

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3107 OF 2016**

Jawahar Lal Aghariya S/o Parman Lal Aghariya, Age about 63 years, R/o Village Dahkoni, Post Rasaota, Thana Balaoda, District Janjgir-Champa.

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through Secretary Water Resources Department
Naya Raipur Mantralay Raipur (C.G.)
2. Director Treasure, Accounts and Audit Department, Raipur (C.G.)

---**Respondents**

For Petitioner	:	Mr. K.P.S. Gandhi, Advocate
For Respondent-State	:	Mr. Gary Mukhopadhyay, Dy. Govt. Advocate, on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****22/07/2016**

1. Heard.
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 26.08.2008 and thereafter retired on 30.04.2016.
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 26.2.2015 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. Learned counsel for the petitioner would submit that Review Petition No.61 of 2015 has been filed by the State Government.

6. Mr. Gary Mukhopadhyay, 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 off 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.

Sd/-
(Manindra Mohan Shrivastava)
Judge