

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.985 of 2012

Ramlal S/o Shri Kartik, , aged about 63 years, Occupation Retired Gangman In Permanent Gang, Office Of Sub Divisional Officer, Public Works Deptt. Sub Div. Bemetara, R/o Ddolia, Charabhata, PS Jhal Bemetara, Distt. Bemetara C.G.

---- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Public Works Department, Mantralaya, at DKS Bhawan, Raipur (CG).
2. The Engineer-In Chief, Public Works Department, Govt. of Chhattisgarh, Near Raj Bhawan Raipur C.G.
3. The Superintending Engineer Public Works Department, Raipur Division, Raipur C.G.
4. The Executive Engineer, Public Works Department, Tehsil and Division, Bemetara, District Bemetara (CG).
5. The Sub Divisional Officer, Public Works Department, Sub Division, Bemetara, District Bemetara (CG).

---- Respondents

For petitioner	:	None.
For State	:	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/04/2018

1. Challenge in the present writ petition is the order dated 08.06.2011 (Annexure P/12) whereby the representation of the petitioner for grant of pension has been rejected by the respondents.
2. A perusal of impugned order by itself show that there is admission on the part of the respondents of the petitioner having put in 25 years of service as contingency paid employee prior to 26.08.2008, the date from which the services of the petitioner was regularized, and he retired as a regular employee on 30.11.2009.
3. The contention of the petitioner is that as per circular of the State Govt. the services rendered by the petitioner as 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 one year and three 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 08.06.2011 clearly deals 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 रामलाल आत्मज श्री कार्तिक, सेवानिवृत्त गैंगमैन अकुशल श्रमिक लोक निर्माण विभाग, उपसंभाग बेमेतरा में कार्यरत थे। उनकी जन्मतिथि सेवा पुस्तिका के अनुसार 17.11.1945 है। प्रथम नियुक्ति दिनांक जून 1977 है। 25 वर्ष पूर्ण होने के पश्चात दिनांक 26.08.2008 को कार्यभारित स्थापना में नियमितिकरण किया गया तथा दिनांक 30.11.2009 को सेवानिवृत्त हो गये।”

A plain reading of the aforesaid contents would by itself show that there is admission on the part of the respondents of the petitioner having worked for 25 years before 26.08.2008 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 as a 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 No.2 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 a temporary contingency paid employee prior to

26.08.2008, 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 thereafter shall be passed by the respondent No.2 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 office of the Advocate General shall ensure that a copy of this order be communicated to the respondent No.2 at the earliest. In addition, the Registry of this court shall also send a copy of this order to the respondent No.2 for needful compliance at the earliest.
10. The writ petition is accordingly disposed of.

Sd/-
(P.Sam Koshy)
Judge