

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.6918 OF 2011**

Jitendra Sinha S/o Late Ramanand Prasad Sinha, R/o Mohalla Mayapur, Ambikapur, Distt. Surguja (CG).

...Petitioner(s)

Versus

1. State Of Chhattisgarh through the Secretary, Food Department, DKS Bhawan, Raipur (CG).
2. The Collector Surguja Ambikapur, Distt. Surguja (CG).
3. The Additional Collector Surguja, Ambikapur, Distt. Surguja (CG).
4. Food Officer, Office Of Collecotrate Ambikapur, Distt. Surguja (CG).

... Respondent(s)

For Petitioner	:	Shri Manoj Paranjpe and Shri Anurag Singh, Advocates.
For Respondent-State	:	Shri RN Pusty, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01.10.2018

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 17.10.2011 whereby the respondents have reached to the conclusion that the regularization of the services of the petitioner vide order dated 19.01.2009 was bad in law and had cancelled the same.
2. The brief facts of the case is that, the petitioner was initially appointed on 14.08.2008 as Data Entry Operator for a period of one year on a fixed salary of Rs.4880/- per month. Barely having worked for about four months on the said post, the respondents issued an order on 19.01.2009 regularizing the services of the petitioner on the said post of Data Entry Operator and placed him on probation for a period of two years. Later on, vide order dated 09.02.2009

(Annexure P/5) the respondents have cancelled the regularization of the petitioner i.e. within less than one month from the date of regularization holding that the regularization order issued in favour of the petitioner was not in accordance with law. This order was subjected to challenge in WPS No.1150 of 2009 which finally stood allowed by this court vide order dated 05.01.2011 holding that since cancellation of the order of regularization was without granting an opportunity of hearing, the same was set aside reserving the right of the respondents to take an appropriate action afresh in accordance with rules affording opportunity of hearing to the employee. Thereafter, after granting opportunity of hearing to the petitioner, the respondents have passed the order impugned under challenge dated 17.10.2011 whereby the decision of regularization of the services of the petitioner on 19.01.2009 has been again held to be bad in law and illegal. It is this order which is under challenge in this writ petition.

3. Given the aforesaid factual matrix of the case which is undisputed, all that this court has to see is whether the order dated 19.01.2009 regularizing the services of the petitioner was not in accordance with rules or not and whether the same is legal proper or justified or not.
4. Indisputably, the initial engagement of the petitioner was on 14.08.2008 for a period of one year on contractual basis on a fixed salary of Rs.4880/-. Under the circumstances, the question now is under what circumstances could the services of the petitioner have been regularized. It is not a case where the petitioner had worked with the respondents for a considerable period of time against the

sanctioned vacant post and ultimately the petitioner was eligible, suitable and competent for the said post which led to the issuance of the order of regularization. It is a case where the order of regularization has been passed even without completion of first initial appointment of one year itself. No specific reasons have been shown while passing the order of regularization. Even otherwise, what cannot be lost sight of is the fact that substantive appointment of the petitioner in the year, 2008 itself was on contractual basis. Sheer appointment of the petitioner on contractual basis means that appointment of the petitioner shall be only for the period as long as contractual period survive and beyond that there cannot be any right which would accrue in favour of the contractual employees.

5. Given the aforesaid facts and taking into consideration the grounds which have been envisaged in order dated 17.10.2011 (Annexure P/1), this court is of the opinion that the respondents have been justified in holding that the regularization of the petitioner vide order dated 19.01.2009 was not in accordance with law and the same does not warrant any interference of this court at this juncture.
6. Accordingly, the petition fails and is dismissed.

Sd/-
(P. Sam Koshy
Judge