

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 273 OF 2016**

Bisauha S/o Shri Baliram aged about 64 years Retired R/o village Kharra Post Kusmi P.S. and Tahsil Berla Civil and Revenue District Bemetara (Chhattisgarh)

----- Petitioner**Versus**

1. State of Chhattisgarh Through: the Chief Secretary, Irrigation Department Mantralaya Mahanadi Bhawan New Raipur, (Chhattisgarh)
2. The Engineer-in-chief Irrigation Department Government of Chhattisgarh Raipur District Raipur (Chhattisgarh)
3. The Superintending Engineer Irrigation Department Durg Division Durg District Durg (Chhattisgarh)
4. The Chief Engineer Tandula Irrigation Department Tahsil and Division Durg District Durg (Chhattisgarh)
5. The Sub Divisional Engineer Irrigation Department Inspection Sub Division Tandula Tahsil and District Durg (Chhattisgarh)

----- Respondents

For Petitioner	: Mr. Rakesh Anthony, Advocate
For State	: Mr. S.P. Kale, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****27/01/2016**

1. 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 Chhattisgarh (Work-Charged and Contingency Paid Employees) Pension Rules, 1979 (for short 'the Rules, 1979'). The petitioner was regularized on 26/08/2008 and thereafter retired on 30/11/2015.

2. 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 26/02/2015 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 02/03/2005, petitioners 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.

3. Learned counsel for the State would not dispute the legal decision as has been laid down by the Division Bench.

4. 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 four weeks, the respondents shall decide petitioner's entitlement to pension, in accordance with the law laid down by this Court in Writ Appeal No.281/13 within a further period of three months, subject to verification of facts or any other order passed by the Division Bench or the Supreme Court on the issue.

Sd/-
(Sanjay K. Agrawal)
JUDGE

Tiwari