
(2018) 04 CHH CK 0318
In the Chhattisgarh High Court
Case No : Writ Petition (S) No.5045 of 2010

Radhelal	Vs	APPELLANT
State Of C.G. And Ors.		RESPONDENT

Date of Decision : 25-04-2018

Acts Referred:

Citation : (2018) 04 CHH CK 0318

Hon'ble Judges : P. SAM KOSHY, J

Bench : Single Bench

Advocate : Anup Majumdar, Shashank Thakur

Final Decision : Disposed of

Judgement

1. The relief sought for by the petitioner is for calculating the service rendered by the petitioner as contingency paid employee treating the said period

as qualifying service for the purpose of grant of pension.

2. A perusal of impugned order by itself show that there is admission on the part of the respondent of the petitioner having put in 25 years of service

as contingency paid employee prior to 22.08.2008, the date from which the services of the petitioner was regularized, and he retired as a regular

employee on 28.02.2009.

3. The contention of the petitioner is that if as per circular of the State Govt. the services rendered by the petitioner as temporary 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. 281of 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 six 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 28.05.2010 clearly dealt 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 :

^^Jh jk/ksyky] ijekuasV xSaxeSu vdq'ky Jfed ds :i ess fnukad 01-07-1975 Is dk;Zjr FksA mDr in Ikj 25 o""kZ dh Isok iw.kZ djuss ds i'pkr fnukad 19-08-

2008 }kjk Lohd`r lka[;sRrj in ij vkns'k fnukad 22-08-2008 Is dq'ky Jfed ds :i esa dk;ZHkkfjr Lfkkiuk in ij fu;fer fd;k x;k Fkka rRi'pkr og vf/kokf""kZdh

vk;q iw.kZ dj fnukad 28-02-2009 dks Isokfu`Rr gks x;kA**

A plain reading of the aforesaid contents would by itself show that there is admission on the part of the respondents of petitioner having worked for 25 years before 22.08.2008 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 :

â??11.Â 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.â??

7. Indisputably, the petitioner had put in about 25 years of service before regularization. The said period appears to be that as 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 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 temporary contingency paid employee prior to 22.08.2008, 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 shall be passed by the respondent 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 writ petition is accordingly disposed of.