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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 6245 of 2014**

Siyaram Sinha S/o Shri Sukhalal Sinha, Aged About 45 Years, Occupation Peon, Govt. Thakur Dalganjan Singh Higher Secondary School Block Fingeshwar Distt. Gariyaband R/o Gram Post Sorid Khurd Block Chhura P.S. Fingeshwar Distt. Gariyaband C.G.

R/o Gram & Post Sorid Khurd, Block Chhura, PS Fingeshwar, Distt. Gariyaband (CG) 493992.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, School. Education Department Mantralaya, DKS Bhawan, PS Goal Bazar, Raipur C.G.-492001
2. Director Cum Commissioner Directorate Of Public Instruction Bayron Bazar P.S. City Kotwali Raipur C.G. -492001
3. Collector, Distt. Gariyaband, PS & Distt. Gariyaband C.G.
4. District Education Officer, PS & Distt. Gariyaband, C.G.

---- Respondents

For Petitioner	Shri Rakesh Anthony, Advocate.
For Respondents/State	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/11/2015.**

1. The limited prayer of the Petitioner in this petition is for grant of regularization from back date which according to Petitioner should have been from the date his so called juniors were granted regularization.

2. A perusal of record would show that none of the so called juniors have been made party in this petition over and above whom the Petitioner wants his case to be considered. Further, it is evidently clear from the record that on an earlier occasion, the Petitioner has filed Writ Petition (S) No. 4970 of 2012 for regularization of his services which was disposed of on 05.11.2012 directing the Respondent authorities to consider the case of the Petitioner in accordance with law on its own merits and pass appropriate orders.
3. In compliance of the said directions given by the Writ Court, the Respondent authorities have regularized the services of the Petitioner w.e.f. 22.11.2012.
4. Now grievance of the Petitioner is that the Respondent authorities ought to have considered his case for regularization from the back date i.e. the date when the other similarly situated persons were granted regularization in the year 2008.
5. It is settled law that regularization can never be granted from a retrospective date. It would always be prospective for the reason that the services of an employee prior to regularization cannot be given any weightage for being termed to be in government employment.
6. In case of **Vijay K Dhand and Others Vs. State of Punjab and Others**¹ the Supreme Court had held that claim for regularization from the date of initial appointment cannot be ordered being contrary to government instructions.
7. In case of **Punjab State Electricity Board and Others Vs. Swaran Singh**² the Supreme Court has held that the workman appointed on ad hoc basis in

1 2004 (13) SCC 707

2 2005 (13) SCC 246

1976 being regularized in 1982 is not entitled to be regularized w.e.f. earlier date.

8. Again in case of **Union of India and others Vs. Sheela Rani**³ the Supreme Court has held that regularization should be prospective and not retrospective as chances of their upsetting the seniorities of regular appointees cannot be overlooked.
9. This court in case of **Minketan Dansena and Others Vs. State of Chhattisgarh and Others**⁴ has held as under :

“5. The relief claimed in the writ petition cannot be granted and this writ petition cannot be entertained for the reason that the order of regularization takes effect from the date when it is passed and a daily wager cannot claim regularization from a retrospective date. This is because on the date when the Petitioners claimed to be regularized, posts may not be available.

9. Regularization from a particular date has several aspects on which the order is passed since it depends on availability of post in a particular office, inter se seniority of persons working on casual basis/daily wagers and seniority of regular appointees.

10. In the light of above judgments of Supreme Court, this Court is of the considered opinion that to pass an order of regularization from a particular date is basically a policy decision and this court need not interfere in such matters unless a right has accrued in favour of the employees to be regularized from a particular date which is taken to be cut-off date by the government.”

10. In view of aforesaid principals of law, this court do not find any merits in the claim of the Petitioner seeking regularization from back date.
11. Accordingly, the petition fails and is dismissed. No order as to costs.

Sd/-

(P. Sam Koshy)
JUDGE

inder

3 2007 (15) SCC 230

4 WPS No.7553 of 2011, decided on 14.05.2015