SIDDHANT TAMRAKAR
Digitally signed by SIDDHANT TAMRAKAR
Date: 2026.07.30 14:41:37 +0530

CGHC010411782022 2026:CGHC:32698

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 9192 of 2022

- Smt. Vimala Bai Sori W/o Late Ganesh Ram Sori Aged About 58 Years R/o Village And Post Dumali, District - Uttar Bastar Kanker Chhattisgarh

... Petitioner

versus

1. State Of Chhattisgarh Through The Secretary, Water Resources Department, Mantralaya Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattiagarh
2. State Of Madhya Pradesh Through The Secretary, Water Resources Department , Mantralaya Vallabh Bhawan Bhopal Madhya Pradesh
3. Engineer In Chief Water Resources Department Mahanadi Godawari Kachhar, Raipur, Distrcit Raipur Chhattisgarh
4. Chief Engineer Water Resources Department Mahanadi Godawari Kachhar, Raipur, District Raipur Chhattisgarh
5. Executive Engineer Water Resources Department Division Kanker District Uttar Bastar Kanker Chhattisgarh
6. Joint Director Treasury, Accounts And Pension, Department, Jagadalpur District, Baster Chhattisgarh

... Respondent(s)

For Petitioner	:	Mr. Swapnil Keshari, Advocate holding the brief of Mr. Hemant Kesharwani, Advocate
For State	:	Mr. Vivek Siddharth Ojha, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

29.08.2025

1) The petitioner, widow of Late Shri Ganesh Ram Sori, has approached this Court

seeking the grant of family pension.

2) Brief facts of the present case are that the husband of the petitioner was appointed as a Jeep Driver under respondent No. 5 as daily wage employee in the year 1977. He was regularized in the Work-Charged and Contingency Paid Establishment on 03.03.1988 and unfortunately passed away on 26.03.1996. After his death, the petitioner applied for the family pension and made a representation before the respondent authorities, but till date no action has been taken.

3) Learned counsel for the petitioner would submit that the deceased was initially appointed as a daily-rated employee in the year 1977, and his services were regularized on 03.03.1988, therefore, the services of the husband of the petitioner ought to have been considered while computing the qualifying service for pension. It is further contended that on the date of the death, the deceased had already completed more than 8 years of regular service and, therefore, the petitioner is entitled to the family pension. He would pray to allow this petition. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matters of ***S.D. Jayaprakash & Ors. v. Union of India & Ors.*** **(Civil Appeal Nos. 5671-5672 of 2025, decided on 29.04.2025, MANU/SC/0589/2025)** and ***State of Himachal Pradesh & Ors. v. Sheela Devi*** **(MANU/SCOR/113671/2023)**. He further placed reliance on the decision of the High Court of Madhya Pradesh rendered in ***Smt. Kusum Chourasia v. State of M.P. & Ors.*** **(W.P. No. 2796/2023, decided on 18.11.2024),** wherein a similar issue was considered.

4) On the other hand, learned counsel for the State would submit that, as per Rule 4A of the Chhattisgarh Work-Charged and Contingency Paid Employees Pension Rules, 1979, the husband of the petitioner had not completed the qualifying

service; therefore, the claim of family pension has not been considered by the department.

5) Heard learned counsel for the parties and perused the documents placed in the file.

6) The facts of the case are not in dispute.

7) The Hon'ble Supreme Court in ***S.D. Jayaprakash* (supra)**, after considering ***Sheela Devi* (supra),** held that though Rule 2(g) of the Pension Rules excludes contractual employees, Rule 17 expressly provides that upon regularization, the past service rendered as a contractual employee is to be counted for pensionary benefits. The Hon'ble Supreme Court further clarified that such employees must be given the option either to retain the government's contribution towards CPF or to refund/forgo the same in order to have their past service counted. The relevant para-8 & 9 are reproduced as under:-

> ***"8.*** *This rule fell for consideration and interpretation in Sheela Devi (supra), where this Court held that although Rule 2(g) of the Pension Rules excludes contractual employees from their application, Rule 17 applies once such contractual employee is regularised on a later date. The effect is that upon regularisation, the Pension Rules become applicable and Rule 17 requires that past service as a contractual employee is to be taken into account for calculating pension. 6 In this light, and considering that Rule 17 requires the regularised employee to exercise an option to either retain the Government's contribution to Contributory Provident Fund, or to refund such amount or forgo the same if they have not been paid in lieu of counting the service period for which such benefits may have been payable, this Court in Sheela Devi (supra) issued the following directions:*
>
> > *"11. In view of the above reasoning, this court is of the opinion that there is no merit in the appeal however, the following directions are issued:-*
> >
> > *(i) The state shall take immediate steps to indicate*

> *the mode and manner of exercising option by all the employees concerned (who had been regularized after spells of contractual employment) regardless of the dates on which they were engaged i.e. prior to the year 2003 or subsequently, within a time frame, of within eight weeks from today.*
>
> *(ii) After receiving the options within the time indicated in the notice, the concerned employee(s) who exercise the relevant options should be notified about the amounts they would have to remit in case any amount towards contribution is required, clearly.*
>
> *(iii) The options should be processed and completed within eight weeks from the last date of receiving options.*
>
> *(iv) Time limit for payment too should be indicated and entire process should be completed within four months and all orders fixing pensions or family pension as the case may be, shall be issued."*
>
> ***9.** In light of the clear language of Rule 17 of the Pension Rules as well as its interpretation in Sheela Devi (supra), the contractual service period rendered prior to the appellants' regularisation in 2015 must be counted towards the payment of their pensionary benefits in accordance with the mechanism set out in Rule 17. In line with the directions issued in Sheela Devi (supra) extracted hereinabove, we direct the respondent Union of India to take immediate steps and indicate the mode and manner for the appellants to exercise the option provided under Rule 17 of the Pension Rules as well as to notify the amounts that the appellants would have to remit in case they opt for grant of pension under the Rules.*

8) In ***Sheela Devi* (supra)**, the Court emphasized that exclusion under Rule 2(g) cannot nullify the substantive provision of Rule 17, which specifically caters to situations where contractual employees are subsequently regularized. The relevant para-9 is reproduced as under:-

> ***"9.*** *The Learned Advocate General is correct in his interpretation, inasmuch as a facial reading of Rule 2(g) would indicate that contractual employees are excluded from the pale of Pension Rules. However, what is significant is that the rule itself in its opening terms saves the application of other provisions of the pension rules: "Save as otherwise provided in these rules". If the opening phrase of Rule 2 were to be understood in this context, any interpretation of Rule 17 as is urged by the State would render such substantive provision redundant. Rule 17 was engrafted essentially to cater to the eventuality, where the employees working on contract basis were regularized at a later stage. It is only for the purposes of pension that the past service as a contractual employee is to be taken into account."*

9) Similarly, the Madhya Pradesh High Court in the matter of ***Smt. Kusum Chourasia*** **(supra)** dealt with identical circumstances. In this case, the Court held that once an employee has been brought into the regular Work-Charged Establishment, even if he dies without completing 10 or 15 years of qualifying service, his family is still entitled to the family pension under Rule 4A of the Rules of 1979, read with Rule 47 of the M.P. Civil Services (Pension) Rules, 1976. It was held that the object of Rule 4A is to protect the family of a deceased employee who dies in harness, and therefore, even one day's service after regularization is sufficient to extend the benefit of family pension. The relevant para-5 is reproduced as under:-

> ***"5.*** *The petitioner is wife of late Shri Anandilal Rajak whowas working in the respondents department. Late Shri Anandilal Rajak was initially appointed as a daily wages employee on 1.3.1978. He was posted as Chowkidar and subsequently he was regularized on the work charged and contingency paid employee in the establishment on 10.6.1996/18.6.1996 vide Annexures P/2 and P/3 respectively. After working for a period about 9 years work charged and in contingency paid establishment the petitioner's husband late Shri Anandilal Rajak died on 20.02.2005. After his death the petitioner claimed pension and other benefits in accordance to the Madhya Pradesh*

Civil Services (Pension) Rules, 1976 and the Madhya Pradesh (Worked charged and Contingency Paid Employees) Pension Rules, 1979. The claim of the petitioner for grant of family pension and other benefits have been rejected only on the ground that the petitioner's husband has not completed 10 years regular services in the work charged and contingency paid establishment and therefore pension can not be granted vide impugned order Annexure P/8 dated 7.2.2007. The question with regard to period of service to be rendered in the work charged and Contingency Paid Establishment for grant of pension has been considered by this Court in Bal Kishan Patel v. State of MP and others (WP No.4357/2004) and after taking note the requirement of the provisions contained in Madhya Pradesh (Worked charged and Contingency Paid Employees) Pension Rules, 1979 and the Provisionary Rule 2(c) and Rule 4 A of the said Rules the matter is so decided.

"14. It is apparent that for the purpose of family pension Rule 4-A of the Pension Rules of 1979 read with Rule 47 of the Rules of 1976 makes it clear that if an Incumbent has rendered not less than 7 years continuous service, family of incumbent is entitled for the family pension. It is not in dispute that deceased Jabmohan Singh Gond had rendered the contentious service for more than 7 years. Rule 6 (3) of the Pension Rules of 1979 clearly provides that without interruption for not less than 6 years such services shall be counted for pension as if such services has rendered on regular post, qualifying service has to be given effect to while considering the length of the service, as specified in Rule 2 (c) of the Rules of 1979 otherwise the purpose of fiction created of Rule (3) stands defeated. Thus the submission raised by the respondents that Rule 6(3), services cannot to be computed towards qualifying service, cannot accepted. The services which has beem rendered, as qualifying service, under Rule of the Pension Rules of 1979 has to be counted, as rendered on a regular post. Thereafter entitlement has to be determined by the respondents in accordance with law."

In the case at hand the petitioner's husband was engaged on daily wage basis in the Work-charged Establishment of Rani Avantibai Sagar Project. Thereafter, by order dated 26.06.1996 was bought on regular Work Charged Establishment in grade 825-900-20-1220 as Time Keeper. The late husband of the petitioner while in service expired on 12.2.2001. The petitioner after death of her husband approached the authorities for grant of family pension.

*The said request was turned down by letter dated 13.09.2006 on the ground that petitioner's husband since has not rendered 10 years of service in the Work-charged establishment she was not entitled for the family pension. It is this denial which has forced the petitioner to p*refer *the instant-writ petition.*

A "Work-charged employee" is defined under Rule 2 (b) to mean 'a person employed upon the actual execution, as distinct from general supervision of a specified work or upon subordinate supervision of the departmental labour, store, running and repairs of electrical equipment and machinery in connection with such work, excluding the daily paid labour and muster- roll employee employed on the work.' Whereas, "permanent employee as defined under clause (c) of Rule 2 of Rules 1979 means "a contingency paid employee or a work-charged employee has completed fifteen years of service or more on or after the 1st January, 1974:

Provided that in respect of a contingency paid employee or a work charged employee who has attained the age of superannuation on or after the First April 1981, permanent employee means an employee who has completed 10 years of service on or after 1st January, 1974.

Rule 4A which was inserted vide notification dated 13.9.1982, pub. in M.P. Rajpatra. Pt. IV (ga), dated 26.12.1982, page 133; stipulates:

"4A. Notwithstanding anything contained in Rule 4 the family of a permanent employee who dies while in service or after retirement on pension on or after the 1st April, 1981 shall be entitled to family pension at the rate of 30% of his/her pay drawn at the time of death/retirement subject to minimum of Rs.40/- per month and maximum of Rs. 100/- per month subject to other conditions of rule 47 of the Madhya Pradesh Civil Services (Pension) Rules, 1976 except sub-rule (3) of the said rule.

Admittedly the aforesaid provisions have an overriding effect over Rule 4 wherein the stipulations have been laid down as to the minimum qualifying service which a person engaged on work-charged establishment should have at his credit, i.e., 10 years, before he is held entitled for grant of pension on his retirement. In other words the bar as created under Rule 4, in the considered opinion of this Court will not be attracted in case a member of a regular

Work- chared establishment dies in harness; meaning thereby that even a day's service rendered by a workman brought on regular work-charged establishment in case if he dies thereafter would entitle the family of such workman for a family pension as per stipulations contained in Section 4A. The only guiding factor while applying Rule 4A. of Rules of 1979 would be the conditions stipulated in Rule 47 of M.P. Civil Services (Pension) Rules, 1979 Sub-rule (2) of Rule 47 of the Rules, 1976 stipulates;

"(2) Without prejudice to the provisions contained in sub-rule (3), where a Government servant dies-

(a) While in service provided he had been medically examined and found fit for appointment under the Government.

(b) after retirement from service and was on the date of death in receipt of a pension or compassionate allowance, referred to in Chapter V on the date of death, the family of the deceased shall be entitled to contributory family pension (hereinafter in this role referred to as Family Pension) the amount of which shall be determined as follows:

Pay servant of Amount of month family Government servant pension (i) Below Rs.400 30 per cent of pay subject to a minimum of Rs.60 and maximum of Rs.100.

(ii) Rs.400 and 15 per cent of pay subject to above but not a minimum of Rs.100 and exceeding Rs. 1200. maximum of Rs. 160.

(iii) Above Rs. 12 per cent of pay subject to 1200/- a minimum of Rs.160 and maximum of Rs.250.

In the present case also the claim of the petitioner was rejected only on the ground that the petitioner's husband has not completed 10 years regular service in work charged and contingency paid Establishment. This could not be done. The petitioner is entitled to get pension in the head indicated in the aforesaid table even if he has not completed 10 years service. In this view of the matter rejection of petitioner's claim by the impugned order is unsustainable Accordingly the order Annexure P/8 dated 7.2.2007 is quashed, the respondents are directed to fix family pension of the petitioner within a period of 60 days and pay all arrears to the petitioner alongwith interest at the rate 6% per annum from the date of entitlement till

payment.

The petition stands allowed and is disposed of with the aforesaid."

10) In view of the discussion and proposition of law rendered by the Hon'ble Supreme Court in the matters of ***S.D. Jayaprakash (supra)*** and ***Sheela Devi (supra)***, as well as the consistent view taken by the Madhya Pradesh High Court in the matter of ***Kusum Chourasia (supra)***. The writ petition is hereby **allowed**.

11) Respondent No. 3 is directed to grant family pension to the petitioner with effect from the date of death of her husband i.e. 26.03.1996. The entire exercise shall be completed within a period of two months from today.

Sd/-
(Rakesh Mohan Pandey)
Judge

$iddhant