

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 25th OF JANUARY, 2024

WRIT PETITION No. 1402 of 2023

BETWEEN:-

**SHANKAR LAL RAGHUVANSHI S/O MANGILAL, AGED ABOUT 62 YEARS,
OCCUPATION: RETIRED, (MECHENIC) NEW DURGA COLONY,
MARIMATA CHOURAHA, INDORE (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI KARPE PRAKHAR MOHAN, ADVOCATE.)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH SECRETARY VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**
- 2. ENGINEER IN CHIEF PUBLIC HEALTH ENGINEERING DEPARTMENT JAL BHAWAN BANGANGA BHOPAL (MADHYA PRADESH)**
- 3. CHIEF ENGINEER PUBLIC HEALTH ENGINEERING DEPARTMENT INDORE DIVISION TUKOGANJ INDORE (MADHYA PRADESH)**
- 4. EXECUTIVE ENGINEER PUBLIC HEALTH ENGINEERING DEPARTMENT DIVISION 2 MUSAKHEDI INDORE (MADHYA PRADESH)**
- 5. JOINT DIRECTOR TREASURY AND ACCOUNTS INDORE DIVISION INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI TARUN KUSHWAH, GOVERNMENT ADVOCATE.)

This petition coming on for orders this day, the court passed the following:

ORDER

01. The petitioner has filed the present petition seeking direction to the respondent to count his service rendered from 22.12.1986 till 27.11.1992 when he worked as a Mechanic in a pay-scale of Rs.515 –

800 in a contingency paid establishment under म.प.सेवक कार्यभारित स्थायी तथा अर्धस्थायी सेवा नियम, 1960.

02. Initially, this petitioner was appointed as daily rated employee in Public Health and Engineering Department, Division Ujjain. On a recommendation of Departmental Selection Committee he was selected and appointment to the post of Mechanic in a pay-scale of Rs.515 – 800 in contingency paid establishment. He continued on the said post and thereafter, vide order dated 27.11.1992 he was appointed against the regular post of Mechanic in a pay-scale of Rs.1150 – 1800. After attaining the age of superannuation he retired from service on 30.04.2022.

03. Respondent calculated his monthly pension Rs.22,528/- counting his service from 27.11.1992 till date of retirement and other benefits were also calculated accordingly hence, this petitioner has filed the present petition seeking direction to the respondent to count his service from 01.01.1987 till 27.11.1992 i.e. 5 years 10 months 27 days.

04. Before filing this petition, he submitted a representation on 15.12.2022 which came to be rejected vide order dated 19.12.2022 on the ground that in contingency establishment he served less than 6 years, therefore, said period cannot be counted for the purpose of pension hence, this petition before this Court.

05. The respondent filed the reply by submitting that in view of the circular issued by Finance Department dated 30.01.1996 only 6 years of service under contingency and work charged establishment is liable to be counted for the purpose of pension on absorption in regular establishment. The Rule 6 of the M.P. (Work charged Contingency Paid Employee) Pension Rules, 1979 (for brevity “Rules of 1979”) says that subject to the provision of Chapter 3 of M.P. Civil Services (Pension)

Rules, 1976 (for brevity “Rules of 1976”) for calculating the qualifying service of the permanent employee who retires as such, the service rendered with effect from the 1st January, 1959 onwards shall be counted. Rule 6 nowhere prescribes the period of service in the Work Charged and Contingency Establishment and if the services rendered in the aforesaid establishment followed with a regular service then in view of the Rule 6, the said service rendered under the Rules of 1979 are liable to be counted for pension under the Rules of 1976. Even Sub-Rule 2 of Rule 6 of 1979 Rules nowhere prescribes the period of service, therefore, without amending the Rules, the Finance Department by circular dated 30.01.1996 cannot restrict this for 6 years.

06. So far as the definition of permanent employee in Rules of 1979 is concerned, that applies to those employees who became permanent in Work Charged and Contingency Establishment and retired in the said establishment then their 10 years and now 6 years’ service is liable to be treated as pensionable service. But in this case, this petitioner after serving 5 years 10 months 27 days in Contingency Establishment was taken in the regular establishment and retired from regular establishment, therefore, Rule 6 will apply and this service rendered in Work Charged and Contingency Establishment shall be counted for pension.

07. In view of the above, Writ petition is **allowed**. Impugned order dated 19.12.2022 is hereby quashed. The pension of the petitioner be revised by calculating his service from 22.12.1986 with all consequential benefits.

(VIVEK RUSIA)
JUDGE

Divyansh