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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2377 of 2014**

1. Rajendra Kumar Dongre S/o Late Shri Jatiram Dongre Aged About 43 years, R/O Village Dou Chaura, Khairagarh, Police Station & Tahsil-Khairagar, Distt Rajnandgaon, C.G.
2. Khomlal Mandavi S/O Late Shri Anjori Singh Mandavi, Aged About 36 Years, R/O Village Pataura, Post-Mahroom, Police Station- Dongargaon, District Rajnandgaon, C.G.
3. Ganpatlal Dhamgaye S/o Shri Heeralal, Aged About 37 Years, R/O Village Bamnibhatha, Now resident of Khadgaon, Police Station Khadgaon, Distt Raipur, C.G.
4. Mahesh Kumar S/o Late Shri Jageshar Thakur, Aged About 35 Years, R/o Village Karutola, Police Station- Godalwani, Tahsil Dongargaon, Distt Rajnandgaon, C.G.
5. Surendra Kumar Thakur S/o Shri Uderam Thakur, Aged About 30 Years, R/o Village Muchedand, Police Station- Dongargaon, Distt Rajnandgaon, C.G.

---- Petitioners**Versus**

1. The State of Chhattisgarh, Through The Secretary, Scheduled Caste and Scheduled Tribe Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, Police Station-Rakhi, Civil & Revenue District Raipur, C.G.
2. The Commissioner, Scheduled Caste and Scheduled Tribe Development, Raipur, C.G.
3. The Additional Director, Scheduled Caste and Scheduled Tribe Development, Chhattisgarh, Raipur, C.G.
4. The Assistant Commissioner, Tribal Development, Rajnandgaon, District Rajnandgaon, C.G.

---- Respondents

For Petitioner	:	Shri Bharat Rajput, Advocate
For Respondent/State	:	Shri S. Mazid Ali, PL for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****29/04/2015**

1. Petitioners have preferred this writ petition seeking a direction to the respondents for regularizing their services from the date of initial appointment and grant them regular pay-scale as well as arrears of salary with interest @ 12% per annum.
2. Shri Bharat Rajput, learned counsel for the petitioners would submit that their appointments were made for filling up backlog vacancies and similar appointees in other districts were granted regular appointment, therefore, the petitioners are also entitled for similar treatment.
3. Petitioners would be governed by the terms of appointment issued in their favour. Once they have availed the benefit of appointment on Collector rate, they cannot be allowed to agitate, after 11 years, that they should have been appointed on regular scale. The example of Raipur district would not improve the case of the petitioners because the advertisement issued for Raipur district specifically mentions that the applications are invited for appointment on regular scale, whereas the petitioners have not filed any such advertisement issued for Rajnandgaon district before making their appointment. Thus, the petitioners have not joined the services after a competitive selection process.
4. In ***State of Karnataka and Others v. Umadevi (3) and Others***¹, the Supreme Court held that appointments made without following the due process or the rules for appointment, did not confer any right on the appointees and that absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees appointed/recruited *de hors* the constitutional scheme of public employment on issuance of direction by Court, is not permissible meaning thereby that absorption, regularization or permanent continuance are not

¹ (2006) 4 SCC 1

mode of appointment.

5. The issue was again considered by the Supreme Court in *Secretary to Government, School Education Department, Chennai v. R. Govindswamy and Others*², wherein after relying on the decision rendered in *State of Rajasthan and Others v. Daya Lal and Others*³, it has been held that something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularized, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularized and that even temporary, ad hoc or daily wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularization, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularization in absence of a legal right. [Also see: *Satya Prakash and others v. State of Bihar and Others*⁴].
6. For the foregoing, this Court in exercise of power under Article 226 of the Constitution of India is not entitled to amend the terms of appointment by issuing a writ of mandamus and to read something or to grant benefit to the petitioner which is not included in the letter of appointment. Doing so would amount to giving benefit of regular appointment to a daily wager from the date of initial appointment.
7. In the result, the writ petition has no substance. It is accordingly dismissed.

² (2014) 4 SCC 769

³ (2011) 2 SCC 429

⁴ (2010) 4 SCC 179

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