

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 2665 of 2017**

Badri Prasad Sahu S/o Shri Pusuram Sahu, aged about 63 years, R/o Village & Post Sonsari, Thana Mulmula, Tehsil Akaltara, District Janjgir Champa, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Water Resources Department Naya Raipur Mantralaya Raipur, Chhattisgarh
2. Director, Treasure, Accounts and Audit Department, Raipur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri K. P. S. Gandhi, Advocate
For Respondent/State	:	Shri Arvind Dubey, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23/06/2017**

The Petitioner was initially appointed as a daily wage worker on 05.12.1979. He was thereafter regularized on the post of Land Helper under the Workcharged Contingency Establishment on 17.09.2008. He continued to work till his superannuation on 31.03.2016.

2. Grievance of the Petitioner is that in spite of the fact that he had worked with the Respondents from 1979 to 2016, he is being denied pensionary benefits on account of the fact that he does not have the requisite length of service as regular employee which is required for grant of pension.

3. Counsel for the Petitioner submits that the Petitioner's services would be governed by the Chhattisgarh (Workcharge and Contingency Paid Employees) Pension Rules, 1979. According to him, for the purpose of calculating the qualifying service, the period rendered by the Petitioner as

temporary employee under the Contingency Paid Employees Rules shall also be calculated. He further submits that the issue involved in the instant case stands squarely covered by the decision of the Division Bench of this Court in a bunch of writ appeals, the lead case being Writ Appeal No. 281 of 2013, decided on 26.2.2015, and that the present writ petition may also be disposed of in terms of the order passed by the Division Bench on 26.2.2015.

4. Counsel for the Petitioner next submits that the said order of the Division Bench, dated 26.2.2015, was subjected to challenge before the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 11541-11550 of 2016 and the said Special Leave to Appeal of the State has also been dismissed on 3.3.2017 and as such the order of the Division Bench has attained finality.

5. Contention of the Counsel for the Petitioner is not disputed on facts by the Counsel for the State.

6. The petitioner in the present factual situation all the more is entitled for pension for the reason that the subsequent rules or the circulars of the State Govt. make a person eligible for pension on his having served the respondents as regular employee for a period of six years or above. In the instant case, the petitioner was regularized in the year 2008 and he retired from service in the year 2017. Thus, he has served the respondents as a regular employee for more than six years and therefore, the petitioner cannot be denied pension.

7. In view of the fact that the Hon'ble Supreme Court has also decided the issue in favour of the similar employee by dismissing the said Special Leave to Appeal of the State, this Court has no hesitation in allowing the present writ petition at admission stage itself and directing the Respondents to consider the case of the Petitioner also in the light of the order passed by the Division Bench of this Court on 26.2.2015 in Writ Appeal No. 281 of 2013 and other connected writ appeals. If the Petitioner falls within the category as has been

specified in the said order, the relief of pension be released to the Petitioner forthwith without any further delay.

8. The present writ petition accordingly stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**

Bhola