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WP-22606-2021

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 5th OF DECEMBER, 2025

WRIT PETITION No. 22606 of 2021

RAMKUMAR SONDHIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Ashok Kumar Gupta - Advocate for the petitioner.

Shri Aryaditya Singh - Panel Lawyer for the respondent/State.

.....
WITH

WRIT PETITION No. 22603 of 2021

MANGAL PRASAD SONDHIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Ashok Kumar Gupta - Advocate for the petitioner.

Shri Aryaditya Singh - Panel Lawyer for the respondent/State.

.....
WRIT PETITION No. 23634 of 2021

SAFIQUE MOHAMMAD

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Ravinandan Dwivedi - Advocate for the petitioner.

Shri Aryaditya Singh - Panel Lawyer for the respondent/State.

WRIT PETITION No. 14862 of 2025**NATTHULAL GUPTA***Versus***THE STATE OF MADHYA PRADESH AND OTHERS**

Appearance:*Shri Ashok Kumar Gupta - Advocate for the petitioner.**Shri Aryaditya Singh - Panel Lawyer for the respondent/State.*

ORDER

Regard being had to similitude of the facts of all the cases, they are heard analogously and being decided by a common order. For the sake of convenience, WP No.22606/2021 is taken as lead case and facts are taken therefrom.

2. The present petition under Article 226 of the Constitution of India has been filed seeking following reliefs :

"(i) That, it is therefore, prayed that Hon'ble Court may kindly be pleased to quash the impugned Clause 10 of order dated 18.04.2013 (Annexure P/1) and further may kindly be pleased to issue a writ of Mandamus commanding the respondents/competent authority to grant the pension as per Rule 6(3) of the M.P. Work Charged and contingency paid employees Pension Rules 1979 and prepared the pension case and also pay the gratuity amount accordingly with 12% interest, in the interest of justice.

(ii) Any other relief deems fit may also be granted including cost of litigation."

3. It is contended by learned counsel for the petitioner that the petitioner has been employed under the Work Charged Contingency



Establishment w.e.f. 01.01.1981, as it is reflected from the order dated 18.04.2013 (Annexure P/1) by which the petitioner's services have been regularized under the Rules of Work-Charged and Contingency Paid Employees (Recruitment and Conditions of Service) Rules, 2012. It is submitted that the petitioner is aggrieved by the condition No.10 of the appointment by which it has been mentioned that the petitioner would not be entitled for pension under the Madhya Pradesh Civil Services (Pension) Rules, 1972 (for short 'the Rules of 1972') and the petitioner would be treated as member of the Contributory Pension Scheme of 2005.

4. It has been submitted by learned counsel for the petitioner that as per Rule 6(3) of the Madhya Pradesh (Work Charged and Contingency Paid Employees) Pension Rules, 1979 (for short 'the Rules of 1979'), the petitioner was entitled for pension even without regularization because the petitioner has earned the status of permanent employee as per Rule 2(c) of the said Rules which provides that the employee of Work Charged Contingency Establishment on completion of 10 years of service attains the status of a permanent employee automatically and becomes entitled for pension. Thus, it is prayed that such condition is de hors the Rules of 1979 and unconstitutional, deserves to be quashed by granting relief to the petitioner of pension under the Rules of 1979.

5. Per contra, learned counsel for the State has submitted that as



the petitioner has been regularized in the year 2013, his services would be counted from the date of regularization. Petitioner in W.P.No.22606/2021 stood retired w.e.f. 30.04.2020, in W.P.No.22603/2021 w.e.f. 31.07.2020, in W.P.No.23634/2021 w.e.f. 29.10.2020 and in W.P.No.14862/2025 w.e.f. 31.07.2022 and as the petitioners have not completed the qualifying service of 10 years, the petitioners are not entitled for pension. It is further submitted that in the regularization letter dated 21.04.2020 (Annexure P/2), the condition No.10 was very well known to the petitioner but the petitioner never challenged the same, thus, the petitioner after retirement cannot challenge such regularization which is barred by the principle of estoppel and also by time. It is submitted that as the petitioner was appointed/regularized after year 2005, when the Contributory Pension Scheme was announced and made applicable in the State of Madhya Pradesh, the petitioner has been paid the entire amount after retirement and now nothing is left to be paid to the petitioner. It is further submitted that in similar facts of the case, this Court in the case of *Manohar Annaji Jain vs. The State of Madhya Pradesh (W.P.No.1140/2023 decided on 24th March, 2023)* (Annexure R/2), has declined relief of pension on the basis of Old Pension Scheme. It is also submitted that Rule 6(3) of the Rules of 1979 is not applicable in the present case in hand as it has come in force with effect from 27.02.2023 and prayed for dismissal of the petition.



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

7. It is evident from the order Annexure P/1 that the petitioner was employed as daily wager with effect from 01.01.1981. The heading of the column of the table reads as - दैनिक वेतन भोगी कर्मचारी का नाम, वर्तमान पदस्थापना, विभाग में उपस्थिति दिनांक - that itself shows that the petitioner was the member of the Work Charged Contingency Establishment with effect from 01.01.1981.

8. Rule 2(c) of the Rules of 1979, reads as under :

"2(c) – Permanent employee" means a contingency paid employee or a work-charged employee who has completed fifteen years of service or more on or after the 1st January, 1974.

Provided that in respect of a contingency paid employee or a workcharged employee who has attained the age of superannuation on or after the First April 1981, permanent employee means an employee who has completed 10 years of service on or after the 1st January 1974."

9. Rule 2(c) of the Rules of 1979 confers permanent status on the employee of the contingency paid employee or work charged employee who has completed 15 years of service or more, on or after 01.01.1974 with the proviso that the employee who has attained the age of superannuation on or after 1981, permanent employee means who has completed 10 years of service on or after 01.01.1974.

10. Admittedly, the petitioner has been superannuated in the year 2020 i.e. after 01.04.1981, thus applying the proviso to Rule 2(c), the petitioner has attained the status of permanent employee on completion



of 10 years of service from 1981 i.e. in 1991.

11. Rule 6 of the Rules of 1979 reads as under:

"Rule 6 – Commencement of qualifying service – (1) Subject to the provisions of chapter III of the Madhya Pradesh Civil Services (Pension) Rules, 1976 or Section IV of the Madhya Pradesh New Pension Rules, 1951 as the case may be, for calculating qualifying service of a permanent employee who retires as such, the service rendered with effect from the 1st January, 1959 onwards shall be counted.

(2) On absorption of a permanent employee without interruption against any regular pensionable post, the service rendered with effect from 1st January, 1959 onwards shall be counted for pension as if such service was rendered in a regular post."

12. According to Rule 6(2) on absorption of a permanent employee against a regular pensionable post, the services rendered with effect from 01.01.1959 onwards, shall be counted for pension as if the service was rendered in a regular post that itself shows that the petitioner who has been employed in 1981, though as a daily wager but paid monthly salary from the said establishment has qualified the service of 10 years for the purpose of pension.

13. If the order of regularization of 2013 (Annexure P/1) is kept aside, then also the petitioner was entitled for the pension as the petitioner had completed 10 years of service in the year 1991, which is prior to application of the scheme of 2005 in the State of Madhya Pradesh. Thus, when the petitioner has accrued some right by operation



of law that cannot be snatched away by administrative action of regularizing the petitioner on a later date and holding that as the petitioner was regularized on a later date, with condition of new pension scheme the petitioner is not entitled for pension in accordance with the Rules of 1979.

14. This Court in catena of cases has held that if the employee has completed 10 years of service, he has attained the status of permanent employee and also qualified for the purpose of pension.

15. The Division Bench of this Court in the case of ***Bhajanlal Malviya vs. State of Madhya Pradesh & ors.*** (W.A.No.561/2017 decided on 11.04.2018), has held :

"Thus, in view of the proviso to Rule 2(c) of "Rule 1979" it is held that the petitioner, on completion of 10 years of service counting from the date of appointment on Contingency i.e. from 29.10.1999, has attained the status of permanent employee automatically under Clause 2(c) of Rules, 1979 and becomes entitled to the pension."

16. Further, co-ordinate Bench of this Court in the case of ***Bakhatlal vs. State of Madhya Pradesh & ors.*** (W.P.No.6355/2017 decided on 13.07.2017), has held :

"4. In the opinion of this Court, the point involved in this case is no more res integra. In WP No.1205/2006 (Ram Gopal Dubey vs. State of M.P. and others), this court has opined as under:

"2. ... The second grievance of the petitioner is that he has not been paid pension and gratuity on the ground that he has not



completed 10 years of service in work charge establishment.

3. Shri Tamrakar submits that relevant rules namely Madhya Pradesh (Work Charged and Contingency paid Employees) Pension Rules, 1979 stood amended w.e.f 30/01/1996. As per this amendment, the petitioner is entitled to get pension on completion of 6 years of services, which he had admittedly rendered. The reliance is placed on following judgments:-

(1) 2003(4)MPLJ376 (Shrikrishn Shrivastava Vs. State of M.P); (2) 2006 (4) MPLJ 112 (Shamim Begum Vs. State of M.P) 2. (3) 2007 (2) MPHT 51 (Shyama Bai Vs. State of M.P) 3. (4) 2012 (3) MPLJ 214 (Harinarayan Vs. State of M.P) 4. (5) 2011 (2) MPHT 113 (Mohd. Sadik Vs. State of M.P) 5. (6) 2010 (4) MPLJ 332 (Raheesa Begum Vs. State of M.P) 6. (7) 2011 (3) MPLJ 2010 (Mamta Shukla Vs. State of M.P) 7. (8) 2002 (2) MPLJ 278 (Gopa Pillai Vs. MPEB) 8. (9) 2014 LIC 3503 (Shankarlal Vs. State of M.P) 9. (10) 2011 LIC 265 (Chandrashekhar Vs. State of M.P) 10. (11) W.A No. 179/2010 (State of M.P Vs. Ramchandra) decided on 05/08/2013.

4. Shri Kekre, learned G.A opposed the relief on the basis of reply filed.

5. I have heard learned counsel for the parties at length and perused the record.

6. The notification by which the aforesaid amendment was brought into force reads as under:-

**GOVERNMENT OF MADHYA PRADESH,
FINANCE DEPARTMENT
NOTIFICATION**

Bhopal, Dated 30/01/1996



B-25/17/95/PWC/IV. In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Madhya Pradesh hereby makes the following further amendment in the Madhya Pradesh (Work Charged and Contingency paid Employees) Pension Rule 1979, namely:-

AMENDMENT

In the said rules, after sub-rule (2) of rule 6, and following sub rule shall be added, namely:- “(3) On absorption of temporary employee without interruption against any regular pensionable post, the service rendered with effect from 1st January, 1974 onwards, if such service is of not less than six years shall be counted for pension as if such service was rendered in a regular post.”

*By order and in the name of the Governor of Madhya Pradesh,
(S.G. Limaye)
Deputy Secretary to Govt. of M.P.
Finance Department
(Emphasis Supplied).*

7. This Court has considered the effect of said amendment in the judgments cited by Shri S.R. Tamrakar, learned counsel for the petitioner. As per amended provision, the petitioner is entitled to get pension and retiral dues. Thus action of the respondents in not treating the petitioner eligible for grant of pension and retiral dues cannot be accepted and approved. The petitioner is entitled to get pension and retiral dues because he has rendered more than 6 years of services from 01/01/1996.

..... Respondents are directed to treat the petitioner as eligible for grant of pension and retiral dues. They shall calculate the pension and retiral dues from the due date and make payment from the due date to the petitioner within 90 days



from the date of production of copy of this order, failing which it will carry 12% interest till the date of realization.”

5. In the light of the order passed by this Court and on account of the notification dated 30.1.1996 mentioned hereinabove, petitioner has completed the qualifying service and is entitled to get pension and retiral dues.”

17. The case law relied by the respondent/State as Annexure R/2 have distinguishable facts as the petitioner in that case was given fresh appointment after 2005. Thus, the said case is not applicable in the present case in hand, as the petitioner was not given fresh appointment in the year 2013 but his services were regularized after continuation of long period of service in the Work Charged Contingency Establishment. As, it has already been held by this Court that on completion of 10 years of service the employee earns the status of permanent employee and he becomes entitled for the pensionary benefits after absorption in the establishment. The contention of the respondent/State is not tenable in the eye of law.

18. The State Government vide notification dated 27.02.2023 has made amendment in the Rules of 1979 by appending Rule 6 (3) which has been made applicable retrospectively with effect from 30.01.1996, which also provides that if the temporary employee has continued in service for a long time without interruption, shall be counted for the purpose of pension as if such employee has been appointed on the regular basis.

19. Respondent could not make out any case that petitioner's



initial appointment was de hors the Rules as the respondents in the order dated 18.04.2023 (Annexure P/1) themselves have written that the petitioner was employed as daily wager in the establishment with effect from 01.01.1981, thus, respondent cannot take benefit of the judgment passed by the Full Bench of this Court in the case of *Smt. Mamta Shukla vs State of M.P. & Others (2011) 3 MPLJ 210*.

20. In view of the aforesaid analysis of factual matrix of the case, the petition is *allowed*. The condition No.10 as imposed in the order dated 18.04.2013 (Annexure P/1), is hereby quashed.

21. Respondents are directed to treat the petitioner as permanent employee under Work Charged Establishment and grant all the pensionary benefits as per the Rules of 1979. The respondents are also directed to pay the arrears of the pension from the date of his retirement, adjusting the amount the petitioner has received from the respondents after his retirement as pensionary benefits.

22. The entire exercise be completed within 06 months from the date of production of certified copy of this order. In case such exercise, including release of payment, is not completed within 06 months, the same shall carry interest @ 6% per annum.

23. With the aforesaid, the petitions are allowed and disposed of.

(DEEPAK KHOT)
JUDGE



anand

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