

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 166 of 2016**

Jagat Ram Son of Late Thandar, aged about 61 years, Choukidar, Near Office of Water Resources Department, R/o Village Ghinari, Post Chhuikhadan, District Rajnandgaon, (Chhattisgarh)

---- Appellant**Versus**

1. State of Chhattisgarh, through the Secretary, Water Resources Department, Mantralaya Bhawan, Raipur, Chhattisgarh.
2. Executive Engineer, Water Resources Department, Chhuikhadan, District Rajnandgaon, Chhattisgarh.
3. Presiding Officer, Labour Court, Rajnandgaon, Chhattisgarh.

---- Respondents.

For Appellant	:	Shri T.K.Tiwari, Advocate.
For Respondent/State	:	Shri R.K.Gupta, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****22/03/2016**

1. The present appeal arises from order dated 5.2.2016 setting aside the order of the Labour Court for regularization with effect from 21.8.2000 alongwith consequential benefits and affirming the regularization done by the Respondents from 13.8.2008.

2. A reference was made under Section 10 of the Industrial Disputes Act, on 26.5.2000 if the Appellant was entitled to regularization, if so, what directions were needed to be issued. The Labour Court held that in view of regularization of one Dhanau Ram appointed after the Appellant, he was entitled to grant of relief.

3. The Learned Single Judge held that the Appellant was appointed as a daily wage. Regularization could not be done in absence of vacancy. There could be no retrospective regularization and it had necessarily to be prospective

in nature relying on more than one precedent. The only point urged before us by the Counsel for the Appellant was of discrimination in regularization vis-a-vis Dhanau Ram. It was submitted that the order of the Labour Court did not call for any interference on that solitary ground.

4. We have considered the submissions.

5. Regularization is not a mode of appointment. The Labour Court can interfere with a termination ordered contrary to the provisions of Industrial Disputes Act but does not possess jurisdiction to direct regularization of an employee. Regularization pre-supposes the availability of a post and the need for manpower on the post. The employer alone is the best judge of its requirement and the Labour Court cannot thrust a daily-wage upon the employer contrary to its requirement. It is not the case of the Appellant that he was appointed on daily wage in accordance with Article 14 of the Constitution of India. The Learned Single Judge has adequately noticed that a reserved category vacancy was an entirely different issue as the Appellant belonged to the general category. The question of any discrimination simply does not arise. Furthermore, the seniority list in which Dhanau Ram had been shown as senior to the Appellant was never challenged by him. Since the Learned Single Judge has not interfered with the prospective regularization, there is no occasion for us to examine that aspect of the matter. It is not the case of the Respondent that he has not been paid daily wage for the period that he has worked. The question of grant of full salary with retrospective effect therefore simply does not arise.

6. We find no merit in the appeal. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE