CGHC010410742026 2026:CGHC:45746

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7764 of 2026

Chhotelal Kannauje S/o Chaitram Kannauje Aged About 65 Years R/o M.I.G-35, Yadunandan Nagar, Tifra, District- Bilaspur (C.G.)

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur (C.G.)

2 - The Director Directorate Of Public Instructions, Indrawati Bhawan, Atal Nagar Nava Raipur, District- Raipur (C.G)

3 - The Divisional Joint Director School Education Department, Bilaspur, District- Bilaspur (C.G.)

4 - The Accountant General, Government Of Chhattisgarh, Zero Point, Balodabazar Road, Raipur (C.G.)

5 - The District Education Officer, Bilaspur, District- Bilaspur (C.G.)

6 - The Collector, Bilaspur, District- Bilaspur (C.G.)

7 - The Principal, Govt. Higher Secondary School Budhikhar, District- Bilaspur (C.G.)

8 - The Divisional Joint Director Treasury Accounts And Pension Bilaspur, District- Bilaspur (C.G)

... Respondent(s)

(Cause title taken from CIS)

For Petitioner(s)	**:**	Shri Amitesh Kumar Pandey, Advocate
For State	**:**	Shri Ghanshyam Kashyap, Dy. Govt Advocate

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

29.10.2026

1. The petitioner has preferred this writ petition seeking following reliefs :-

> *"10.1 The Hon'ble Court may kindly be pleased to direct the respondent authorities to grant benefit of gratuity and fixation of full pension to the Petitioner in accordance with law with all consequential benefit within stipulated time.*
>
> *10.2 The Hon'ble Court may kindly be pleased to direct the respondents to consider and decide the representation for grant of gratuity and other*

retiral dues etc. of Petitioner in accordance with law.

10.3 This Hon'ble Court may kindly be pleased to grant any other writ/writs, order/orders, relief/reliefs in favour of the Petitioner, which the Hon'ble Court deemed fit and just in the facts and circumstances of the case, including awarding of the costs to the Petitioner.

10.4 That any other relief/order which may deem fit and just in the facts and circumstances of the case, including cost of the petition may kindly be awarded to the petitioner."

2. Learned Counsel for the petitioner submits that the petitioner was initially appointed as Watchman on 01.01.1989 and was subsequently regularized on 07.04.1994. He retired from service on 30.06.2024 after rendering 35 years and 6 months of service. However, the respondents have wrongly deducted 5 years, 3 months and 20 days while calculating his qualifying service and have considered only 30 years, 2 months and 10 days for pensionary benefits. It is contended that, in view of

Rule 12(2) of the Chhattisgarh Civil Services (Pension) Rules, 1976, qualifying service commences from the date of initial appointment, whether on a regular basis or otherwise. Learned counsel further submits that the issue is squarely covered by the order dated 21.07.2026 passed by this Hon'ble Court in W.P.(S) No. 5499 of 2026. Accordingly, he prays that the respondents be directed to recalculate the petitioner's qualifying service and extend consequential pensionary benefits..In support of his contention, he relied on the judgment of Hon’ble Apex Court in the case of **V. Sukumaran Vs. State of Kerala and ors [(2020) 8 SCC 106]** and **State of Jharkhand Vs. Jitendra Kumar Shrivastav and others [AIR 2013 SC 3383],** and a decision of High Court of Madhya Pradesh in the case of **Arun Bende Vs. The State of MP and ors. (dtd. 15-1-2025 in Writ Petition No. 13314/2019).**

3. Learned counsel for the State submits that earlier, petitioner was appointed as daily wage employees and he was working on said post from his initial appoint till 1989. His employment was regularized vide order dated 07.04.1994. Thus, since, he worked as regular employees after 1994, therefore, he is entitled to get pension calculating qualifying service from

07.04.1994 only and for counting his pension, past services rendered by him as daily wage employee, cannot be countable. Hence, instant writ petition is liable to be rejected.

4. I have heard learned counsel for the parties and perused the material available on record.

5. Rule 12(2) of the CG Civil Service Rules, 1976 deals with commencement of qualifying service, which reads thus :

> "12 **Commencement of qualifying service:**
>
> (1) xxx xxx xxx.
>
> (2) Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity."

6. From perusal of Rule 12(2) of the Rules, 1976, it is quite vivid that qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in officiating or temporary capacity.

7. Hon’ble Supreme Court in the case of **Prem Singh Vs. State of Uttar Pradesh and others [(2019) 10 SCC 516]** considered the aspect of counting of service rendered by an employee prior to his regularization working under the Work Charged Establishment and being paid from the contingency fund and has held that the said period is to be counted for qualifying service for pension. The Hon’ble Supreme Court has held as under :-

> “The question arises whether the imposition of rider that such service to be counted has to be rendered in-between two spells of temporary or temporary and permanent service is legal and proper. Once regularisation had been made on vacant posts, though the employee had not served prior to that on temporary basis, considering the nature of appointment, though it was not a regular appointment it was made on monthly salary and thereafter in the pay scale of work-charged establishment the efficiency bar was permitted to be crossed, it would be highly discriminatory and irrational because of the rider contained in the Note to Rule 3(8) of the 1961 Rules, not to count such service particularly, when it can be counted, in case such service is sandwiched between two

temporary or in-between temporary and permanent services. An impermissible classification has been made under Rule 3(8). It would be highly unjust. impermissible and irrational to deprive such employees benefit of the qualifying service. Service of work-charged period remains the same for all the employees, once it is to be counted for one class, it has to be counted for all to prevent discrimination. The rider put on that work-charged service should have preceded by temporary capacity is discriminatory and irrational and creates an impermissible classification.

As it would be unjust, illegal and impermissible to make aforesaid classification to make the Rule 3(8) valid and non discriminatory, we have to read down the provisions of Rule 3(8) and hold that services rendered even prior to regularisation in the capacity of work-charged employees, contingency paid fund employees or non- pensionable establishment shall also be counted towards the qualifying service even if such service is not preceded by temporary or regular appointment in a pensionable establishment. Consequently, the provision contained in Regulation 370 of the Civil Services Regulations has to be struck down as also the

instructions contained in Para 669 of the Financial Handbook.

There are some of the employees who have not been regularised in spite of having rendered the services for 30-40 or more years and some of them have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularised under the Government instructions and even as per the decision of this Court in **State of Karnataka Vs. Umadevi**, [(2006) 4 SCC 1]. The services of the employees who had put in 10 years or more service is directed to be treated as regular. However, clarified that they shall not be entitled to claim any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work charged establishment shall be counted as qualifying service for purpose of pension. The arrears of pension shall be confined to three years only before the date of the order."

8. In this case, petitioner was initially appointed as Watchman on

daily wage basis. On 07.04.1994 vide Annexure P-2, petitioners' service was regularized/absorbed under Work Charged Establishment on the post of Watchman. He continued to work as work charged employees on the sanctioned post of Watchman till his retirement. Although pension has been granted to him but his service period as daily wage employees from 1989 has been excluded from qualifying years of service for the purpose of pension.

9. Further very recently the Supreme Court in the case of ***Punjab School Education Board and Another Vs. Satnam Singh and Ors. in Civil Appeal No. 6865 of 2022 (decided on 8.9.2026)*** has held that the services by employees rendered on contract/ ad hoc/daily wage basis prior to regularization must be computed as qualifying service for the purpose of retiral and pension benefits. The breaks in service were either 'notional' or artificial/administrative breaks, or precipitated by Court orders. They must be ignored and the service should be treated as continuous.

10. If we consider the facts of instant writ petition in the light of the Rule 12(2) of the Rules, 1976, and the judgment of Hon'ble

Supreme Court in the Case of **Prem Singh** (supra)and **Punjab School Education Board** (supra), in the opinion of this court, the petitioner herein will also be entitled for counting of past services rendered by him as a daily wage employees, as he was paid from contingency fund.

11. Under these circumstances, the respondents are directed to consider the case of petitioner for grant of pension and other retiral dues calculating the previous services rendered by him as daily wage / work charged employees. The exercise be completed within a period of 90 days from the date of receipt of certified copy of this order.

12. Accordingly, this writ petition is disposed of.

13. Interlocutory application(s), if any, stands disposed of.

Sd/-

(Bibhu Datta Guru)
Judge

Shoaib