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WA-2562-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 26th OF OCTOBER, 2026WRIT APPEAL No. 2562 of 2026

CNR No.: MPHC010514842026

*MUNEENDRA PRASAD PANDEY AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri M.P.S. Raghuwanshi, learned Senior Advocate with Shri Brindavan Tiwari, Shri Manish Gurjar and Shri Kanchan Tiwari, learned counsel for the appellants.

Shri Rajesh Tiwari, learned Government Advocate on behalf of the respondent/State on advance notice.

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Reserved on: 06.10.2026

Pronounced on: 26.10.2026
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ORDER

Per. Justice Vivek Rusia

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The present writ appeal is filed challenging the order dated 27.9.2025 passed in W.P. No.27044/2022 whereby the writ court has dismissed the writ petition wherein the appellants (employees of the Water Resources Department) prayed that services rendered by them prior to their regularisation be counted for the purpose of pension.

2. The appellants contend that they were appointed on or before



1988 and were drawing their wages on a monthly basis and their wages were charged from the contingency fund received to the Department. On 11.11.1997, the General Administration Department issued a circular regarding regularization of Sub Engineers appointed on daily wages on or before 31.12.1988. Pursuant whereupon, they were regularised vide orders passed some time in year 2004-2005. The appellant averred that as per Madhya Pradesh Work Charged and Contingency Paid Employee (Pension) Rules, 1979 a permanent employee is a contingency-paid employee or a work-charged employee who has completed 15 years on or after 1.1.1974, which period was reduced to 10 years vide Notification dated 13.09.1982 and further to 06 years as per Notification of the Finance Department dated 30.01.1996.

3. Learned senior counsel for the appellants contend that the learned writ court, without considering the aforesaid notifications and the judgment of this court as well as that of the Apex Court, erred in not extending the benefit of pension to the appellants.

4. The respondents, on the contrary, placed on record a copy of the order of the writ court dated 10.8.2026 passed in the case of *Kalyan Singh Gound vs. The State of Madhya Pradesh and Others* (WP No. 1710 of 2019) to highlight that the learned writ court has referred the matter to a larger bench by stating thus:-

"25. Therefore, the registry is directed to place the matter before the Hon. Acting Chief Justice for referring the matter to the Larger Bench to clear the



ambiguity and the conflict of judgments rendered by the Full Bench in the case of Mamta Shukla Vs. State of M.P. (supra) in W.P.(S) No.2902/2009 (Gwalior) decided on 19.4.2011, Division Bench in the case of Pannalal Vs. Public Works Department and others (Writ Appeal No.827/2019 Indore Bench, decided on 10.3.2025) and by the coordinate bench in the case of Bakhatlal Vs. State of Madhya Pradesh decided on 13.7.2017 in W.P.No.6355/2017 and in the case of Ram Vishal Pateria Vs. State of Madhya Pradesh (supra) decided on 27.9.2025 in W.P.No.751/2020 ,on following questions :-

i) What would be the qualifying service of a daily wager to claim benefit of pension on his absorption in the work charged contingency establishment and in the regular establishment in the light of Rules of 1976 and Rules of 1979 respectively?

ii) Whether the period of service rendered by a daily wager prior to absorption shall be counted for the pensionary benefits?

5. The appellants are only aggrieved by the limited relief granted in para No.60(i) in the writ petition whereby the writ court has directed that the services rendered by the appellants in excess of 15 years as monthly paid employees by the State shall be reckoned for the calculation of length of service for payment of pension. Meaning thereby, the services rendered from the date, next immediately after completion of 15 years as monthly paid daily rated employee shall be counted towards pensionable service after regularisation. The appellants have been given liberty to challenge the validity of sub-rule (3) of Rule 6 inserted by way of notification dated 27.2.2023. Para 60(i) is reproduced below:-

"60. Therefore, in view of Paragraph-13 of the judgment in case of Vishnu Mutiya (supra), and looking to the position that the petitioners are temporary contingency paid employees as they are were being paid



on a monthly basis prior to regularization, therefore, the services, if rendered as monthly paid Daily rated employee, have to be treated as permanent contingency paid employee, if at least 15 years of service had been completed prior to regularization. Therefore, the petitions are partly allowed in the following terms:-

(i) The services rendered by the petitioners in excess of 15 years as monthly paid employees though declared as daily rated employees by the State shall be reckoned as services for the purpose of calculation of length of service for pension. In other words, the services from date next immediately after completion of 15 years as monthly paid daily rated employee shall be counted towards pensionable service after regularization."

6. According to the appellant, their entire service is liable to be counted for the pensionary benefits under Rule 1977. As per definition of Rule 2(b) the contingency paid employee means a person employed for full time in an office or establishment and who is paid on monthly basis and whose pay is charged to the office contingencies. The Pension Rules, 1979 apply to contingency-paid employees who have acquired the status of permanent employee under Rule 2(c).

7. The provisions of the M.P. Public Works Department (Work Charged and Contingency Paid Employees Recruitment and Conditions of Service) Rules, 1976 are liable to be examined. Rule 2(b) defines a ***contingency-paid employee*** as an employee who is paid on a month-to-month basis and whose wages are charged to the contingency fund of the office/department. Rule 6 categorises employees into two categories, namely permanent and temporary.



8. Rule 2(c) of the Madhya Pradesh Work Charged and Contingency Paid Employee (Pension) Rules, 1979 defines a permanent employee to mean a contingency-paid employee or a work-charged employee who has completed 15 years or more of service on or after 1st January, 1974. However, vide Notification dated 13.09.1982, the period of 15 years has been reduced to 10 years for conferring permanent status; later on, vide Finance Department Notification No. B- 25/17/95/PWC/4 dated 30.01.1996, it has further been reduced from 10 years to 6 years. Therefore, a contingency-paid employee or a work-charged employee who has completed 6 years or more of service becomes a permanent employee and becomes eligible for the pension under the Pension Rules, 1979.

9. For ready reference, Rule 6 of the aforesaid Pension Rules, 1979, reads as under:-

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."

10. The Supreme Court of India, in the case of ***Prem Singh v. State of***



U.P., reported in (2019) 10 SCC 516 has struck down exclusionary rules that barred counting work-charged/contingency services, holding that continuous long-term service must be counted towards qualifying pension service to prevent exploitation. Paragraphs 33 & 34 of the above decision are as under:-

"33. The question arises whether the imposition of rider that such service to be counted has to be rendered in-between two spells of temporary or temporary and permanent service is legal and proper. We find that once regularisation had been made on vacant posts, though the employee had not served prior to that on temporary basis, considering the nature of appointment, though it was not a regular appointment it was made on monthly salary and thereafter in the pay scale of work-charged establishment the efficiency bar was permitted to be crossed. It would be highly discriminatory and irrational because of the rider contained in the Note to Rule 3(8) of the 1961 Rules, not to count such service particularly, when it can be counted, in case such service is sandwiched between two temporary or in-between temporary and permanent services. There is no rhyme or reason not to count the service of work-charged period in case it has been rendered before regularisation. In our opinion, an impermissible classification has been made under Rule 3(8). It would be highly unjust, impermissible and irrational to deprive such employees benefit of the qualifying service. Service of work-charged period remains the same for all the employees, once it is to be counted for one class, it has to be counted for all to prevent discrimination. The classification cannot be done on the irrational basis and when respondents are themselves counting period spent in such service, it would be highly discriminatory not to count the service on the



basis of flimsy classification. The rider put on that work-charged service should have preceded by temporary capacity is discriminatory and irrational and creates an impermissible classification.

34. As it would be unjust, illegal and impermissible to make aforesaid classification to make Rule 3(8) valid and non-discriminatory, we have to read down the provisions of Rule 3(8) and hold that services rendered even prior to regularisation in the capacity of work-charged employees, contingency paid fund employees or non-pensionable establishment shall also be counted towards the qualifying service even if such service is not preceded by temporary or regular appointment in a pensionable establishment."

11. In our considered view, Rule 6(2) nowhere provides that past services are to be counted only from the date of attaining permanent status as a work-charged employee. It provides that once a contingency-paid employee is granted permanent status after six years, the benefit of the entire past service, including the service rendered as a contingency-paid employee from the very beginning, has to be counted for the purpose of pension.

12. Accordingly, the finding recorded by the Writ Court to the effect that the appellants would be entitled to the benefit of counting only such past services as were rendered in excess of 15 years as monthly-paid employees for the purpose of pension is hereby quashed. It is hereby held that for grant of pension after regularisation, services of the appellants from the date of initial appointment shall be counted as qualifying service under the M.P. Civil (Pension) Rules, 1976.



13. The Writ Appeal is accordingly allowed.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

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