

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1821 of 2016

Anil Mahapatra S/o Upendra Mahapatra, Aged About 48 Years R/o Ganesh Chowk Ward No. 02, Pandar Dalli, Dallirajhara, P.S. Dallirajhara, District Balod (Chhattisgarh) **---- Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Forest, Mahanadi Bhawan New Raipur, District Raipur (Chhattisgarh)
2. Principal Chief Conservator Of Forest, Arenya Bhawan, Medical College Road, Raipur, District Raipur (Chhattisgarh)
3. Conservator Of Forest Durg, Circle Durg District Durg (Chhattisgarh)
4. Divisional Forest Officer, Balod, Forest Division Balod, District Balod (Chhattisgarh)
5. The President, Daily Wages Scrutiny Committee, Forest Division Balod District Balod (Chhattisgarh) **---- Respondents**

For Petitioner	:	Mr. F.S. Khare, Advocate.
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/10/2017

Heard on admission.

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 in the year 1988 as daily wage employee. He was terminated from service in the year 2000. This order was challenged before the Labour court successfully, when the Labour Court passed an order of reinstatement on 03.10.2013, 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 since 1988.

4. The impugned order dated 05.02.2016 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 since 1988 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)
J U D G E