

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

**BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL**

ON 1ST OF APRIL, 2025

WRIT PETITION No. 5364 of 2017

AMRIT LAL PATEL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance

Shri Pushpendra Kumar Verma - Advocate for the petitioner.

Shri K.S. Baghel - Government Advocate for respondents/State.

ORDER

This writ petition has been preferred by the petitioner seeking direction against the respondents to the effect that services rendered by the petitioner as daily wager should also be counted for the purpose of pensionary benefits.

2. Learned counsel for the petitioner submits that the petitioner was appointed as daily wager vide order dtd.26.07.1982 (Annexure P/1) and thereafter he was regularized in regular establishment vide order dated 06.07.1990 (Annexure P/2). As for the purpose of pension, the respondents did not count the petitioner's services w.e.f. 26.07.1982, therefore, the petitioner preferred instant writ petition. He submits that in the light of decisions given by this Court in the case of Laxmikant Mishra vs. State of M.P. and Ors. in **W.P. No.5133/2016 on 27.07.2016**; State of M.P. and Ors. vs. Laxmikant Mishra in **W.A. No.366/2017 on 01.09.2017**; affirmed by Hon'ble Supreme Court by dismissing the SLP on **18.05.2018**; Gaurishankar Pandey vs. State of M.P. and Ors. in **W.P. No.16652/2016 on 04.10.2017**; Ramendra vs. State of M.P. and

ors. in **W.P. No.17940/2023 on 19.03.2024**; and Ram Gopal Charmkar vs. State of M.P. and Ors. in **W.P. No.32520/2024 on 24.10.2024**, past services of the petitioner even as a daily wager w.e.f. 26.07.1982 deserve to be counted for the purpose of pension.

3. Learned counsel for respondents/State submits that petitioner was not appointed in accordance with the rules, therefore, Madhya Pradesh Civil Services (Pension) Rules, 1976 are not applicable to the petitioner, and only the Madhya Pradesh (Work Charged and Contingency Paid Employees) Pension Rules, 1979 will apply to the case of petitioner. He submits that even though the petitioner was regularized, but his services rendered prior to his regularization do not deserve to be counted. In support of his submissions, learned counsel placed reliance on a Full Bench decision of this Court in the case of Mamta Shukla vs. State of Madhya Pradesh and Others, **2011 (3) MPLJ 210** as well as decisions of coordinate Benches of this Court in Rameshwar Prasad Pyasi vs. State of Madhya Pradesh and Ors. in **W.P. No.10365/2013 on 21.02.2023**; Ku. Lata Jain vs. State Of M.P. and ors. in **W.P. No.2664/2020 on 25.10.2023**; and Ashok Kumar Sharma vs. State of M.P. and Ors. in **W.P. No.29982/2023 on 19.12.2023** and prays for dismissal of writ petition.

4. Heard learned counsel for the parties and perused the record.

5. Undisputedly the petitioner was appointed as daily wager vide order dated 26.07.1982 (Annexure P/1) and thereafter he was regularized in regular establishment vide order dated 06.07.1990 (Annexure P/2). It is informed by the counsel for the petitioner that during pendency of instant petition, the petitioner has been retired on 31.01.2021. However, there is no dispute on record that for the purpose of pension, petitioner's services w.e.f. 06.07.1990 (the date of regularization) has already been counted by respondents and the petitioner is being paid the pension accordingly.

6. In the case of Laxmikant Mishra (**supra**), a Coordinate Bench of this Court had taken into consideration the decision of Division Bench of this Court in the case of State of M.P. vs. Rahisha Begum reported in **2010(4) MPLJ 332**, which was affirmed by Hon'ble Supreme Court in **SLP (Civil) No.CC 4671/2012 on 23.03.2012** and a Full Bench decision of this Court in the case of Mamta Shukla (**supra**) and held that, even though the petitioner was engaged as daily wager, his services prior to his date of regularization, deserve to be counted for the purpose of pensionary benefits.

7. The order dated 27.07.2016 passed in **W.P. No.5133/2016** (Laxmikant Mishra vs. State of Madhya Pradesh and Ors.) was challenged by State Govt. in **writ appeal No.366/2017**, which vide **order dated 01.09.2017** was dismissed by Division Bench of this Court and was also affirmed by Hon'ble Supreme Court by dismissing the **SLP on 18.05.2018**. If the facts as mentioned in the order dated 01.09.2017 passed in W.A. No.366/2017 are taken into consideration, they are completely identical to the facts of instant case.

8. As such, in my considered opinion, in the light of decisions in the case of Rahisha Begum (**supra**) and Laxmikant Mishra (**supra**), which have been affirmed upto Hon'ble Supreme Court, the petitioner is also entitled for the same benefit.

9. Apparently, the decisions of coordinate Benches of this Court, relied upon by learned counsel for the respondents/State, have not considered the aforesaid two decisions in the case of Rahisha Begum (**supra**) and Laxmikant Mishra (**supra**) already affirmed upto Hon'ble Supreme Court, therefore, are not having binding effect and do not provide any help to the respondents.

10. Accordingly, this writ petition is allowed and disposed off with the direction to the respondents to count services of the petitioner rendered by him as daily wager w.e.f. 26.07.1982 for the purpose of pension.

11. With the aforesaid, this writ petition is **allowed** and disposed off.
12. Misc. application(s), pending if any, shall stand closed.

(DWARKA DHISH BANSAL)
JUDGE

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