

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.2277 of 2013**

Laxmi Narayan Diwaker S/o Shri Sukh Nandan Diwaker, Aged about 43 years, R/o village Bhilai P.O.-Jairamnagar, P.S.-Masturi, District Bilaspur (CG)

---- **Petitioner**

Versus

1. State of Chhattisgarh, Through the Secretary & General Manager C.G. Warehousing Corporation, Mantralay, Raipur (CG)
2. The Managing Director, C.G. Warehousing Corporation, 22 Aanand Nagar Raipur (CG)
3. The Personnel Manager C.G. Warehousing Corporation, 22 Aanand Nagar Raipur (CG)
4. District Branch Manager C.G. Warehousing Corporation Branch Dharmjaygarh, Distt-Raigarh (CG)

---- **Respondents**

 For Petitioner : Mr. Y.C.Sharma, Advocate.
 For Respondents : Mr.B.D.Guru, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

25/01/2017

1. Learned counsel appearing for the parties would submit that the present writ petition can be disposed of in terms of paragraphs 4 and 5 of the order dated 4.11.2015 passed by this Court in WP (S) No.922 of 2015 (Devendra Shripande Vs. Chhattisgarh State Ware Housing Corporation and others). Paragraphs 4 and 5 of the said order read thus:-

“4. Considering the rival submissions put forth by the counsel appearing on either side and on perusal of the record itself it is evidently clear that the petitioner was absent from duty from 16.06.2000 to 18.08.2000 is not disputed by either side. The other admitted fact is that the said period has been treated as 'no work no pay' only to the extent that the petitioner would not be entitled for any wages during the said period. The respondents have not been able to show any document by which the said period has been treated as dies non or as break in service. For all practical purposes, once when the respondents themselves have admitted the fact that the petitioner was medically not fit to work and the same department subsequently on the petitioner's furnishing a fitness certificate permitted him to resume his duty, the continuity of his service automatically gets restored unless otherwise specifically ordered. In absence of any specific order for treating the said period as dies non or for that matter a break in service, the absence on duty on medical ground even if the petitioner was treated as no work no pay would not disqualify the petitioner from being considered for regularisation as per Circular dated 05.03.2008. The decision of the respondents in refusing the case of the petitioner for regularization only on account of the petitioner being absent from duty on medical ground is apparently arbitrary and illegal and is also not in accordance with the Circular dated 05.03.2008 of the State Government.

5. For the foregoing reasons, the impugned order dated 12.12.2014 Annexure P-1 is not sustainable and is accordingly set aside and quashed. The respondents are directed to consider the case of the petitioner for regularization forthwith and pass an appropriate order at the earliest.”

2. Considering the nature of dispute as stated by learned counsel appearing for the parties, the present writ petition is

3

also disposed of in terms of the order passed by this Court in
Devendra Shripande (supra). No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-