

**Valli Vs. the State of Madhya Pradesh**

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**SooperKanoon Citation :** [sooperkanoon.com/1038933](http://sooperkanoon.com/1038933)

**Court :** Madhya Pradesh

**Decided On :** Feb-01-2013

**Appellant :** Valli

**Respondent :** The State of Madhya Pradesh

**Advocate for Pet/Ap. :** Shri. Rajendra Pandey

**Judgement :**

1 W.

P.No.1341/2013 W.P.No.1341/2013 01.02.2013 Shri Rajendra Pandey, learned counsel for the applicant.

Ms.Sheetal Dubey, learned Government Advocate for the respondent on advance notice.The petitioner by way of present petition seeks direction to respondent to grant pension under M.P.(Work Charged and Contingency Paid Employees) Pension Rules, 1979.

Having been engaged on daily wages on 01.01.1950 in Public Works Department, Government of Madhya Pradesh, petitioner was regularized by order dated 13.7.1998 w.e.f.1.1.1996 in grade Rs.825-1220/-.

After rendering 5 years 4 months and 30 days of service in the Regular Establishment petitioner retired on attaining the age of superannuation w.e.f.31.05.2001.

Petitioner thereafter, approached authorities concerned for grant of pension, however, no head was paid.

In the meantime, decision came to be rendered 2 W.

P.No.1341/2013 by Division Bench of this Court in W.P.No.216/2006 dated 27.02.2008 (State of M.P.v.

Smt.

Kamla Bai).whereby the persons as the petitioner were extended benefit of pension under 1979, Rules.

It is contended by learned counsel for the petitioner that, petitioner since is similarly situated as Kamla Bai in whose favour the aforesaid writ appeal has been decided, the respondents are bound to consider the claim of the petitioner.

In Kamla Bai (supra) Division Bench of this Court while taking into consideration the provision contained in Rule 2 (c) read with Rule 6 of Rules of 1979, held- From a perusal of the provision contained in the Rules, for calculating qualifying service of a permanent employee who retired as such, service rendered with effect from 1st January, 1959, is required to be counted and on absorption as a permanent employee without interruption against a regular post, service rendered with effect from 1st January, 1959 onwards is to be counted for pension as if such service was rendered in the regular post.

It is luculent from the rule that fiction has been introduced about the regularity of the service rendered prior to the 3 W.

P.No.1341/2013 absorption of a permanent employee as if the said service was rendered in a regular post.

Under these circumstances, notwithstanding the nature of the service rendered earlier from 1962, since it has not been denied that later he was made a permanent employee against a regular pensionable post, his service would count from the inception i.e.from 1962 as service rendered in the regular post.

Thus, in the anvil of the definition of permanent employee.

contained in Rule 2(c) and the method of computation provided in Rule 6 of the said Rules, the deceased husband of the respondent has rendered requisite length of service to become entitled to pension.

Ex consequentia, the respondent also became entitled to receive pension.

Under these circumstances, we do not perceive any infirmity in the order passed by the learned single Judge.

Though it appear that, sub-Rule (3) added to Rule 6 of 1979 Rule vide notification FD not B-25/17/95/PWC/IV dated 30.01.1996 (which provided for- (3).fdlh vLFkbbZ deZpkjh ds fcuk fdlh O;o/kku ds fdlh Hkh fu;fer isa'ku ;ksX; in ij lafoky;u fd;s tkus ij 1 tuojh 1974 ls vkxs dh dh xbZ lsok c'krZs fd ,slh lsok Ng okZ ls de dh u gks].isa'ku ds fy;s fxuh tk,xh].ekuks fd ,slh lsok fdlh fu;fer in ij dh xbZ gks A.) was not noted by the Division Bench, which provided for 4 W.

P.No.1341/2013 counting of six years service rendered in Work Charged Establishment without interruption prior to regularization in a regular department, however, the same will not effect the out come of the judgment wherein the years of service rendered in Work Charged Establishment has been directed to be taken into consideration under 1979 Rules.

In the case at hand, admittedly prior to the petitioner's regularization in regular establishment he has rendered more than 25 years of service in Work Charged and Contingency Paid Establishment; therefore, though the petitioner rendered only 5 years 4 month and 30 days of service in regular establishment he was entitled for six years grace i.e.taking into consideration the services rendered in the work charged establishment rendered before his regularization.

The same then would have entitled the petitioner for pension under Rule 4 (2) of 1979 Rules read with Rule 43 (2) of Madhya Civil Service (Pension) Rules, 1976.

Pertinent it would be at this stage to note that the order passed by Division Bench of this Court in 5 W.

P.No.1341/2013 Smt.

Kamla Bai (Supra).has been affirmed by the Supreme Court by order dated 16.03.2010 passed in Special Leave to Appeal (Civil) No.10133/2009.

In view of above, present petition is disposed of with a direction to respondents to consider the claim of the petitioner for grant of pension under 1979 Rules in the light of decision rendered in Smt.

Kamla Bai (supra) as well the provisions contained under Rule 6 (3) read with Rule 4 (3) of 1979 Rules read with Rule 43 (2) of 1976 Rules.

Let decision be taken within a period of three months from the date of communication of this order and the arrears be paid within said period.

Petition is disposed of finally in above terms.Cc as per rules.

(SANJAY YADAV) JUDGE Loretta

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