

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6677 of 2016

Manharan Lodhi S/o Ramkanhai, Aged About 53 Years Working As Labour / Gang Man (Daily Wages) In The Office Of Sub Divisional Officer Chhuikhadan, Division Chhuikhadan, Department Of Water Resources, District Rajnandgaon (Chhattisgarh) R/o Village Amlidih, Piparia, Tahsil Khairagarh, District Rajnandgaon (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Water Resources Mahanadi Bhawan, New Mantralaya Raipur Chhattisgarh
2. Executive Engineer, Department Of Water Resources Chuikhadan Division, District Rajnandgaon Chhattisgarh
3. Sub Divisional Officer, Pipariya, Shirsh Karya, Sub Division Chhuikhadan Water Resources Department, Chhuikhadan Division, District Rajnandgaon Chhattisgarh

---- Respondents

Shri F.S.Khare, counsel for the petitioner/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/10/2017

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 in the year 1981 as daily wage employee. He was later on terminated from service in the year 1988. The order of

termination was challenged before the Labour Court and an award was passed on 21/06/1991 by which the petitioner was re-instated on 04/02/1993. The petitioner was again terminated in the month of February, 2000. The termination order was again challenged before the Labour Court and vide award dated 30/11/2004, the petitioner was again re-instated in service on 28/03/2005. 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 1981.

4. The impugned order passed by the authority 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 the year 1981 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