singh and Another [(2010) 4 SCC 317], Yashwant Hari Katakhar v.

Union of India (Uoi) and Ors. [(1996) 7 SCC 113], State of Haryana and Others v. Piara Singh and Others [(1992) 4 SCC 118], Vinod Kumar

and Others v. Union of India and Others [ (2024) 9 SCC 327], Prem Singh v. State of Uttar Pradesh and Others [(2019) 10 SCC 516],

Rajkaran Singh & Ors. v. Union of India & Ors. (Civil Appeal No. 9721/2024) [(2024) 8 SCR 516], K Raghavan Nair v. State and Others (O.P.

No. 12836 & 16418 of 1992), Anand Prakash Mani Tripathi v. State of Uttar Pradesh & Ors (Civil Appeal No. 6118/2024), M.G. Rathnakumari

v. State of Kerala and others (WPC No. 32318/2014).

17. The learned counsel appearing for the respondents, opposing the prayers in the writ petition, contended that in the 1999

Regularisation order, sanction was accorded for the regularisation of the 346 persons working as technical staff including the persons now working

against the 157 sanctioned posts on the following conditions:

(i) No further recruitment will be made to the above categories.

(ii) Surplus staff if any in one District may be appointed to the various posts in the other districts.

(iii) The date of retirement should be on completion of 55 years for all the above posts. The Government Letter dated 06.10.2006, clearly stated that

the provisional service reckoned for increment alone will be reckoned as qualifying service for weightage. All the staff members of the Khadi Board

are appointed through Kerala Public Service Commission. However, the petitioners were initially appointed on daily wages under the Special

Employment Generation Scheme and later regularised by the Government on compassionate grounds. Petitioners cannot thereby claim equality with

the other employees who had been appointed through KPSC as they were appointed on a regular scale of pay. Spinning and Weaving Instructors are

not included in CCR Regulation 4 (a) which states the classes and categories of posts. Hence provisions of CCR do not apply to them. Previous years

of service, if calculated can create an additional financial burden on the Government. Ext. P1 is a special employment programme formulated by the

Government to provide employment for the marginalised section of society, under the Board. In Paragraph 3 of this, it is mentioned that the posts

which are so created except those filled up by promotion would be filled up through the Kerala Public Service Commission. Exhibit P2 is a circular of

the board itself which prescribes the qualification for appointment on a daily wage basis to the project and Khadi offices of the Board.

18. The Petitioners cannot challenge Ext. P5, especially at this distance of time, for two reasons, one delay and the other; the regularisation in service

having been effected as per Ext. P5; in the regular pay applicable to Part-time Contingent employees. The same was continued till Exhibit P8

Government Order and by the said order granted the pay scale applicable to the last grade servants. No retrospective effect can be claimed. The

regularisation itself was a benefit conferred on the petitioners by the Government and they cannot claim parity or equality with others who had been

appointed in the regular scales of pay. A committee constituted to look into the issue of regularization of daily wagers was placed before a Committee

constituted by the Government and the decision taken was as per the recommendations of it. It was specifically noticed in the report that the policy of

the Government was not to grant any retrospective regularization and the reluctance to bear the huge financial liability. The Respondents relied on the

following judgments:

P. Ramachandran and Others v. State of Kerala and Others (WPC No. 36274/2005), Shyamala B v. State of Kerala and Others (WPC No.

33951/2004), State Of Haryana And Another v. Haryana Civil Secretariat Personal Staff Association [(2002) 6 SCC 72], Jayaram K. and

Others v. Bangalore Development Authority and Others [2022 (1) KLT 168], Parmeshwar Nanda etc v. The State of Jharkhand through

Chief Secretary & Ors etc (Civil Appeal Nos. 505-531 of 2020).

19. The petitioners, as stated above, are seeking to reckon the entire service as regular service and to release them the arrears of pension taking into

account the period they worked from the date of entry. All of them had retired more than a decade back. The Kerala Khadi and Village Industries

Board is constituted under Section 4 of the Kerala Khadi and Village Industries Board Act, 1957 (for short 'the Act'). All employees of the Khadi

Board come under the definition of public servants going by Section 31 of the Act. The Board also has special Rules, namely Kerala Khadi and

Village Industries Board (Classification and Conditions of Recruitment of Staff) Regulations, 2006, governing the service conditions of the staff and

the Kerala Service Rules Part III are also made applicable for the computation of pension, gratuity and other pensionary benefits of its employees. It

is not in dispute that the petitioners were initially appointed on daily wages under the Special Employment Generation which was later regularised by

the Government on 07.07.1999. As per the said order, the Government had sanctioned accord regularisation of 346 persons, including the petitioners in

all cases working as technical staff in various departmental production units under the Board with effect from the date of the order giving them pay

and allowances equivalent to the part-time contingent employees of the State Government subject to the conditions that no further recruitment will be

made to the above categories, that the surplus staff, if any, in one District may be appointed to the vacant posts in other Districts and that the date of

retirement shall be on completion of 55 years.

20. Later, the Government refixed the pay and allowances of the regularised Spinning and Weaving Instructors on the ground that the pay sanctioned

while regularising was that of part-time employee's salary, but they were actually doing the job as that of full-time employees. Therefore, the

Government had accorded sanction for awarding a pay scale equivalent to the pay and allowances of last-grade servants to the instructors regularised

as above. It is also decided that 50% of the additional expenditure will be met by the Government. The Government Order dated 22.05.2005 made it

clear that those regularised in the above scale will be with effect from the date of the order and that their pay will be fixed at the entry-level of the

scale with effect from the date of the order and that their previous service will not count for pay fixation, leave, pension, grade promotion etc.

21. Through Government Order dated 17.05.2005, based on the request made by the petitioners and the similarly situated, the Government issued an

erratum to delete the words 'pension' and 'leave' from the last sentence of the last para of the Government Order dated 22.02.2005. Therefore, the

service of the regularised Instructors between the date of regularisation, namely 07.07.1999 and the date of sanctioning of Pay Scale namely;

22.05.2005 can only be taken for computing pension and leave, but for granting pay fixation, grade fixation etc the service period beyond 22.05.2005

cannot be considered. Thus, the Government clearly stated that the period of service beyond the date of regularisation, ie prior to 07.07.1999 would



not be considered for any service benefits including pension. In the earlier round of litigation in which some of the petitioners in this round were also

parties, through judgment dated 25.02.2016 in W.P.(C) No.36274/2005 this Court held that the regularisation itself was a benefit conferred on the

petitioners by the Government and they cannot claim parity or equality with other persons who had been appointed in the regular scale of pay. It was

also pointed out that the regular appointments were made through the Kerala Public Service Commission and that they cannot be equated to the posts

in which the petitioners are regularised. It was also the contention of the Government that the posts occupied by the petitioners are not included in the

CCR and such posts are not borne in cadre and hence the provisions of the CCR do not apply to them. It is stated that the petitioners in W.P.(C)

No.3730/2021 were retired on superannuation without completing the minimum years of service entitled them to minimum pension, namely ten years.

It is submitted that the claim now made by the petitioners was considered earlier and specifically rejected.

22. It is true that the equation of posts and determination of pay scale are the primary functions of the executive and not of the Courts. The petitioners

accepted the orders regularising them with the conditions thereon. It is also submitted that their claims in the earlier writ petition claiming regularisation

from the date of entry of service were declined. The learned counsel for the petitioners however points out that the present request is not to grant

regularisation from the day they started working, but to count the period from the date of entry to the date of regularisation as service to compute the

pensionary benefits.

23. It needs to be stated that the law in this regard, in particular the Full Bench judgment of the Punjab High Court in Kesar Chand resident of

village Naroli v. State of Punjab and Others [AIR 1988 Punjab and Haryana 265], which was considered by the Supreme Court as well and the

decisions in Vinod Kumar and Others v. Union of India and Others [(2024) 9 SCC 327], Sukumaran V v. State of Kerala and Another [2020 (5)

KHC 571], Punjab State Electricity Board and Another v. Narata Singh and Another [(2010) 4 SCC 317] and the judgment of this court in Laila

T.M. and Others v. State of Kerala and Others [2014 (2) KHC395], clearly laid down that the label at the time of entry into service cannot be the

determinatory factor.

24. The case law considered certain parameters to be reckoned viz, long and uninterrupted service that cannot be brushed aside merely by labelling

their initial appointments as part-time or contractual. The essence of their employment must be considered in the light of their sustained contribution,

the integral nature of their work, when nothing suggests their entry was through any illegal or surreptitious route. The performance of essential duties

that were indispensable to the day-to-day functioning of the establishment, despite being labelled as part-time workers for a very long time. The

engagement not being sporadic or temporary in nature; instead, it was recurrent, regular, and akin to the responsibilities typically associated with

sanctioned posts underscoring the indispensable nature of their work completed satisfactorily.

25. The factors noted above, which are actually for considering a claim of regularisation had not been considered in the case of these petitioners, at

least as regards reckoning the period of service prior to regularisation to compute the pension. The impugned orders in W.P.(C) No.3730/2021 (Exhibit

P9), W.P.(C) No.6155/2021 (Exhibit P9), W.P.(C) No.4219 of 2021 (Exhibit P8) & W.P.(C) No.37554/2024 (Exhibit P4), Government Order dated

22.02.2005, stated that since the petitioners are doing job as in the case of full-time employees, accorded sanction for awarding scale of pay equivalent

to that of last grade servants to the remaining Spinning and Weaving Instructors and the Board has agreed to meet 50% of the additional financial

commitment in this regard. In W.P.(C) No.3730/2021 (Exhibit P10), W.P.(C) No.6155/2021 (Exhibit P10) W.P.(C) No.4219 of 2021 (Exhibit P9) &

W.P.(C) No.37554/2024 (Exhibit P5), Government Order dated 17.05.2005, it is stated that last sentence of the previous Government Order regarding

fixing of pay and allowance of regularised Spinning Instructors or Weaving Instructors has modified by deleting the words 'leave' and 'pension' as per

the request from the Secretary of Khadi Board. No other reason was stated.

26. In W.P.(C) No.3730/2021 (Exhibit P11), W.P.(C) No.6155/2021 (Exhibit P11), W.P.(C) No.4219 of 2021 (Exhibit P10) & W.P.(C)

No.37554/2024 (Exhibit P6), Government Letter dated 06.10.2006, it is stated that provisional service reckoned for increment alone will be reckoned

as qualifying service for weightage and as per Government Order dated 22.02.2005, government has specified that the pay of the above employees

will be fixed at entry level of the scale of pay which means that their prior service will not be reckoned for service benefits. There was no mention of

Government Order dated 17.05.2005 and no further reasons were stated.

27. In W.P.(C) No.3730/2021 (Exhibit P12), W.P.(C) No.6155/2021 (Exhibit P12), W.P.(C) No.4219 of 2021 (Exhibit P11) & W.P.(C)

No.37554/2024 (Exhibit P7), Government Letter dated 17.03.2009 it is stated that as per Government Order dated 22.02.2005, 279 Spinning/Weaving

Instructors were granted scale of pay equivalent to that of last grade servants and the government has met 50% of additional financial burden. If

service prior to regularisation is considered for pension and gratuity, the government will have to bear Rs.14,00,000/- of additional financial burden. In

W.P.(C) No.13434 of 2017 (Exhibit P49), the government communication dated 13.01.2016 rejected the claim by passing a non-speaking order.

28. It cannot be disputed that the petitioners are all coming from lower strata and that their power to bargain and get the legitimately entitled benefits was

very low. It is also relevant to note that under the Amended Regulation of 2024 dated 26.02.2024 amending the Kerala Khadi and Village Industries

Board (Classifications and Conditions of Recruitment of Staff) (Amendment) Regulations 2024, Spinning Instructor and Weaving Instructor are

included under the Technical Service (Lower) and the Spinning and Weaving Instructors, under the category of Casual Field Service. It is also to be

noticed that the petitioners worked without any break of service till their regularisation on 07.07.1999. The long-term service clearly suggests a level of

permanency and integration with the Governmental structure that belies their classification as temporary employees. There is no case that the

petitioners were not qualified to hold the posts or that they did a job not similar to the one done by the regular employees.

29. Taking note of the parameters laid down in the judgments noted above and also the observations made above, I deem it appropriate to direct the

Government to reconsider the case of the petitioners for counting their period of service before their regularisation as qualifying service for the

purpose of pensionary benefits without changing the date of regularisation. A relook is necessary given the position of law stated above. To enable the

above exercise, the impugned orders are quashed. There will be a direction to the Principal Secretary of Industries or the competent among the

Government Secretaries to reconsider the claims of the petitioners after giving notice to them or their representatives and other affected parties and to

take a fresh decision within four months from the date of receipt of a copy of this judgment.

The writ petitions are allowed as above.