

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3239 of 2017

Vijay Kumar Ambade S/o Shri Late Shankar Rao Ambade, Aged About 48 Years
R/o Village Sanjay Nagar Dongargarh P. S. & Tahsil Dongargarh, District
Rajnandgaon (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Forest Department, New Mantralaya, Mahanadi Bhavan, Hasaud, Naya Raipur District Raipur (Chhattisgarh).
2. The Principal Chief Conservator Of Forest, Arenya Bhavan Medical College Road, Raipur (Chhattisgarh).
3. The Chief Conservator Of Forest, Durg Circle, Durg (Chhattisgarh).
4. The Chief Conservator Of Forest, Durg Circle, Durg (Chhattisgarh).
5. The Divisional Forest Officer, Khairagarh Forest Division Khairagarh, District Rajnandgaon (Chhattisgarh).
6. The Sub Divisional Forest Officer, Khairagarh Forest Division Khairagarh, District Rajnandgaon (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri Bharat Rajput, Advocate
For State	:	Shri S.P. Kale, Dy.A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

21/07/2017

1. Learned counsel for the petitioner submits that the Division Bench of this Court in the case of **Tukaram Vs. State of Chhattisgarh** (WPC No.1703 of 2015 and batch of petitions) concludes the issue raised in this petition that for the purpose of considering cases for regularization under circular dated 5.3.2008 of the State Govt., an employee shall be deemed to continue in service from initial date of appointment where his termination order has been set aside and he has been reinstated by an award of the Labour Court.
2. Learned counsel for the State submits that the legal position is settled but the matter would require consideration on verification of facts.

3. The petitioner was initially appointed on 22.4.1991 as daily wage employee. He was terminated from service on 30th June 1993. This order was challenged before the Labour court successfully, when the Labour Court passed an order of reinstatement on 28.6.2008, which led to reinstatement without back wages.

In view of the decision of the Division Bench in the case of **Tukaram** (supra), it is settled that the effect of reinstatement would be continuity in service, therefore, the petitioner's case ought to be considered for regularization treating him to be a daily wage employee working continuously from 22.4.1991.

4. The Impugned order dated 5.2.2016 passed by the authority (filed collectively as Annexure P-10) is clearly in the teeth of order of Division Bench and cannot be sustained and is accordingly set aside. The petitioner's case for regularization be re-considered by the respondent-authority treating him to be continued in service working as daily wage employee from 22.4.1991 and appropriate decision be taken within a period of three weeks from the date of receipt of copy of this order.
5. The petition is accordingly allowed.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge