

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.375 of 2017**

Jhanakram, S/o Shri Khemu, Aged about 62 years, r/o Village
Khoplipara Kansadih, Durg, District-Durg (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Department of Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District-Raipur (CG)
2. The Director, Department of Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (CG)
3. Municipal Corporation, Bhilai, Through - Commissioner, Municipal Corporation, Bhilai, District Durg (CG)

---- Respondents**And****Writ Petition (S) No.367 of 2017**

Balram Ahirwar, S/o Late Shri K.L. Ahirwar, Aged about 62 years, Retired Assistant Draftsman, r/o Mayri Height, Near Narnarayan Temple, Borsi, District Durg (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Department of Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District-Raipur (CG)
2. The Director, Department of Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (CG)
3. Municipal Corporation, Bhilai, Through - Commissioner, Municipal Corporation, Bhilai, District Durg (CG)

For Petitioners : Mr. T.K.Nande, Advocate.
For Respondents No.1&2 : Mr.Avinash Singh, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****30/01/2017**

1. Heard on admission.
2. Learned counsel appearing for the parties would submit that these cases are covered by the decision rendered by a co-ordinate Bench of this Court in WPS No.4459 of 2014 (Narayan Prasad Dewangan Vs. State of Chhattisgarh and others), decided on 8.2.2016, in which this Court has held as under:-

“10.While allowing the writ petition preferred by R.R. Gehlot, bearing No.6176 of 2006 (S), the Madhya Pradesh High Court has held thus :

In the present case it is an admitted fact that the petitioner was an employee of Town Improvement Trust a body constituted under the provisions of M.P. Nagar Sudhar Nyas Adhiniyam, 1960, a body owned and controlled by the State Government. The Town Improvement Trusts were abolished by the State Government and a notification was published in the official gazette on 10th June, 1994. The petitioner was absorbed in the services of Municipal Corporation, Ratlam w.e.f. 01.08.1994. This Court has carefully gone through the order dt.06.01.1999 passed by the State Government and the aforesaid order reveals that the employees absorbed in the service of local bodies were granted seniority by taking into account their past service. Thus, the petitioner, was also assigned seniority and other benefits flowing out of the seniority for the services rendered by him with Town Improvement Trust,

Ratlam. Learned counsel for the respondent Municipal Corporation has vehemently argued before this Court that the Regional, Dy. Director Local Self Government vide letter dt. 05.02.1988 has held that employees absorbed in the services of local bodies will not be entitled for the past services and they will be entitled only for the benefit of contributory provident fund. Letter of the Dy. Director will certainly not supersede the order issued by the State Government and once the decision was taken by the State Government to grant benefit of the past services there appears to be no justification in depriving the petitioner in the matter of grant of benefit of the past services rendered by him with Town Improvement Trust which is certainly a body owned and controlled by the State Government. Learned counsel for the petitioner has placed reliance upon a Division Bench judgment delivered in the case of Municipal Corporation Gwalior and another v. Ramsewak, 2002 2 MPLJ 148 and his contention is that in a similar situation an employee serving Gram Panchayat was upon a Division Bench judgment delivered in the case of Municipal Corporation Gwalior and another v. Ramsewak, 2002 2 MPLJ 148 and his contention is that in a similar situation an employee serving Gram Panchayat was absorbed in the services of Municipal Corporation and the benefit of past services were extended by the Division Bench of this Court vide order dt. 29.10.2001. This Court has carefully gone through the aforesaid judgment delivered in the case of Municipal Corporation Gwalior v. Ramsewak and the employee therein was working in a Gram Panchayat and after his absorption in the services of Municipal Corporation, Gwalior the benefit of past services have been extended by Division Bench of this Court. In the present case the petitioner was also working under an organization owned and controlled by the State Government and the State in its own wisdom has taken a decision on 14.09.1989 to extend the benefit of past service for other purpose and the respondents

have also granted gratuity to the petitioner by taking into account the services rendered by the petitioner from 07.08.1965.

Resultantly this Court is of the considered opinion that the petitioner is certainly entitled for the benefit of past service in the matter of computing the qualifying services for grant of pension. However, as the petitioner has already received the CPF, the petitioner shall refund the entire amount of CPF to the respondents within a period of 30 days from the date of receipt of certified copy of this order and thereafter respondents after receiving the aforesaid amount shall revise pension case of the petitioner by taking into account the date of initial appointment i.e. 7-8 -1965 and shall release the pension of the petitioner along with arrears of pension within 6 months of the receipt of the certified copy of this order.

11. The said judgment rendered by the Single Bench was affirmed by the Division Bench in Municipal Corporation, Ratlam (supra). Thereafter the Municipal Corporation, Ratlam preferred SLP No.34485/2012, which was dismissed vide order dated 26.11.2012 in the following terms:-

This petition is directed against the order of the Division Bench of the Madhya Pradesh High Court whereby the writ appeal filed by the petitioner was dismissed and the direction given by the learned Single Judge for payment of pension to the respondent by taking into consideration his total service was upheld.

We have heard Shri Siddhartha Luthra, learned Additional Solicitor General and perused the record. In response to the Court's query, the learned Additional Solicitor General fairly stated that Municipal Corporations of Gwalior and Indore did not challenge the orders passed by the Division Bench of the High Court in the cases of Ramsewak and Bhupendra Kumar Puranik, whereby direction was given for

payment of pension to them by treating their total length of service as qualifying service. He, however, argued that the impugned judgment is liable to be set aside because the order of absorption of respondent No.1 did not postulate computation of previous service as part of qualifying service.

In our opinion, there is no merit in the argument of the learned Additional Solicitor General. It is not in dispute that the service rendered by respondent No.1 in Town Improvement Trust, Ratlam was added to the service rendered after absorption for the purpose of fixation of seniority, etc. Therefore, there is no plausible reason for not counting that service for the purpose of computation of pension.

With the above observation the special leave petition is dismissed. The petitioner is directed to implement the direction given by the learned Single Judge within a period of three months and submit a report to this effect in the Registry of the High Court.

A copy of this order be sent to respondent No.1 by registered post at the address mentioned in the memo of special leave petition."

3. In view of above, both the writ petitions are disposed of in terms of paragraphs 10 and 11 of the order passed in Narayan Prasad Dewangan (supra). No order as to costs(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-