

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 8187 of 2019**

- Smt. Anusuiya Thakur W/o Shri Phool Singh Thakur Aged About 62 Years R/o Shyam Nagar, Raipur, District - Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Irrigation Department Department, Mantralaya, Atal Nagar, Raipur, District - Raipur Chhattisgarh.
2. The Chief Engineer, Mahanadi Project, Water Resources Department, Raipur, District Raipur Chhattisgarh.
3. The Executive Engineer, Mahanadi Reservoir Project, Second Stage Work Division, Raipur Chhattisgarh.
4. The Joint Director, Treasury, Accounts And Pension, Raipur, District - Raipur Chhattisgarh.

---- Respondents

For Petitioner : Shri Goutam Khetrapal, Advocate

For Respondents/State : Ms. Astha Shukla, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****14/10/2019**

1. Heard.
2. It is contended by the petitioner that the petitioner had joined her services as a daily wager in the erstwhile Madhya Pradesh Irrigation Department in the year 1980 and it is stated that during her initial posting she was a contingency paid employee and her services were governed under the Madhya Pradesh Irrigation Department Work Charged and Contingency Paid Employees Recruitment and

Conditions of Service Rules, 1977. Under Rule 4 (2) (b) of the said Rules, a contingency paid employee is accorded temporary status immediately upon completion of 5 years service. It is stated that as per the law laid down in the case of ***Shrikrishna Shrivastava Vs. State of M.P. and others* {(2003) 4 MPLJ 376}** temporary service rendered by a contingency paid employee shall be counted in the pensionable service. It is further stated that the pension rules provide for grant of pensionary benefit for the qualifying period and the qualifying period would start after the period of 5 years. Consequently, the qualifying period in this case would start from 1985 because initially as a daily wager temporary services, the petitioner joined in the year 1980. It is further submitted that the similar issue has been dealt by this Court in the case of ***Mubin Khan Versus State of Chhattisgarh & ors.* {W.A. No.88 of 2019, decided on 01.04.2019}**, wherein the Division Bench has held thus in paras 6 & 7 which is reproduced hereunder:-

- “6. In the above quoted circular, the State Government clearly directed that for counting the pensionable service, the period spent as temporary employee shall also be counted. The Division Bench of Madhya Pradesh High Court has also held in the matter of **Shrikrishna Shrivastava vs State of M. P. and others**, reported in (2003) 4 MPLJ 376, that period of temporary service rendered by a contingency paid employee shall be counted in the pensionable service.
7. In view of the circular issued by the State Government and the law laid down by the Division Bench of the M. P. High Court in **Shrikrishna Shrivastava** (supra), we are of the considered opinion that the petitioner's pensionable service should be counted from the date he completed 5 years service from the date of initial appointment, as immediately upon completion of 5 years service in the Contingency Paid Establishment, the petitioner had acquired temporary status under Rule 4 (2) (b) of the Rules, 1977. It is ordered accordingly. Consequently, it is directed that the respondents shall recalculate the petitioner's pensionable service in accordance with this order and pay him the entire consequential benefits within a period of 3 months from the date of receipt of the certified copy of the order. There shall be no order as to interest on the

arrears.”

3. Learned State counsel would submit that the factual aspect as to the date of joining of the service is to be counted so as to evaluate the pensionable service.
4. Perused the judgment rendered by the Division Bench in W.A. No.88 of 2019 dated 01.04.2019 (Annexure P-7). Considering the said aspect, it is directed that the petitioner is given liberty to make afresh representation before the concerned respondent authorities pleading all the factual aspects and figures so as to calculate the services of the petitioner whether it will come as a pensionable service by calculating the date of service instead of 05.04.1990 as is done. It is made clear that the representation if so made, the same may be decided in terms of the law laid down by the Division Bench of this Court in W.A. No.88 of 2019.
5. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu