

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.1108 of 2016**

Mahavir Prasad Rathore, S/o Shri Chhabilal Rathore, aged about 65 years, R/o Khanchda, Post Jharna, Thana Baradwar, Tahsil Champa, District Janjgir-Champa (CG). ---- **Petitioner**

Versus

1. State of Chhattisgarh, through Secretary, Water Resources Department, Mahanadi Bhawan, Naya Raipur, District Raipur (CG).
2. Director, Treasure, Accounts and Audit Department, Indrawati Bhawan, Naya Raipur (CG). --- **Respondents**

For Petitioner : Shri Vinod Deshmukh and Shri K.P.S. Gandhi, Advocates
 For Respondents : Shri Neeraj Kumar Sharma, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

13/04/2016

(1) With the consent of the learned counsel for the parties, the matter is heard finally.

(2) Learned counsel for the petitioner would submit that the petitioner was 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 30.08.2008 and thereafter, retired on 31.05.2011.

(3) Learned counsel for the petitioner would 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.281/2013 and other connected matters, wherein this Court has held that in view of the State Government's instructions dated 02.03.2005, petitioner's temporary service be taken into account to reckon pensionable service and the appellants of the said writ appeal were held entitled to pension under the Rules, 1979.

(4) Learned counsel for the State 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) Learned counsel for the petitioner would submit that Review Petition No.61 of 2015 has been filed by the State Government.

(6) Shri Neeraj Kumar Sharma, learned State counsel would submit that said review petition has been dismissed on 23.11.2015.

(7) In view of 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 the petitioner's entitlement to pension.

Sd/-
(Sanjay K. Agrawal)
Judge

