

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4299 of 2017

Badri Ram Sahu S/o Dhurva Ram Sahu, Aged About 52 Years
Occupation Service, Presently Working As Assistant Revenue
Inspector, Nagar Palika Parishad, Kawardha, District Kabirdham, R/o
Bahaduri Ganj Ward, Ward No. 21, Kawardha, District Kabirdham
Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban And Rural Administration, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. Collector, Kawardha, District Kabirdham Chhattisgarh.
3. Nagar Palika Parishad, Kawardha, Through Its Chief Municipal Officer, Nagar Palika Parishad, Kawardha, Distirct Kabirdham Chhattisgarh.
4. Mayor In Council, Nagar Palika Parishad, Kawardha, Distrit Kabirdham Chhattisgarh.

---- Respondents

For Appellant	:	Mr. Malay Shrivastava, Advocate
For State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/09/2017

1. The challenge in the present writ petition is to the order dated 25.11.2016, whereby the respondent No.3 has considered the case of the petitioner for grant of seniority over and above Liyakat Ali, the junior to the petitioner at the initial stage of appointment. Vide the said impugned order, the respondent No.3 has reconsidered the granting of seniority as also the date of regularization of the petitioner and have ordered for regularization of the petitioner and grant of seniority on the post of Assistant Revenue Inspector w.e.f. 18.05.2001 which is the date when his immediate junior Liyakat Ali was granted the regularization on the post of Assistant Revenue Inspector. The seniority to the petitioner over and above respondent No.3 was granted giving notional seniority. It is this order which is under challenge on the ground that the petitioner was also entitled

for all monitory benefits as a consequence of this being provided seniority w.e.f. 18.05.2001.

2. The counsel for the petitioner submits that once when there is a finding of the respondents to the effect that the petitioner was wrongfully denied regularization when his juniors were considered, the respondents further having passed an order rectifying the error they should have also granted all consequential benefits. By granting notional seniority, the petitioner has been put to substantial loss. According to the petitioner, once when the respondents found that the petitioner was illegally denied regularization and have rectified their mistake he should also be compensated by providing the consequential relief which in this case could be only financial benefit of the intervening period. The petitioner thus prayed for the monetary benefits seeking modification of the order (Annex. P/1) to that extent.
3. The State counsel however opposes the petition and submits that the petitioner would not be entitled for the claim that he has made, for the simple reason that he has in fact not discharged the duties during the intervening period as a regular employee, therefore he cannot be granted the monetary benefits attached to the post except for grant of notional seniority which has been given. He further submits that it is the principle of **“no work no pay”** which has been made applicable and which would govern and therefore there is no scope of interference in the impugned order.
4. Having heard the contentions on either side and on perusal of records what is undisputed is the fact that the petitioner who was initially engaged as a daily wage worker was regularized w.e.f. 31.03.2008. His claim was that a junior to him namely Liyakat Ali was regularized w.e.f. 18.05.2001, therefore the petitioner could not have been granted regularization much subsequent to his immediate junior who was granted regularization in the year 2001.
5. What is pertinent to be taken note is the fact that the claim of the regularization from the date his junior has been granted was for the first time claimed by the petitioner before the writ Court vide WPS No. 6035/2011. What cannot be brushed aside is the fact that Liyakat Ali was granted regularization in the year 2001, and the petitioner knew that Liyakat Ali was junior to him, but he did not

challenge the regularization of Liyakat Ali or claimed regularization ahead of Liyakat Ali in between 2001 to 2011. The petitioner also did not challenge his regularization in the year 2008 claiming it from a back date. It is only in the year 2011, 10.10.2011 to be precise that for the first time the petitioner had claimed regularization from a date earlier to Liyakat Ali vide a writ petition before the High Court. The petitioner in the instant case right from 2001 to 2011 remained silent as regards the regularization granted to Liyakat Ali. The petitioner not having challenged the regularization of Liyakat Ali ahead of the petitioner inspite of being junior amounts to the petitioner foregoing his claim or had abandoned his claim for the relief from a back date.

6. What also cannot be ignored is the fact that the writ petition filed by the petitioner was rejected on the ground of delay and laches which was affirmed by the High Court in a writ appeal as also by the Hon'ble Supreme Court in an SLP preferred by the petitioner. The only solace in the Supreme Court's order was that the petitioner if he so may avail other remedies available to him, which he did by filing the representation and which has since been considered and the order Annexure P/1 has been passed.
7. Considering the aforesaid factual matrix of the case undisputedly the ground of delay and laches still looms large over the claim of the petitioner and for which there is no satisfactory explanation. If the respondents have shown sympathy upon the petitioner by allowing his claim for regularization from a back date granting him seniority over and above Liyakat Ali by granting notional seniority the same cannot be said to be bad in law, arbitrary, nor can the petitioner be entitle for the monitory benefits which has not been granted to him. The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge