

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3463 of 2015

1. Bahoreek Yadav S/o Tikra Yadav Aged About 61 Years R/o Village And Post Dhandhan Police Station Takatpur, Bilaspur Distt. Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Water Resources Department Naya Raipur Mantralay Raipur (Chhattisgarh)
2. Director, Treasure, Accounts And Audit Department, Naya Raipur (Chhattisgarh)

---- Respondent

For Petitioner	Shri Lav Sharma, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate Shri Sanjay Suryavanshi, Superintending Engineer, PWD (B&R), Circle Bilaspur, Bilaspur and Shri Azim Ahmed, Assistant Grade III, office of the Superintending Engineer, PWD (B&R), Circle Bilaspur, Bilaspur, are also present.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

05/10/2015

1. Petitioner is claiming pension under the provisions of the Chhattisgarh (Work Charged and Contingency Paid Employees) Pension Rules, 1979 (for short 'the Rules, 1979').

2. Learned counsel for the petitioner would submit that the petitioner was the employee of work charged and contingency paid establishment, having been earlier appointed as daily wager and thereafter attained the status of temporary employee, in accordance with the Rules, 1979. The petitioner was regularized on 23-08-2008 and thereafter retired on 8.8.2012.
3. Learned counsel for the petitioner would further submit that the petitioner's past service, prior to the date of regularization, is not counted for the purposes of granting pension and as such, he has been declared ineligible for pension. Learned counsel would refer to the order passed by the Division Bench of this Court decided on 26-2-2015 in Writ Appeal No.281/13 and other connected matters, wherein this Court has held that in view of the State Government's instructions dated 2-3-2005, petitioner's temporary service be taken into account to reckon pensionable service and the appellants of the said writ appeals were held entitled to pension under the Rules, 1979.
4. Learned State counsel would not dispute the decision rendered by the Division Bench, however, he would submit that the State Government has preferred Review Petition No.61/2015 before the Division Bench in which, notices have been issued to the other side. He would submit that based on the outcome of the review petition, the matter shall be considered by the competent authority.

5. The documents filed along with the writ petition being not clear as to whether the petitioner was a member of contingency paid establishment, this Court has summoned the original service record of the petitioner. The Superintending Engineer, PWD, Bilaspur, has placed before this Court order passed by the State Government bearing No.6598/F 3-4/08/19/Estb.3 dated 19-8-2008 and order bearing No.6589/F 3-4/08/19/Estb.3 dated 19-8-2008 wherein it has been directed that for regularization of daily wagers supernumerary posts are created in the work charged establishment. By another order issued on the same date the number of supernumerary posts in the work charged establishment created in each PWD division in the State is mentioned. Learned counsel for the State would produce xerox copies of both the orders and they are made part of the record of the writ petition.
6. In view of the above, the writ petition is disposed of with a direction that on fresh representation being filed by the petitioner, within a period of 4 weeks, the respondents shall decide the petitioner's entitlement to pension, depending upon and after the outcome of Review Petition No.61/2015.

Sd/-

Judge

Prashant Kumar Mishra