

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1435 of 2013

Nandkishor Tiwari S/o Shri Khedu Prasad Tiwari, Aged About 41 Years R/o Bazarpara, Pandariya, Thana- Pandariya, Distt- Kabirdham (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Urban Administration And Development Deptt, DKS Bhawan, Raipur, Dist Raipur, CG
2. Joint Director Urban Administration And Development Deptt, Raipur, Dist Raipur, CG
3. Chief Municipal Officer Nagar Panchayat Pandariya, Dist Kabirdham, CG

---- Respondents

For Petitioner	:	Shri K.P.S. Gandhi, counsel for the petitioner
For Respondents No. 1 & 2/State	:	Shri Neeraj Sharma, Dy. Govt. Advocate
For Respondent No.3	:	Shri Saurabh Sharma, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/12/2015

Heard.

1. This petition has been filed by the petitioner aggrieved by rejection of his claim for regularization vide decision of the Committee, placed on record as Annexure P-1.
2. Short submission of learned counsel for the petitioner is that the rejection of petitioner's claim for regularization is mainly based on the premise that the petitioner remained out of service for 18 years, whereas the order of termination was challenged successfully before the Labour Court and Labour Court vide its order dated 19.3.2004 (Annexure P-4) directed reinstatement holding his termination as illegal, with continuity in service. Respondent No.3, therefore, could not have treated

the petitioner as out of service, but the legal consequences, flowing from the order of the Labour Court, ought to be taken into consideration while considering the claim of the petitioner for regularization in accordance with the judgment of the Supreme Court in the case of **Secretary, State of Karnataka & Ors. Vs. Umadevi (3) and Ors., (2006) 4 SCC 1** and the circular issued by the State Govt. on 5th March 2008 towards implementation of Supreme Court's judgment in the case of **Umadevi** (supra) and consideration of cases of regularization of eligible daily wage employee.

3. Learned counsel for the respondents submits that if the petitioner has such claim of consideration, he may place the order of the Labour Court before respondent No.3 and respondent No.3 may be directed to consider petitioner's claim of regularization and his claim of continuing in service on the basis of order of the Labour Court.
4. The main operative reason for rejection of petitioner's claim for regularization is break in service. A perusal of the order of the Labour Court shows that termination was held illegal and the petitioner was reinstated in service directing continuity. The legal consequences flowing from the order of the Labour Court have not been taken into consideration while considering petitioner's claim for regularization.
5. Therefore, the impugned order rejecting petitioner's claim for consideration cannot be sustained in law and is set aside. The matter is remitted to the Scrutiny Committee for re-consideration of petitioner's claim for regularization in the light of policy of regularization and the order passed by the Labour Court.
6. The petition is accordingly allowed to the extent and in the manner indicated above.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge