

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO. 5903 OF 2014

1. Smt. Punia Bai W/o Late Chaitram Marar,
aged about 58 years, R/o Village-Amlidih,
Post-Rudgaon, Tahsil-Dongargaon,
District Rajnandgaon (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary,
Public Works Department, Maltralaya,
D.K.S. Bhawan, Raipur (C.G.)
2. Sub Divisional Officer,
Public Works Department (B/R),
Sub Division No.2, Rajnandgaon,
District – Rajnandgaon (C.G.)

---- Respondents

For Petitioner : Mr. Anup Mazumdar, Advocate.
For Respondents : Mr. Shashank Thakur, Govt. Advocate,
along with Mr. Adil Minhaj, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/03/2015

1. The Petitioner through the instant Writ Petition has sought for a relief against the Respondents for a direction to treat the service rendered by the original Petitioner/deceased employee with the Respondents as a pensionable service and to provide pension and arrear of pension to the Petitioner with interest at the rate of 12% per month.
2. Pending the Writ Petition it is learnt that the original Petitioner, Chaitram Marar, has expired and his wife has been substituted as the Petitioner in the Writ Petition and therefore the claim of the Petitioner would now be for grant of arrears of pension and for further granting of family pension.
3. Learned Counsel for the Petitioner submits that the deceased employee in the instant case was appointed on daily wage basis with effect from 1.1.1983 and as per the Rules applicable to the contingency paid employees, he had attained the temporary status with effect from 1.1.1988 i.e. on completion of 5 years of service as daily wage worker. Thereafter, the service of the deceased employee was regularized by the State Government with effect from 20.8.2008. On attaining the age of superannuation, he stood retired from the service with effect from 15.4.2014. Since he had not completed six years of service as a regular employee of the State Government, the State Government did not grant him pensionary benefits, leading to the filing of the present Writ Petition.

4. Contention of the Counsel for the Petitioner is that the service rendered by the deceased employee in temporary status under the Madhya Pradesh/Chhattisgarh (Work Charged Contingency Paid Employees) Pension Rules, 1979 (hereinafter referred to as "the Rules of 1979"), has also to be taken into consideration for computing the qualifying service for the purpose of computing the pensionary benefits. Counsel for the Petitioner in this regard refers to a circular of the State Government, dated 2.3.2005, which is Annexure P-4 with the Writ Petition, whereby it has been held by the State Government that the service rendered by an employee as a temporary status would also be taken into consideration for computing the pensionary service.

5. Counsel for the Petitioner at this juncture further submits that the issue involved in the present case stands squarely decided by the Division Bench of this High Court in Writ Appeal No.1073/2012 and a bunch of other Writ Appeals and Writ Petitions, which stood decided by the Division Bench on 26.2.2015, whereby the Writ Appellate Court has in very categorical terms held that once when an employee in the temporary status and who has subsequently been regularized in service retires, the service rendered in the temporary status by the employee also has to be reckoned for the purpose of computing his pension.

6. Learned Counsel for the State on going through the judgement passed by the Division Bench fairly admits that the case of the Petitioner also is squarely covered by the facts and judgement passed by the Division Bench in Writ Appeal No.1073/2012.

7. Accordingly, the present Writ Petition also is allowed in terms of the judgement passed by the Division Bench on 26.2.2015 in Writ Appeal No.1073/2012, thereby enabling the Petitioner also for receiving family pension under the Rules of 1979.

8. It is expected that the Respondents shall process the case of the Petitioner for grant of family pension at the earliest preferably within a period of four months.

9. With the aforesaid observations, the Writ Petition stands allowed.

Sd/-
P. Sam Koshy
Judge