

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4902 of 2016

Vijay Kumar Upadhyay S/o Late Ram Gopal Upadhyay, Aged About 62
Years R/o Village Sale Bazar, Post Kherta Bazar, Tahsil Daundilohara,
District Balod Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Water Resources Department,
Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh)
2. Chief Engineer, Office Of Chief Engineer, Mahanadi Godawari Kachar,
Water Resources Department, Raipur, Chhattisgarh.
3. Executive Engineer, Water Resources Department, Balod, District Balod,
Chhattisgarh.
4. Joint Director, Treasury, Accounts And Pension, Pension Bada, Raipur
(Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. CJK Rao, Advocate.
For State	:	Mr. Gary Mukhopadhyay, Dy. G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/09/2016

Heard.

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 13.08.2008 and thereafter retired on 13.07.2016.
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 26.02.2005 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 appeals were held entitled to pension under the Rules, 1979.

3. Learned counsel for the respondents 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 off 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.281/2013 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/-

(Manindra Mohan Shrivastava)
J U D G E