

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 265 of 2017***(Arising out of order dated 02.01.2017 passed in W.P.(S) No. 2392 of 2019**by the learned Single Judge)*

- Smt. Nidhi Das W/o Shri Vineet Das Aged About 37 Years R/o Nurani Chowk, Raja Talab, Raipur, Police Station - Civil Lines, Raipur, Civil And Revenue District Raipur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary, Department of Health And Family Welfare, Mantralya, Mahanadi Bhavan, Naya Raipur, District-Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission Shankar Nagar Road, Bhagat Singh Square, Raipur Chhattisgarh.
3. Under Secretary Health And Family Welfare Department, State Of Chhattisgarh, Mantralaya, Mahanadi Bhavan, Naya Raipur District Raipur Chhattisgarh.
4. Director Medical Education, Government Of Chhattisgarh, Old Nurses Hostel, DKS Building, Raipur Chhattisgarh.

---- Respondents

For Appellant	:	Smt. Fouzia Mirza, Advocate
For Respondents/State	:	Shri Prasun Bhaduri, Advocate
For Respondent/PSC	:	Shri Y.C. Sharma, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per, Ajay Kumar Tripathi, Chief Justice****11.12.2018**

1. This writ appeal was linked with Writ Appeal No.14 of 2017 and another analogous cases. They arose out of a common order and judgment passed by a learned Single Judge when vide his order dated 02.01.2017 he dismissed all the writ applications refusing to pass any order or grant any relief of either regularization or quashing the advertisement which was issued in the year 2014 to fill up the posts on the regular basis. Most of those cases related to post of Assistant Professors or Lecturers in the State Engineering Colleges and Polytechnic Colleges.

2. This appeal, however, was separated for the reason that in the present case the Appellant was engaged on contract on the post of a Demonstrator and working at Government Physiotherapy College, Raipur.
3. Besides the distinction of the post on which the Appellant was hired, no doubt on contract, but it was in the year 2005 and she has continued on the said position due to repeated renewal of contracts which still subsists till October, 2019.
4. When advertisement was issued to fill up certain posts on 30.07.2014, the Appellant took a chance by participating in the selection process and failed to make her mark, but her submission is that keeping in mind the long period of association and continuance on the post for almost 14 years a case for her regularization is made out, especially when her initial engagement or hiring was done by the Respondents after following due process and procedure like advertisement, selection, following the roster and by a duly constituted committee and a mechanism put in place for such selection in 2004 Rule.
5. In fact now, the counsel for the Appellant seems to be fortified by a recent decision rendered by a Division Bench of this Court in similar or identical facts. The only distinction being the posts and the institutions in which such hiring and engagement were done.
6. The Division Bench of this Court vide its judgment dated 07.12.2018 rendered in **Writ Appeal No. 14 of 2017**, the lead case being case of **Gopi Sao and Others Vs. State of Chhattisgarh & Others**, allowed the appeals, set aside the order of the learned Single Judge passed in the batch of writ applications dated 02.01.2017 and gave a direction that even if it was a case of contractual engagement or hiring in terms of a 2004 Rules, the fact of their

continued service, kind of unhindered, created a right in their favour for regularization. A direction was given in the case of **Gopi Sao** (supra) that all such persons who were hired and have been continued and continue to occupy the vacant sanctioned post on which such engagements were made to be regularized within a period of three months from the date of production of a copy of this order.

7. For brevity, the Court does not reproduce all the rationale and reasoning which formed the basis for allowing the appeals and interfering with the order of the learned Single Judge dated 02.01.2017. But all the reasons so provided by us in the judgment dated 07.12.2018 is also applicable in the present appeal and needs to be allowed. However, with a rider that if the post or position which has been held by the Appellant right from the year 2005 is still vacant and despite the effort made at such selection in terms of the advertisement dated 30.07.2014 is not yet filled up by any selected candidate so far.
8. Appeal is allowed. The impugned order of the learned Single Judge dated 02.01.2017 is set aside. The decision for regularization of the Appellant must be made within a period of three months from the date of production of a copy of this order.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge