

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4158 of 2016

1. Chowaram Tendekar S/o Shri Bharat Lal Tandekar, Aged About 31 Years Occupation Lecturer (Mechanical), Government Polytechnic College, Kanker, Distt. Kanker, (Chhattisgarh)
2. Amit Soni, S/o Shri Lakhan Lal Soni, Aged About 31 Years Occupation Service, Lecturer (Mechyanical), Government Polytechnic College, Khairagarh, Distt. Rajnandgaon, (Chhattisgarh)
3. Hemlal Sahu, S/o Shri Atma Ram Sahu, Aged About 32 Years Occupation Service, Lecturer (Mechanical), Government Polytechnic College, Kanker, Distt. Kanker, (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Technical Education, Man Power And Planning, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, (Chhattisgarh)
2. The Director, Directorate Of Technical Education, Raipur, Indrawati Bhawan, Raipur, (Chhattisgarh)
3. Chhattisgarh Public Service Commission, Through Its Secretary, Shankar Nagar Road, Raipur, (Chhattisgarh)
4. The Government Polytechnic College, Kanker, Throuth Its Principal (Chhattisgarh)
5. The Government Polytechnic College, Khairagarh, Distt. Rajnandgaon, (Chhattisgarh) Through Its Principal

---- Respondents

For Petitioners : Mrs. Madhunisha Singh, Advocate.
For State : Mr. Garry Mukhopadhyaya, Govt. Advocate.
For Respondent No. 3 : Mr. Ashok Verma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board By

17/02/2017

(1) Learned counsel appearing for the parties would submit that this matter is covered by the order passed by the Coordinate Bench of this Court in the matter of Tukesh Singh Thakur & others Vs. State of Chhattisgarh & others {W.P. (S) No.1656 of 2016, decided on 02.012017}, in which this Court has held as under:-

33. The respondents in the instant case had never promised or assured nor does the rule or the appointment order envisage that at a later stage the service of the petitioners can be considered for regularization. There is no fundamental right conferred or accrued in favour of the petitioners by which they can claim for being regularized in Govt. service when their service itself is on contractual basis. When the rule of law compels the State Govt. to make appointment as envisaged by the Constitution or a rule framed under the Constitution, the State Govt. is duty bound to fill up those sanctioned vacant posts strictly and purely in accordance with the rules.

34. Under the aforesaid factual background, this Court has no hesitation in reaching to the conclusion that no right whatsoever has been created in favour of the petitioners for issuance of a writ of mandamus for regularizing their services, even though this Court may have sympathy with the petitioners but the law and the rules do not permit the petitioners to be entitled for any relief. True it is that the Govt. should have before issuance of the advertisement thought of these petitioners or at least those petitioners who have put in service for a considerable long period and evolved some mechanism which could have given some advantage to the petitioners or at least to those petitioners who have put in long service under the respondents. Regularization of service of a contractual employee whose appointment has been made under a specific rule and by a specific order of appointment for a specific period of time can only be made, provided, there is a legislative mandate. It cannot be granted in the peculiar facts and circumstances of the case by invoking the writ jurisdiction of this Court as it is a well settled proposition of law that no fundamental right is accrued in favour of a person for regularization when the initial order of appointment itself is on contractual basis. A contractual appointment cannot be converted into regular appointment on the sole ground that the petitioner had continued in service for more than a decade.

36. In view of the aforesaid discussions made in the preceding paragraphs and also the principles laid down by the Supreme Court, this Court is of the opinion that the petitioners have not made out a strong case for grant of relief that they have sought for nor can the relief of quashment of the advertisement which has been challenged in few of the petitions be sustainable, taking into consideration the nature of employment of the petitioners. Thus, all these petitions being devoid of merit deserve to be and are accordingly dismissed and all the interim orders which have been passed pending these petitions also stand vacated and merged with this final order.”

(2) In view of above, the writ petition stands finally disposed of in terms of paragraphs 33, 34 & 36 of the order passed by the Coordinate Bench of this Court in the matter of **Tukesh Singh Thakur & others** (Supra) decided on 2nd January, 2017.

Sd/-
(Sanjay K. Agrawal)
Judge

