

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.5045 of 2010

Radhelal S/o late Bhaiya Ram Sahu, aged about 62 years, Retired as Work Charged Labour, Sub Division Gunderdehi, Durg, Distt. Durg (CG).

---- Petitioner

Versus

State of Chhattisgarh through the Secretary, Public Works Department, Mantralaya, DKS Bhawan, Raipur (CG).

---- Respondent

For petitioner	:	Shri Anup Majumdar, Advocate
For State	:	Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25/04/2018

1. The relief sought for by the petitioner is for calculating the service rendered by the petitioner as contingency paid employee treating the said period as qualifying service for the purpose of grant of pension.
2. A perusal of impugned order by itself show that there is admission on the part of the respondent of the petitioner having put in 25 years of service as contingency paid employee prior to 22.08.2008, the date from which the services of the petitioner was regularized, and he retired as a regular employee on 28.02.2009.
3. The contention of the petitioner is that if as per circular of the State Govt. the services rendered by the petitioner as temporary contingency paid employee is taken into account, then perhaps his case could be considered for grant of pension in the light of the judgment of Division Bench of this court in case of Lakhanram Sahu & Ors. Vs. State of Chhattisgarh & Ors. and other connected appeals (Writ Appeal No. 281

of 2013, decided on 26.02.2015).

4. The State counsel however opposing the petition submits that the impugned order itself is so clear that the petitioner had put in only six months of regular service and as such he does not fulfill the required length of service by which he could qualify for pension. Therefore, the impugned order does not seem to be in any manner illegal and the petition deserves to be rejected.
5. Having heard the contention put forth by the counsel for the respondents and on perusal of records, the very first paragraph of the impugned order dated 28.05.2010 clearly dealt with the length of the service of the petitioner rendered with the respondents. For ready reference, the first paragraph of the impugned order is reproduced herein as under :

“श्री राधेलाल, परमानेंट गैंगमैन अकुशल श्रमिक के रूप में दिनांक 01.07.1975 से कार्यरत थे। उक्त पद पर 25 वर्ष की सेवा पूर्ण करने के पश्चात दिनांक 19.08.2008 द्वारा स्वीकृत सांख्येत्तर पद पर आदेश दिनांक 22.08.2008 से कुशल श्रमिक के रूप में कार्यभारित सीपना पद पर नियमित किया गया था। तत्पश्चात वह अधिवार्षिकी आयु पूर्ण कर दिनांक 28.02.2009 को सेवानिवृत्त हो गया।”

A plain reading of the aforesaid contents would by itself show that there is admission on the part of the respondents of petitioner having worked for 25 years before 22.08.2008 on which date he has been regularized.

6. Given the aforesaid admission and taking into consideration the factual matrix of the case, it would be relevant at this juncture also to refer paragraphs 11 and 12 of judgment of Division Bench in Lakhanram (Supra) which reads 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.”

7. Indisputably, the petitioner had put in about 25 years of service before regularization. The said period appears to be that as contingency paid employee. If that be so, then the case of the petitioner also deserves to be considered for pension in accordance with the orders passed in Lakhanram (Supra).
8. Accordingly, the present petition stands disposed of with a direction to the respondent to ensure that the case of the petitioner is duly verified by the department and in case if the petitioner has sufficient length of service as temporary contingency paid employee prior to 22.08.2008, then, as has been held by the Division Bench in Lakhanram (Supra), the case of the petitioner also should be considered for grant of pension subject to verification of the aforesaid facts. An appropriate order shall be passed by the respondent so far as entitlement of the

pension to the petitioner is concerned within a period of 90 days from the date of communication of the certified copy of this order.

9. The writ petition is accordingly disposed of.

Sd/-
(P.Sam Koshy)
Judge

inder