



AFR
Reserved

WRIT - A No. - 60352 of 2015

Babu @ Babu Ram

Vs

State Of U.P. & 3 Others

Appearance:

For the petitioner:

Shri Anuj Kumar

Shri Sheo Ram Singh

For the respondent:

Shashank Shekhar Singh, Addl. C.S.C.,

Hon'ble Dr. Dhananjaya Yeshwant Chandrachud, Chief Justice

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Yashwant Varma, J.

This reference has been placed before the Full Bench consequent to a learned Single Judge forming the opinion that a "*serious conflict*" existed between three Division Bench decisions of the Court. The issue arises with reference to the provisions of Regulation 370 of the Civil Services Regulations as applicable in the State of U.P. The issue is whether the period of service rendered as a work charged or a daily wage employee is liable to be counted for the purposes of computing "qualifying service" as required by Regulation 370 for the grant of pension. The judgments rendered by the Division Benches of the Court, which were noticed by the learned Single Judge, were: (a) **State of U.P. And Others Vs. Panchu¹**; (b) **State of U.P. And Others Vs. Ram**

¹ Special Appeal Defective No. 842 of 2013 decided on 2.12.2013

Nagina Lal Srivastava²; and (c) **Navrang Lal Srivastava Vs. State of U.P. And Others**³. We note that the judgment rendered by the Division Bench in **Panchu** was duly noticed and explained in **Jai Prakash Vs. State of U.P.**⁴, **Ram Nagina Lal Srivastava** and in **Navrang Lal Srivastava** and after noticing the entire body of precedent on the subject including the subsequent judgments rendered by the Supreme Court on the subject, the Division Benches held that the services rendered by an employee in a work charged establishment cannot be added for the purposes of computing qualifying service under Regulation 370. There was thus no conflict, let alone a "serious conflict", which may have justified the reference being made to this Full Bench. We would have hoped that the subsequent judgments would have rendered a quietus to the entire controversy. However since the issue has been referred to the Full Bench we consider it appropriate to reiterate and reaffirm the principles enunciated in the subsequent judgments of the Court. A brief history and the background in which the issue itself arises.

A. STATUS OF A WORK CHARGED EMPLOYEE

The concept of a work charged employee, of service rendered in a work charged establishment and the distinction between regular

2 2015 (8) ADJ 405 (DB)

3 2015 (7) ADJ 655 (DB)

4 2014 (2) ADJ 169(DB)

service and service rendered in a work charge establishment has never really been in doubt in service jurisprudence. A Bench of three learned Judges of the Supreme Court in **Jaswant Singh And Others Vs. Union of India And Others**⁵. The Supreme Court explained the service rendered in a work charged establishment and its status in the following terms:

"A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes."

Jaswant Singh and the principles laid down therein came to be reiterated by the Supreme Court in **State of Rajasthan Vs. Kunji Raman**⁶. Their Lordships held:

"6. A work-charged establishment as pointed out by this Court in *Jaswant Singh v. Union of India* broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the works.

5 (1979) 4 SCC 440.

6 (1997) 2 SCC 517

The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. Thus a work-charged establishment is materially and qualitatively different from a regular establishment.

8. A work-charged establishment thus differs from a regular establishment which is permanent in nature. Setting up and continuance of a work-charged establishment is dependent upon the Government undertaking a project or a scheme or a 'work' and availability of fund for executing it. So far as employees engaged on work-charged establishments are concerned, not only their recruitment and service conditions but the nature of work and duties to be performed by them are not the same as those of the employees of the regular establishment. A regular establishment and a work-charged establishment are two separate types of establishments and the persons employed on those establishments thus form two separate and distinct classes. For that reason, if a separate set of rules are framed for the persons engaged on the work-charged establishment and the general rules applicable to persons working on the regular establishment are not made applicable to them, it cannot be said that they are treated in an arbitrary and discriminatory manner by the Government. It is well-settled that the Government has the power to frame different rules for different classes of employees. We, therefore, reject the contention raised on behalf of the appellant in Civil Appeal No. 653 of 1993 that Clauses (g), (h) and (i) of Rule of RSR are violative of Articles 14 and 16 of the Constitution and uphold the view taken by the High Court.” (emphasis supplied)

In Punjab State Electricity Board And Others v. Jagjiwan Ram And Others⁷, the Supreme Court considered the entitlement of employees rendering service in a work-charged establishment

⁷ (2009) 3 SCC 661

to promotional scales. Following what was held in **Jaswant Singh** and **Kunji Raman** their Lordships observed:

"10. The work-charged employees can claim protection under the Industrial Disputes Act or the rights flowing from any particular statute but they cannot be treated on a par with the employees of regular establishment. They can neither claim regularisation of service as of right nor they can claim pay scales and other financial benefits on a par with regular employees. If the service of a work-charged employee is regularised under any statute or a scheme framed by the employer, then he becomes member of regular establishment from the date of regularisation. His service in the work-charged establishment cannot be clubbed with service in a regular establishment unless a specific provision to that effect is made either in the relevant statute or the scheme of regularisation. In other words, if the statute or scheme under which service of work-charged employee is regularised does not provide for counting of past service, the work-charged employee cannot claim benefit of such service for the purpose of fixation of seniority in the regular cadre, promotion to the higher posts, fixation of pay in the higher scales, grant of increments etc.

14. The ratio of the abovementioned judgments is that work-charged employees constitute a distinct class and they cannot be equated with any other category or class of employees much less regular employees and further that the work-charged employees are not entitled to the service benefits which are admissible to regular employees under the relevant rules or policy framed by the employer."(emphasis supplied)

Subsequently a Full Bench of this Court in **Pawan Kumar Yadav Vs. State of U.P.**⁸ ruled on the issue by holding that a work-charged employee does not work against any temporary or permanent post or even on a tenure post. Ruling upon the status

of work-charged employees, the Full Bench held that these employees do not hold any post and are merely employed by the State for implementation of various projects and schemes and that their services are co-terminus to the work or the scheme in which they are engaged. The Full Bench, it may be noted, was dealing with the right of a dependant of a daily-wage or work-charged employee to obtain compassionate appointment under the U.P. Recruitment of Dependants of Government Servant (Dying in Harness) Rules, 1974. The issue itself was answered in the following terms:

"26. On the aforesaid discussion, and in view of the law laid down in General Manager, Uttaranchal Jal Sansthan Vs. Laxmi Devi (Supra), we answer the questions posed as follows: -

1. A daily wager and workcharge employee employed in connection with the affairs of the Uttar Pradesh, who is not holding any post, whether substantive or temporary, and is not appointed in any regular vacancy, even if he was working for more than 3 years, is not a 'Government servant' within the meaning of Rule 2 (a) of U.P. Recruitment of Dependants of Government Servant (Dying in Harness) Rules, 1974, and thus his dependants on his death in harness are not entitled to compassionate appointment under these Rules."

B. ARTICLE 370 AND THE ENTITLMENT TO PENSION

Article 370 of the Civil Service Regulations provides that continuous, temporary or officiating service under the

Government of Uttar Pradesh followed without interruption with confirmation in the same or any other post shall qualify for pension with the following exceptions: -

- (i) Period of temporary or officiating service in non-pensionable establishment
- (ii) Periods of service rendered in a work charged establishment; and
- (iii) Periods of service in a post paid out of contingencies.

From a plain reading of the provision it is apparent that service rendered in a work charged establishment is not liable to be counted while computing qualifying service for the purposes of pension.

As far as this Court is concerned, the issue of a muster roll employee and his entitlement to pension with reference to the provisions of Regulation 370 fell for consideration before a Division Bench of the Court in **Bansh Gopal Versus State of U.P. & Ors.**⁹. Answering the said issue the Division Bench held:

"17. The Regulation 370 as quoted above expressly excluded the services rendered in work-charged establishment for purposes of pension. Fundamental Rule 56(e) on which reliance has been placed by counsel for the appellant does not help the appellant in the present case. Rule 56(6) requires retiring pension to be paid in accordance with and subject to the provisions of the relevant rules. Fundamental Rule 56(e) is quoted as below:

"56(e) A retiring pension shall be payable and other retirement benefits, if any, shall be available in accordance with and subject to the provisions of the relevant rules to every Government servant who retires or is required or allowed to retire under this rule.

18. The relevant rules for payment of pension are contained in Civil Services Regulation. There is nothing inconsistent between Fundamental Rule 56 and Regulation 370 so as to not follow Regulation 370. According to Regulation 370, the services rendered by appellant in work charge establishment does not qualify for purposes of pension."

C. THE JUDGMENT IN NARATA SINGH

A Full Bench of the Punjab and Haryana High Court in **Keshar Chand Vs. State of Punjab And Others**¹⁰ had struck down Rule 3.17(ii) of the Punjab Civil Services Rules, which excluded the period of service rendered in a work charged establishment for the purposes of determining qualifying service. A special leave petition taken against the said judgment also came to be dismissed. Bearing in mind the aforesaid declaration of the law by the Full Bench of the Punjab and Haryana High Court, the Supreme Court in **Punjab State Electricity Board And Others Vs. Narata Singh**¹¹ dealt with a claim for pension of a work charge employee. Since Rule 3.17(ii) of the Punjab Civil Service Rules had been struck down, the Supreme Court in **Narata Singh** held that the service rendered by an employee in a work charged

¹⁰ AIR 1988 Punj. 265

¹¹ (2010) 4 SCC 417

establishment was liable to be added for the purposes of computing qualifying service. This would be evident from the following observations carried in **Narata Singh**:

"5.....A bare reading of the above-quoted rule makes it clear that periods of service in work charged-establishments were not counted as qualifying service. Therefore, the work charged employees had challenged validity of the said Rule. The matter was considered by the Full Bench of Punjab and Haryana High Court. In *Kesar Chand v. State of Punjab & Ors.* [1988 (5) SLR 27]: (AIR 1988 Punj & Har 265), the Full Bench held that Rule 3.17(ii) of the Punjab Civil Services Rules was violative of Article 14 of the Constitution of India. The Full Bench decision was challenged before this Court by filing a special leave petition which was dismissed. Thus, the ratio laid down by the Full Bench judgment that any rule which excludes the counting of work charged service of an employee whose services have been regularized subsequently, must be held to be bad in law was not disturbed by this Court. The distinction made between an employee who was in temporary or officiating service and who was in work charged service as mentioned in Rule 3.17(ii) of the Punjab Civil Services Rules disappeared when the said rule was struck down by the Full Bench. The effect was that an employee holding substantively a permanent post on the date of his retirement was entitled to count in full as qualifying service the periods of service in work charged establishments. In view of this settled position, there is no manner of doubt that the work charged service rendered by the respondent No.1 under the Government of Punjab was qualified for grant of pension under the rules of Government of Punjab and, therefore, the Board was not correct in rejecting the claim of the respondent for inclusion of period of work charged service rendered by him with the State Government for grant of pension, on the ground that service rendered by him in the work charged capacity outside PSEB and in the departments of the State Government was a non-pensionable service."

D. JUDGMENTS OF THIS COURT FOLLOWING NARATA SINGH

Following **Narata Singh** and failing to notice the distinguishing features of the statutory panorama in the backdrop of which it came to be rendered, various judgments were delivered by different Benches of this Court holding that the period of service spent in a work charged establishment is liable to be included for computing qualifying service. These were: **Thakur Prasad Vs. State of U.P. Through Principal Secretary Food & Others**¹², **Jawahar Prasad Tripathi Vs. State of U.P. and others**¹³, **Board of Revenue, Lucknow & Ors. Vs. Prasidh Narain Upadhyay**¹⁴, **Chedi Ram Maurya Vs. Uttar Pradesh Basic Education Board**¹⁵, **State of U.P. and Ors. Vs. Panchu**¹⁶ and **Raj Dularey Dubey Vs. Public Service Tribunal Lucknow & Ors**¹⁷.

These judgments as we have noted above, failed to bear in mind that a specific rule which mandated exclusion of the period of service rendered in a work charged establishment had been struck down by the Punjab and Haryana High Court and consequently the basis for exclusion had disappeared and ceased to exist. As the extract from the judgment of the Supreme Court in **Narata Singh** would evidence, it was in the above backdrop that the matter

12 Writ A No. 36803 of 2008 decided on 24 August 2009

13 Writ A No. 68515 of 2006 decided on 29 November 2011

14 2006 (2) ALJ 66

15 2008 (4) AWC 3546

16 Special Appeal Defective No. 842 of 2013 decided on 2 December 2013

17 Writ (S/B) No. 316 of 2011 decided on 18 April 2013

came to be decided. Regulation 370 on the other hand continued to exist on the statute book insofar as the State of U.P. was concerned and consequently there was thus an evident distinction which was liable to be borne in mind while ruling on the issue of entitlement of pension of a work charged employee. This aspect as we find escaped the attention of the Benches when they rendered judgment on the causes aforementioned.

We may in this connection also note that the judgment rendered by the Division Bench in **Panchu** was taken in appeal to the Supreme Court where the special leave petition¹⁸ of the State came to be dismissed in the following terms:

"The special leave petition is dismissed.

The question of law relating to counting the period of work charge establishment is left open for determination in an appropriate case. The impugned judgment passed by the High Court cannot be cited as a precedent in any other case."

From a plain reading of the order of the Supreme Court made while dismissing the special leave petition, it is evident that the question of law relating to inclusion of period of service rendered in a work charged establishment was left open for determination in an appropriate case. There was, thus, no affirmation of the law. The two other judgments of this Court which struck a discordant note and therefore merit consideration are those rendered in **State of U.P. Through Principal Secretary**

18 Petition(s) for Special Leave to Appeal (Civil) No(s). 7222/2014 decided on 28.03.2014

Public Works Department Lucknow & Others Vs. Prem Chandra And Others¹⁹ and **Bhuneshwar Rai Vs. State of U.P. And Others²⁰**. The Division Bench in **Prem Chandra** again rested on **Narata Singh**. Noticing the fact that the provisions of Rule 3.17(ii) of the **Punjab Civil Service Rules**, had been struck down in **Kesar Chand**, the Division Bench held that the provisions of Regulation 370 would have to be read down in line with the judgment of the Supreme Court in **Narata Singh** upon coming to a conclusion that the judgment of the Full Bench of the Punjab and Haryana High Court had merged into the judgment of the Supreme Court in **Narata Singh**. We may, additionally note that the judgment of the Division Bench in **Prem Chandra** was also taken in appeal to the Supreme Court but the special leave petition²¹ came to be dismissed summarily as would be evident from the order passed thereon which reads as follows:

"Delay condoned.

The special leave petition is dismissed."

Bhuneshwar Rai referred to **Narata Singh** and although it referred to **Bansh Gopal** the Court held in the facts of that case that the services rendered in a work charged establishment were liable to be taken into consideration while deciding the issue of entitlement to pension. We must, with respect, state that both the

19 Special Appeal Defective No. -264 of 2013 decided on 13.05.2013

20 [2014 (9) ADJ 4 (DB)]

21 Special Leave to Appeal (Civil)...../2013

aforesaid Division Benches do not lay down the correct law. We are of the firm opinion that there was no merger of the judgment rendered by the Full Bench of the Punjab & Haryana High Court in the judgment of the Supreme Court in **Narata Singh**. Firstly, the principle of merger had no application. Secondly, **Narata Singh**, as we have noted above, itself came to be decided in light of the peculiar statutory regime which prevailed in the State of Punjab and Haryana consequent to the provision of the Punjab Civil Service Rules having been struck down and the special leave petition preferred against the judgment of the Full Bench having been dismissed. Similarly, although the Division Bench in **Bhuneshwar Rai** held that the period of service rendered against a work charged establishment was liable to be included, the same came to be rendered even after noticing **Bansh Gopal**, which as we have found, in fact held to the contrary. We are, therefore, of the considered view that the Division Bench erred in holding that the service rendered in a work charged establishment was liable to be included.

D. THE SUBSEQUENT JUDGMENTS

The distinguishing feature of **Narata Singh** which had inadvertently escaped the attention of the earlier Division Benches was however noticed by the Division Bench of the Court in **Jai**

Prakash Vs. State of U.P. and 4 others²². Noticing the law as enunciated by the Full Bench of the Court in **Pawan Kumar Yadav** and the judgments rendered by the Supreme Court in **Jaswant Singh, Kunji Raman** and **Jagjeevan Ram**, the Division Bench revisited the issue and held:

"It, therefore, follows from the aforesaid judgments of the Supreme Court that the work charged employees constitute a distinct class and they cannot be equated with regular employees and that the work charged employees are not entitled to the service benefits which are admissible to regular employees under the relevant rules.

We are conscious that in Special Appeal Defective No.842 of 2013 (State of U.P. & Ors. Vs. Panchu) that was decided on 2 December 2013, a Division Bench, after taking notice of the judgment of the Supreme Court in **Narata Singh** (supra), observed that the rationale which weighed with the Supreme Court should also govern the provisions of the Civil Service Regulations, but what we find from a perusal of the aforesaid judgment of the Division Bench is that the decisions of the Supreme Court in **Jaggiwan Ram** (supra), **Jaswant Singh** (supra) and **Kunji Raman** (supra) as also the Full Bench judgment of this Court in **Pavan Kumar Yadav** (supra) had not been placed before the Court. These decisions of the Supreme Court and the Full Bench of this Court leave no manner of doubt that in view of the material difference between an employee working in a work charged establishment and an employee working in a regular establishment, the service rendered in a work charged establishment cannot be clubbed with service in a regular establishment unless there is a specific provision to that effect in

22 2014 (2) ADJ 169

the relevant Statutes. Article 370(ii) of the Civil Service Regulations specifically, on the contrary, excludes the period of service rendered in a work charged establishment for the purposes of payment of pension and we have in the earlier part of this judgment held that the decision of the Supreme Court in *Narata Singh (supra)*, which relates to Rule 3.17(i) of the Punjab Electricity Rules, does not advance the case of the appellant. In this view of the matter, the appellant is not justified in contending that the period of service rendered from 1 October 1982 to 5 January 1996 as a work charged employee should be added for the purpose of computing the qualifying service for payment of pension."

The Division Bench in **Jai Prakash** held that the precedents left no manner of doubt that the service rendered in a work charged establishment could not be clubbed with service in a regular establishment. Noticing that Regulation 370 clearly excluded the period of service rendered in a work charged establishment it held that the period of service rendered by a person as a work charged employee is not liable to be taken into consideration while computing qualifying service for payment of pension. Significantly the judgment in **Panchu** was duly noticed and it came to be explained on the ground that the subsequent judgments of the Supreme Court as also of the Full Bench had not been placed before the Bench which decided the same. A Special Leave Petition²³ against **Jai Prakash** was dismissed on 5 September 2014 in the following terms:

23 Special Leave to Appeal (C) No. 12648 of 2014

"There is nothing on the record to suggest that any Rule or Scheme framed by the State to count the work-charge period for the purpose of pension in the regular establishment. In absence, of any such Rule or Scheme, we find no merit to interfere with the impugned judgment.

The special leave petition is dismissed."

The order of the Supreme Court dismissing the Special leave petition was on merits and affirmed the judgment rendered in **Jai Prakash**. This judgment in Jai Prakash rendered by the Division Bench correctly laid down the law.

After the judgment in **Jai Prakash** was affirmed by the Supreme Court, the issue of entitlement of a work charged employee to pension again fell for consideration before a Division Bench in **Navrang Lal Srivastava** which again reiterated the law on the subject in the following terms:

"Thus, there is no manner of doubt that the service rendered by an employee in a work charged establishment cannot be counted for the purpose of computing the qualifying service of ten years for payment of pension. The submission of learned counsel for the petitioner that Article 370(ii) of the Regulations should be read down to include the service rendered in a work charged establishment for payment of pension, therefore, cannot be accepted."

Another Division Bench of the Court in **Ram Nagina Lal Srivastava** held that the services rendered by an employee in a worked charged establishment cannot be added for the purposes of computing qualifying service.

Following the line of decisions referred to above, the Court

in **State of U.P. Vs. Sri Ram**²⁴ yet again held that the service rendered by a work charged employee was not liable to be included for the purposes of computing qualifying service.

F. THE PRESENT REFERENCE

We had at the beginning noted that **Panchu** had been duly considered in **Jai Prakash** as well as **Ram Nagina Lal Srivastava and Navrang Lal Srivastava**. The Division Bench of this Court in **Ram Nagina Lal Srivastava** dealt with **Panchu** in the following terms:

"The last judgment of this Court which struck a discordant note and which must be noticed is that rendered by the Division Bench in **Panchu** (supra). It is apposite to note here that **Panchu** was also taken in appeal to the Supreme Court where the Special Leave Petition¹⁸ came to be dismissed on 28 March 2014 in the following terms:

"The special leave petition is dismissed. The question of law relating to counting the period of work charge establishment is left open for determination in an appropriate case. The impugned judgment passed by the High Court cannot be cited as a precedent in any other case."

From the above narration of facts and the various judgments rendered on the issue, it is apparent that the judgments of this Court which held that the service rendered by a person in a work charged establishment was eligible for inclusion in the period of qualifying service proceeded on the basis that the judgment rendered in **Naratha Singh** applied and failed to notice the distinguishing features upon which it came to be rendered. The law subsequently has been authoritatively

pronounced and ruled upon in both *Jai Prakash* and *Navrang Lal Srivastava*, and in judgments of the Hon'ble Supreme Court noticed earlier."

The learned Single Judge however while referring the matter to the Full Bench has inadvertently failed to notice that **Panchu** stood duly explained in light of the subsequent pronouncements in *Jai Prakash*, *Ram Nagina* and *Navrang Lal Srivastava*. Since **Panchu** had been taken note of in the aforementioned judgments, the issue of a conflict did not arise at all.

We accordingly conclude that the judgments of this Court which proceeded to follow *Narata Singh* failed to bear in mind the distinguishing features of the statutory regime in the backdrop of which it came to be delivered. As noted above, Rule 3.17(ii) of the Punjab Civil Service Rules had been struck down. The absence of Rule 3.17(ii) from the statute book formed the bedrock upon which *Narata Singh* was decided. Significantly, Regulation 370 continues to govern the field and in clear and unambiguous terms provides that the period of service rendered in a work charged establishment is liable to be excluded while computing qualifying service.

We therefore hold that the period of service spent in a work charged establishment is not liable to be countenanced for the purposes of computing qualifying service. The law in this regard

stands correctly declared and elucidated in **Jai Prakash, Navrang Lal Srivastava and Ram Nagina**. The decision in **Panchu** and the other judgments of this Court which have followed the line of reasoning adopted therein shall accordingly stand overruled.

Before concluding, we may only refer to three judgments cited before us in support of the contention that the period of service rendered in a work-charged establishment was liable to be counted while computing qualifying service. These were (a) **Dakshin Haryana Bijli Vitran Nigam & Others Vs. Bachan Singh**²⁵; (b) **Amarkant Rai Vs. State of Bihar & Others**²⁶; and (c) **Secretary, Minor Irrigation Deptt. & R.E.S. Vs. Narendra Kumar Tripathi**²⁷. **Dakshin Haryana Bijli Vitran Nigam** was a matter which arose from a judgment rendered by the Punjab & Haryana High Court and was again based upon the judgment rendered by the Full Bench of that High Court in **Kesar Chand**. **Amarkant Rai** dealt with the regularization of the appellant who was working on daily wages. It obviously has no relevance to the issue which falls for our consideration. Similarly, **Narendra Kumar Tripathi** was dealing with an issue as to whether the period of service as rendered on *ad hoc* basis was liable to be counted for the purposes of seniority. This judgment too has no application to the issue which stands referred to this Full Bench.

25 Civil Appeal No. 4903 of 2009; decided on 30 July 2009

26 Civil Appeal No. 2835 of 2015; decided on 13 March 2015

27 Civil Appeal No. 3348 of 2015 with Civil Appeal No. 3349 of 2015; decided on 7 April 2015

We accordingly answer the reference by holding that the period of service spent by a person in a work charged establishment is not liable to be counted for the purposes of computing qualifying service. Regulation 370 of the Civil Service Regulations continues to govern and hold the field. The factual backdrop in which **Narata Singh** came to be rendered escaped the attention of the various Division Benches which followed it despite the existence of the unambiguous command of Regulation 370. **Jai Prakash** and the subsequent pronouncements following it and referred to above represent the correct position in law. The matter shall now be placed before the learned Single Judge for a decision on the writ petition in the light of what has been held above.

Order Date: February 18, 2016
Arun K. Singh

(Dr. D.Y. Chandrachud, C.J.)

(M.K. Gupta, J.)

(Yashwant Varma, J.)