

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3547 of 2014**

- Krishna Kumar S/o Kartik Ram Aged About 55 Years R/o Village Aandi, P.S. Khairagarh Civil/Revenue Distt. Rajnandgaon C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh S/o Through The Secretary, Department Of Water Resources Mantralaya, Mahanadi Bhawan, Naya Raipur, Civil/Revenue Distt.- Raipur, C.G.
2. Executive Engineer, Water Resources Division, Chhuiekhadan Civil/Revenue Distt. Rajnandgaon, C.G.

--- Respondents

For Petitioner	:	Mr. H.S. Ahluwalia, Advocate
For Respondent	:	Mr. Y.S. Thakur, Additional Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board**Per Thottathil B. Radhakrishnan, Chief Justice****27.06.2017**

1. The Applicant was employed periodically with the State Government essentially on temporary basis. He was ultimately refused employment by keeping him out of activities. The Labour court intervened and passed an award holding that he is entitled to reinstate with 15 percent back wages. The challenge levied by the State Government against that award has been rejected today by dismissal of WPL No. 4539/2007. The facts of the matter remains that the Petitioner Krishna Kumar is therefore entitled to avail and enjoy the benefits of award passed by the Labour

Court in his favour ordering reinstatement with 15% back wages.

2. The aforesaid factual situation ipso facto does not bring home the eligibility for regularization and continuity in service. The Petitioner's claim in this Writ Petition is that on the strength of the award which has been issued by the Labour Court his services should be regularized. This cannot be permitted since he was not appointed following the due procedure for regular appointment.
3. However, the contention of the Petitioner that in terms of the Government circular dated 5.3.2008 and the Judgment dated 17.06.2014 in Writ Petition (S) No. 3307 of 2013, the period he was out of service is eligible to be reckoned and counted for determining period for regularization in service. This is an issue which is to be decided on the basis of the application of that circular. If the Petitioner makes appropriate representation before the Competent Authority in Government that will be considered and answered with reference to that circular and in terms of the judgment dated 17.06.2014. It will be upon the Government to consider whether the circular and the judgment applies to the case of the Person who has already superannuated from the service. We leave this issue open to that extent.
4. This Writ Petition is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge