

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1782 of 2018**

Ram Prasad Rathore S/o Shri Mohan Singh Rathore Aged About 35 Years Working As Rasooya And Posted At Samanya Chhatrawas Gurukul, Pendra Road, District-Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh **---- Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Tribal Development, Mahanadi Bhawan, Mantralaya New Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Assistant Commissioner, Department Of Tribal Development, Bilaspur, District-Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh **--Respondents**

For Petitioner	:	Mr. Ajay Shrivastava, Advocate
For State	:	Mr. Ramakant Mishra, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****03.04.2018**

Heard.

1. The only issue arises for consideration in this petition is whether the petitioner is entitled to count the period of service during which he remained out of employment until reinstatement under the award, should be counted for the purposes of considering his claim for regularization, pay scale etc.
2. The legal position in this regard is no longer *res integra* in view of the judgment passed by the Division Bench of this Court in the case of **Tukaram Vs. State of Chhattisgarh (WPC No.1703 of 2015 and batch of petitions)**. In the said decision, it has been authoritatively pronounced that if the person is terminated from service and thereafter he is reinstated under the award/judicial order, he shall be deemed to be in employment without any break. This principle will have to be therefore applied in the case of the petitioner. The petitioner shall be deemed to have continued in service and the period during which he was out of employment shall have to be ignored. With this deemed continuation in service, the petitioner's claim for grant of pay scale will require examination according to the existing rules and regulation applicable in the case of the petitioner.
3. The petition is accordingly disposed off with the direction to examine petitioner's claim for grant of pay scale/revised pay scale/regularization treating the petitioner to be continued in employment since the initial date of employment.

Sd/-

(Manindra Mohan Shrivastava)
Judge