

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3347 of 2015

- R. L. Sahu S/o Shri Dayaram Sahu, Aged About 50 Years Occupation Service And Presently Posted As Hand Pump Technician At Public Heath Engineering Department, Sub- Division Gharghoda, Block Tamnar, Civil And Revenue District Raigarh (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Public Work Health Engineering Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
2. Chief Engineer, Public Work Health Engineering Department, Mantralaya, Raipur, District Raipur, (Chhattisgarh)
3. Executive Engineer, Public Work Health Engineering Department, Raigarh Division, Raigarh, (Chhattisgarh)

---- Respondents

For Petitioner	Shri Sunil Sahu, Advocate
For Respondent/State	Shri Dheeraj Wankhede, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

15/09/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner has been regularized on the post of Handpump Technician on 27.02.2004. He is praying for regularization from retrospective effect from 18.09.1997 on the ground that similarly situated persons were regularized on the said date.
3. Pursuant to the State Government's circular, the petitioner has been regularized in service by order dated 27.02.2004. It is argued that the persons similarly situated to the petitioner have been regularized by

the order dated 18.09.1997 and were posted as work charged employee. At that time, the candidature of the petitioner has not been considered by the authorities in an illegal and arbitrary manner and due to the aforesaid reason, the petitioner has sustained huge financial loss.

4. Per Contra, learned State counsel would submit that the petitioner has already been regularized in service. In the circular of the Government, particular date has not been fixed w.e.f. which date the services should be regularized, therefore, regularization would take effect from the date of issuance of order and not from any retrospective effect date.
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.
6. In the matter of Vijay K. Dhand and others Vs. State of Punjab and others, (2004) 13 SCC 707, the Hon'ble Supreme Court has held that claim for regularization from the date of initial appointment cannot be ordered being contrary to government instructions. In the present case, the government has not fixed any cut-off date, therefore, the Petitioners are not entitled to be regularized from the date of their initial appointment in the absence of any specific direction by the State Government fixing a particular date of regularization.
7. In the matter of Punjab State Electricity Board and others Vs. Swaran Singh, (2005) 13 SCC 246, the Hon'ble Supreme Court has held that the workman appointed on ad hoc basis in 1976 being regularized in 1982 is not entitled to be regularized w.e.f. earlier date.

8. In the matter of Union of India and others Vs. Sheela Rani, (2007) 15 SCC 230, the Hon'ble Supreme Court has again held that regularization should be prospective and not retrospective as chances of their upsetting the seniorities of regular appointees cannot be overlooked. In the case before the Supreme Court, the concerned employee was engaged as casual worker on 17/11/1982 and was regularized w.e.f. 26/09/2001 and her claim for regularization from the date of initial appointment was rejected by the Hon'ble Supreme Court.
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.
11. In view of the above, the instant writ petition has no substance, it deserves to be and is accordingly dismissed.

Sd/-
JUDGE

PRASHANT KUMAR MISHRA