

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 5856 of 2017**

- Manoj Kumar Rajput S/o Shri Uttam Singh Rajput, Aged About 50 Years R/o Village Jhahaliyapur, Post Bhanapur, Tahsil Mungeli, District Mungeli, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Chief Engineer, Rural Engineering Service, Office Of The Development Commissioner, Raipur, Chhattisgarh.
3. Executive Engineer, Office Of The Rural Mechanical Service Division, Mungeli, District Mungeli, Chhattisgarh.

---- Respondent

For Petitioner	Mr. KPS Gandhi, Advocate
For Respondent /State	Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****6/11/2017**

1. Heard.
2. The petitioner has been denied entitlement to regularisation in terms of the State Government's Circular dated 5.3.2008 on the ground that there was break in service.
3. The petitioner was appointed as Time Keeper on daily wages on

31.10.1985, however, on 01.10.1996, his services were discontinued. The petitioner was again employed on daily wages on 22.6.1990, but yet again, he was disengaged on 30.11.1991 compelling him to raise industrial dispute before the Labour Court, Bilaspur, which answered the reference in his favour vide order dated 1.7.1996.

4. WP 4927 of 1996 preferred by the Block Education Officer was partly allowed by this Court vide order dated 4.3.2013, affirming the order of reinstatement in service, but denying back wages to the petitioner. The petitioner, thus, continued in service.
5. After issuance of the Circular dated 5.3.2008 by the State Government, the petitioner moved representation for regularisation, which was not considered, therefore, the petitioner preferred WPS No.247/2017, which was disposed of by this Court on 17.1.2017, directing the respondents to consider the petitioner's case for regularisation in terms of the Circular dated 5.3.2008.
6. The petitioner's representation has now been dismissed vide order dated 5.9.2017 (Annexure P/1) on the reasoning that there was break in service, as the petitioner was not employed during the period from the date of termination till the date of order of reinstatement passed by the Labour Court.
7. A Division Bench of this Court in WPS No.1703 of 2015 (Tukaram Vs. State of Chhattisgarh and others) and batch of petitions, decided on 16.5.2017, has held that when a person has been

denied continuity in service on the strength of an illegal order of retrenchment, the period, during which that illegal retrenchment continued, shall be deemed to be the period during which he was in the notional employment of the concerned department.

8. In the considered opinion of this Court, the petitioner's case for regularisation is required to be considered afresh by the Department in view of the order passed by the Division Bench of this Court in WPS No.1703 of 2015 (supra).
9. Accordingly, the writ petition is disposed of with direction that in the event, the petitioner moves fresh representation for regularisation on the strength of and by annexing the order passed by the Division Bench of this Court in WPS No.1703 of 2015 (supra), within a period of 4 weeks from today before the Chief Engineer, Rural Engineering Service, O/o Development Commissioner, Raipur, Chhattisgarh (respondent No.2), the said authority shall consider and decide the representation within a further period of 12 weeks keeping in view the law laid down by the Division Bench of this Court in WPS No.1703 of 2015 (supra).

Sd/-

Judge

(Prashant Kumar Mishra)