

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 47 of 2018**

Smt. Radhiya Bai Wd/o Late Mansha Ram, Aged About 51 Years, R/o Village Rengakathera, Post Gunderdehi, Tahsil Gunderdehi, District Balod, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Executive Engineer, Public Works Division(Bha/ Sa), Balod, District Balod, Chhattisgarh.
3. Joint Director, Treasury, Accounts And Pension Department, Durg, District Durg, Chhattisgarh.
4. Sub Divisional Officer, Public Works Department (Bha/sa), Sub Division Gunderdehi, District Balod, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. P. P. Sahu, Advocate.
For Respondents/State	:	Mr. Ashish Surana, Panel Lawyer for the State.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****05/01/18**

Heard.

1. The petitioner-widow of the deceased employee in this petition is claiming that after regularization in services, the period of services rendered by her husband as daily wage employee should be counted for the purposes of pension under the Chhattisgarh (Work Charged and Contingency Paid Employees) Pension Rules, 1979 (for short "the Rules of 1979"). The husband of the petitioner was regularized in the year 2008 and thereafter died on 24.05.2016.

2. Learned counsel for the petitioner submits that the husband of 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 for petitioner would refer to the Division Bench's order of this Court dated 26.02.2015 passed in Writ Appeal No. 281 of 2013 and batch of cases **Lakhanram Sahu and others Vs. State of Chhattisgarh and others**, wherein this Court has held that in view of the State Government's instructions dated 02.03.2005, petitioners temporary services 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 State counsel would not dispute the legal position as has been laid down by the Division Bench of this Court. He would however, submit that before extending the benefit, issue will require verification of facts from the service records of the deceased employee and if he is found fit, appropriate benefit may be extended to him, on the same terms as in the case of ***Lakhanram Sahu*** (supra).

4. In view of the above, the petition is finally disposed off with a direction that on fresh representation being filed by the petitioner within a period of four weeks, the respondents shall decide the petitioner's entitlement to pension, in accordance with the law laid down by this Court in the case of ***Lakhanram Sahu*** (supra) 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/-

(Sanjay K. Agrawal)

Judge