



2026:CGHC:13646-DB



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HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 470 of 2022

- 1** - State Of Chhattisgarh Through Secretary, Public Work Department, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
- 2** - Engineer In Chief Pubic Works Department, Raipur, District Raipur, Chhattisgarh
- 3** - Chief Engineer Public Work Department Nirmal Bhawan Sector 19 Atal Nagar Naya Raipur, District Raipur, Chhattisgarh.
- 4** - Collector, Bemetara, District Bemetara, Chhattisgarh.
- 5** - Executive Engineer, Public Work Department Division Bemetara, District Bemetara, Chhattisgarh.
- 6** - Joint Director, Pension And Accounts Treasury Department, Durg District Durg, Chhattisgarh.,

... Appellants

versus

- 1** - Baisakhu Sahu S/o Samay Lal Sahu, Aged About 64 Years R/o Village Tendubhata Tahsil Saja, District Bemetara, Chhattisgarh.
- 2** - Amrika Sahu S/o Ananda Sahu Aged About 65 Years R/o Village Kevtara Tahsil Saja, District Bemetara, Chhattisgarh.
- 3** - Tiharu Ram Lodhi S/o Joidha Lodhi Aged About 68 Years R/o Village Muglatola, Tahsil Saja, District Bemetara, Chhattisgarh.

... Respondents

For Appellants	: Mr.P.K.Bhaduri, Deputy Advocate General
For Respondents	: None present



Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

23.03.2026

1. Heard Mr.P.K.Bhaduri, learned Deputy Advocate General for the appellants/State. None appears on behalf of the respondents to press this writ appeal. However, preliminary submission/objection has been filed on behalf of respondent No.1.
2. The appellants/State have filed this writ appeal against the order dated 22/11/2021 passed by the learned Single Judge in WPS No. 6454 of 2021 by which learned Single Judge has disposed of the writ petition filed by the writ petitioners / respondents herein.
3. Brief facts necessary for disposal of the case are that the writ petitioners were initially engaged as daily wage employees in the Public Works Department at different points of time prior to 31/12/1988. Subsequently, they continued to discharge their duties as permanent gangmen in accordance with the provisions of the Public Works Department Manual. It is pertinent to mention that their engagement at all relevant times remained under the category of daily wage/permanent gangman and not under the Work Charged or Contingency Paid Establishment. Pursuant to the circular issued by the State Government dated 05/03/2008, which provided for regularization of employees engaged prior to



31/12/1988, the services of the writ petitioners were considered for regularization. In compliance thereof, the Executive Engineer, Public Works Department, Bemetra Division, issued an order dated 26/08/2008 whereby the services of the writ petitioners were regularized against regular posts. It is submitted that this was the first occasion when the writ petitioners were brought into the regular establishment. Thereafter, the writ petitioners continued to serve in the regular establishment until they attained the age of superannuation and retired on different dates. Upon retirement, pensionary benefits were extended to the writ petitioners strictly in accordance with the length of their regular service, i.e., from the date of regularization on 26/08/2008.

4. The State has taken a specific stand that the writ petitioners were never appointed under the Work Charged or Contingency Paid Establishment and, therefore, the provisions of the Work Charged and Contingency Paid Employees Pension Rules, 1979 are not applicable to their case. It is further submitted that there exists a clear distinction between employees appointed under the Work Charged/Contingency Paid Establishment and those engaged as daily wagers or permanent gangmen under the departmental manual. However, reference is also made to the subsequent circular dated 26/05/2018, which provides that in cases where an employee retires before completing the minimum qualifying service of 10 years, the period of service rendered as a daily wager may be taken into account for the limited purpose of completing the



qualifying service for pension.

5. The issue relating to the status and entitlement of such employees has been the subject matter of various litigations before this Court. In certain cases, it has been held that permanent gangmen may fall within the ambit of contingency paid employees. The State has challenged such findings by way of writ appeals before the Division Bench. In one such matter, the decision of the Division Bench was further assailed before the Hon'ble Supreme Court by filing a Special Leave Petition. The Hon'ble Supreme Court, vide order dated 25/02/2022, permitted withdrawal of the said petition with liberty to approach the High Court by filing a review petition. In light of the liberty so granted, the review petition has been preferred by the State seeking reconsideration of the earlier judgment. The primary contention raised is that the writ petitioners were never part of the Work Charged or Contingency Paid Establishment and were regularized only in the year 2008; hence, they are not entitled to the benefits under the Work Charged and Contingency Paid Employees Pension Rules, 1979.
6. By the impugned order, learned Single Judge has disposed of the writ petition filed by the writ petitioners by observing that the judgment passed by the Division Bench in Writ Appeal No.88 of 2019 shall also be applicable in this case to the extent that the service rendered by the petitioners as daily wage employee prior to regularization shall also be counted for the purpose of grant of



retiral dues including pensionary benefit. The implementation of the same shall be after due verification of the service record of the petitioner. Hence, this writ appeal.

7. Learned Deputy Advocate General appearing for the appellants/State submits that The respondents/writ petitioners were initially appointed as daily wager employees due to the availability of work from time to time. Subsequently, vide order dated 01/09/2008, their services were regularized under a regular pay scale. It is respectfully submitted that the services rendered by the writ petitioners prior to regularization, while working as daily wagers, cannot be counted as qualifying service for the purpose of calculating pension and other retirement benefits. This is because daily wage employees are treated differently from temporary and permanent employees under the Madhya Pradesh/Chhattisgarh (Work-Charge and Contingency Paid Employees) Pension Rules, 1979. Rule 3 of these Rules limits the applicability of the pension benefits to permanent members only. To attain the status of a permanent employee under the Rules, an individual must be either a contingency paid employee or a work-charged employee who has completed five years of service or fifteen years of service or more on or after 1st January 1974. The definitions of "Contingency Paid Employee" and "Work-Charged Employee" explicitly exclude those employed for only part of the year, as well as daily wage and muster-roll employees. He further submits that under the Rules, a contingency paid employee is defined as a person employed full-



time in an office or establishment, paid monthly from office contingencies, excluding those employed only part of the year. A work-charged employee is defined as a person engaged in the actual execution or supervision of specified works or departmental labour, excluding daily wage and muster-roll employees. A permanent employee, under Rule 2(c) of the Rules, is one who is a contingency paid or work-charged employee with fifteen years of service or more on or after 1st January 1974, with an amendment issued on 13/09/1982 reducing the threshold to ten years. Rule 6 of the Pension Rules, which deals with the commencement of qualifying service, applies only to employees falling within the scope of Rules 3, 4, and 5. The procedures for pension preparation, sanction, and payment follow the Madhya Pradesh Civil Services (Pension) Rules, 1976, and the Madhya Pradesh New Pension Rules, 1951, applied mutatis mutandis. Judicial precedents have also emphasized that service as a daily wage employee does not automatically confer pension rights. In **Pramodani Mishra vs. State of Chhattisgarh & Others** (04/07/2012), this Court held that engagement on daily wages cannot be counted as service in the department, and such appointments, being outside the legal framework, do not create rights for continuation or pension. However, in **Ram Avtar Verma & Others vs. State of Chhattisgarh & Others** (26/02/2015), it was held that service rendered in temporary positions may be counted as pensionable service if the employee is subsequently



regularized. Following this principle, the State Government issued a circular on 26/05/2018, providing that services rendered by employees as daily wagers, when later regularized under work-charged establishment, may be added to their qualifying service for the purpose of pension. He also submits that the issue of pension eligibility for contingency paid employees is still under judicial consideration. In **Writ Appeal No. 102/2020, State of Chhattisgarh v. Narendra Kumar Upadhyay and Others**, the Division Bench stayed the effect of learned Single Bench order on the matter. Consequently, while the general rule excludes daily wages service from qualifying service for pension, government policy decisions and certain judicial rulings recognize the inclusion of such service if the employee is later regularized, ensuring pension benefits upon retirement. As such, the writ appeal deserves to be allowed and the impugned order passed by learned Single Judge deserves to be set aside.

8. None appears on behalf of the respondents to contest this writ appeal. However, respondent No.1 has filed his preliminary objection stating that that the respondents/writ petitioners were working as contingency paid labour prior to their regularization under the appellants State. The writ petitioners worked full-time on a monthly basis, and their pay was allocated to the “work contingency” fund. The writ petitioners were classified as a “permanent gang” and were granted the benefits of increments and revised pay scales. Their services were regularized under



regular posts as work-charged contingency paid employees, and the writ petitioners have since retired after attaining the age of superannuation. It has been further stated that the writ petitioners retired from Bemetara Division of the Public Works Department. Other retired employees in this Division had filed Writ Petition bearing WPS No.5142/2020 before this Court, which was allowed vide order dated 18.01.2021. The appellants then filed Writ Appeal bearing WA No. 163/2021 before the Division Bench of this Court, which was dismissed on 24.06.2021. Against the order dated 24.06.2021 in WA No. 163/2021, the State filed Special Leave to Appeal (C) No. 20477/2021 before the Hon'ble Supreme Court, which was dismissed as withdrawn on 25.02.2022 with liberty to approach the High Court. Subsequently, the State filed review petition bearing REVP No. 133/2022 before this Court, which was also dismissed on 12.08.2022 by this Court. It has also been stated that the grounds mentioned in the present appeal have already been considered by this Court in earlier petitions, including the order dated 26.02.2015 in WA No. 281/2013. The State had assailed the order dated 26.02.2015 before the Hon'ble Supreme Court, which was dismissed vide order dated 03.03.2017. The writ petitioners were working as work-charged contingency paid employees prior to regularization and were classified as a permanent gang. Therefore, the writ petitioners are entitled to be granted pension from the date of their initial appointment, as ordered by this Hon'ble Court in WPS 6454/2021.



9. We have heard the learned Deputy Advocate General appearing for the appellants/State. Perused the writ appeal, the impugned order dated 22.11.2021 passed by the learned Single Judge, and the preliminary objection filed by respondent No.1.
- 10.By the impugned order, the learned Single Judge had disposed of the writ petition filed by the writ petitioners by observing that the judgment passed by the Division Bench in Writ Appeal No. 88 of 2019 shall also be applicable in this case, to the extent that the service rendered by the writ petitioners as daily wage employees prior to regularization shall be counted for the purpose of grant of retiral dues, including pensionary benefits. The implementation of the same was directed to be carried out after due verification of the service records of the writ petitioners.
- 11.Learned Deputy Advocate General has submitted that the writ petitioners were initially appointed as daily wagger employees, and that service prior to regularization cannot be counted as qualifying service under the Madhya Pradesh/Chhattisgarh (Work-Charge and Contingency Paid Employees) Pension Rules, 1979. It was further argued that only permanent contingency paid or work-charged employees who have completed the required years of service are entitled to pension benefits, and that judicial precedents generally exclude daily wages service from pensionable service unless subsequently regularized.
- 12.On the other hand, respondent No.1 has stated that the writ



petitioners were working full-time as work-charged contingency paid employees prior to regularization, classified as a permanent gang, and were granted increments and revised pay scales. It was further stated that the writ petitioners retired from the Bemetara Division of the Public Works Department and that similar petitions filed by other employees in the Division have been allowed by this Court. Government circulars and previous judgments, including WA No. 281/2013 and WPS 6454/2021, have recognized the inclusion of daily wages service in qualifying service when employees are regularized.

13. Upon consideration of the material on record, the submissions of the learned counsel, and the judicial precedents cited, it is clear that the learned Single Judge has rightly applied the principle laid down in Writ Appeal No. 88 of 2019. The service rendered by the writ petitioners as daily wage employees, which has been subsequently regularized, is to be counted for pensionary and other retiral benefits, subject to verification of service records. The contentions raised by the State in the present writ appeal have already been addressed in earlier judgments and policy decisions. No compelling reason has been shown to interfere with the impugned order.

14. In view of above, we do not find illegality or illegality in the impugned order passed by learned Single Judge warranting interference by this Court. Accordingly, the writ appeal being



devoid of merit is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice