

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 520 of 2012**

Dular Sinha S/o Shri Jagannath Sinha, aged about 61 years, R/o village
& Post Sirri, Tahsil Kurud, District Dhamtari (CG)

---- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Water Resources Department, Mantralaya, DKS Bhawan, G.E. Road, Raipur (CG)
2. Executive Engineer, Vidyut Yantriki, Light, Machinery Nal and Gate Sambhag, Raipur, CG
3. Divisional Joint Director, Treasury, Account and Pensions, Raipur Division, Raipur, CG

---- **Respondents**

For Petitioner	:	Shri H. B. Agrawal, senior advocate along with Ms. Meera Jaiswal, Advocate
For Respondent/State	:	Ms. Sunita Jain, Panel Lawyer

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

23/04/2018

The grievance of the petitioner in the present writ petition is that he was initially appointed as a temporary contingency employee w.e.f. 14.01.1988. In due course of time, his services were regularized and he was declared a permanent employee vide order dated 16.04.2003 w.e.f. 18.01.1998. According to the petitioner, he stood retired on 30.06.2011 and he has been granted pension from the date he was declared a permanent employee i.e. from 18.01.1998 whereas his services as a temporary contingency employee w.e.f. 14.01.1988 ought to have been taken into consideration treating it as qualifying service for quantification of pension.

2. Counsel for the petitioner submits that the issue in the instant case stands squarely covered by the judgment of the Division Bench of this Court

in the case of Lakhanram Sahu & Others Vs. State of Chhattisgarh & Others decided on 26.02.2015 in Writ Appeal No. 281 of 2013 and other bunch of writ petitions.

3. State counsel opposing the petition however submits that from the documents itself it reveals that the petitioner for the first time was declared as permanent employee w.e.f. 18.01.1998 and therefore, he was entitled for pension only 18.01.1998 onwards and before that since it was a temporary status, the petitioner would not be entitled for pensionary benefits.

4. Having heard the contentions put forth on either side and on perusal of the record, it would be relevant at this juncture to refer to the judgment of the Division Bench of this Court in the case of Lakhanram Sahu (supra) decided on 26.02.2015 in Writ Appeal No. 281 of 2013 wherein paragraphs-11 & 12 it has been held as under:

“11. The Appellants/Petitioners are stated to have completed a total of 25-30 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 evident 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.”

5. Given the aforesaid facts and circumstances of the case, let the respondents 2 & 3 consider the case of the petitioner and verify whether the

status of the petitioner would be at par with the appellants in Writ Appeal No. 281 of 2013 or not. In case the petitioner is placed identically as Lakhanram Sahu and others in Writ Appeal No. 281/2013, the present petitioner be also granted similar relief. Let the exercise be done by respondents 2 & 3 within a period of three months from the date of receipt of certified copy of this order. It shall be the responsibility of the petitioner to bring the order of this Court to the notice of respondents 2 & 3.

6. With the aforesaid observation the writ petition stands disposed of.

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