

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3736 of 2015**

- Sikander Singh Thakur S/o Shri Late Shri Hemkaran Singh Thakur Aged About 62 Years Retired Timekeeper R/o Dokrighat Para, Vijay Ward No. 2 Tehsil & District Jagdalpur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur. (Chhattisgarh)
2. Director, Treasury, Accounts & Audit Department, Raipur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Anup Mazumdar, Advocate
For State	:	Shri Gary Mukhopadhyay, Dy. Govt. Advocate

SB: Hon'ble Shri Justice P. Sam Koshy
Order On Board

09/03/2017

1. The present petition has been preferred seeking a relief of direction to the Respondents to grant pension and arrears of pension to the Petitioner from the date of his retirement alongwith interest.
2. Fact relevant of the present case is that the Petitioner was working as Time Keeper in the Office of the Respondent No.1. He was initially appointed on 15.02.1979 as a Temporary Time Keeper on daily wages as per terms of C.G. Work charged and Contingency Employees and subsequently regularised on the said post on 13.08.2008 and thereafter he continued to discharge his services till superannuation i.e. 30.04.2013. The Petitioner during his lifetime served as Temporary Time Keeper from 1979 to 2008 i.e. for a period of 29 years and thereafter as regular Time Keeper from August 2008 till April 2013 i.e. for a period of about 4 ½ years. The grievance of the Petitioner is that

the service rendered by him as Temporary Time Keeper be also treated as qualified service for the purpose of calculating the pension.

3. At this juncture, learned counsel for the Petitioner submits that the issue involved in the present writ petition has already been adjudicated by the Division Bench of this Court in a batch of cases which were decided on 26.02.2015 with the leading case being Writ Appeal No.281 of 2013 along with other analogous Writ Appeals and Writ Petitions. He submits that while hearing those Writ Appeals, the Division Bench had also called upon and disposed certain Writ Petitions then pending before this High Court in which the issues involved were identical. He further submits that the issue involved in the present Writ Petition is also squarely covered by the judgment dated 26.02.2015 and can be disposed of in similar terms. He also submits that schedule of contingency paid employees also reflects that 'Time Keepers' are also covered under the said provisions of law.
4. Learned State counsel does not dispute the fact so far as employment and retirement of the Petitioner is concerned. He also does not dispute so far as decision of the Division Bench on this issue having been passed. The State counsel however submits that the said decision of this Court has already been challenged before the Hon'ble Supreme Court and therefore, present writ petition may be kept in abeyance till the decision of the SLP which has been preferred by the State against the judgment dated 26.02.2015.
5. Having considered the rival contentions put forth by the either side and on perusal of the judgment passed by the Division Bench, this Court is of the considered opinion that since the batch of Writ Appeals and Writ

Petitions have been allowed, there is no point to keep the matter pending only on the ground that State has perhaps preferred SLP against the said judgment which is pending before the Supreme Court. Looking to the facts any order passed in the present writ petition would be ultimately governed by the judgment of the Supreme Court, therefore, this present writ petition is also disposed of in terms of the decision of the Division Bench referred in the preceding paragraph.

6. For ready reference relevant portion of the order passed in batch of Writ Appeals and Writ Petitions decided on 26.02.2015 is reproduced herein under :

“11. The Appellants/Petitioners are stated to have completed a total of 23-30 years in service including the period spent in 'temporary' status. They have acquired permanent status after five years of their appointment in the contingency establishment. It is not in dispute evidence from the orders releasing their gratuity that they fulfill the requirement for acquiring 'temporary' status after five years under Rule 4(2)(b) of the Contingency Rules, 1975. Under instructions dated 2.3.2005 the period spent in 'temporary' service had to be taken into account to reckon pensionable service which clearly brings them within the qualifying period. The Appellant/Petitioners are therefore held entitled to pension under the Pension Rules, 1979.

12. Let the current pension of the Appellants/Petitioners be calculated and payment commenced preferably within a period of four weeks from the date of receipt and/or presentation of a copy of this order and the arrears to be paid within a period of 12 months from the date current pension starts.”

7. Let the respondents act in similar manner within a period of preferably 3 months from the date of receipt of the certified copy.
8. The petition stands allowed. No order as to costs.

Sd/-
(P. Sam Koshy)
JUDGE