

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****Writ Petition (S) No. 4892 of 2012**

1. Ram Kumar Tiwari S/o Shri Janak Tiwari, aged about 45 years, R/o village Sankari, Police Station Chakarbhata, Bilaspur, District Bilaspur (CG) PIN 495001
2. Chandrakant Mishra S/o Shri Dadan Mishra, aged about 44 years, R/o besides Panjab National Bank, Choubey Bhawan, Main Road, Katghora, Police Station Katghora, District Korba (CG) 495454
3. Mathura Prasad Chouhan S/o Shri Sant Ram, aged about 47 years, R/o village Dhelwadih, Police Station Katghora, District Korba (CG) PIN 495454
4. Mahendra Kumar Dubey S/o Shri Harihar Prasad Dubey, aged about 37 years, R/o Kasniya Depot, Katghora, Police Station Katghora, District Korba (CG) PIN 495454
5. Pawan Kumar Yadav S/o Budhram, aged about 34 years, R/o Azad Nagar, Katghora, Police Station Katghora, District Korba (CG) PIN 495454
6. Kamlesh Sharma S/o Shri Jwala Prasad Sharma, aged about 40 years, R/o Sanjay Nagar, Ward No.2, Katghora, Police Station Katghora, District Korba (CG) PIN 495454
7. Yatish Kumar Sharma S/o late Ram Sagar Sharma, aged about 38 years, R/o village & post Sutarra, Police Station Katghora, District Korba (CG) PIN 495454
8. Bhanu Pratap Singh S/o late Rama Singh, aged about 37 years, R/o Forest Colony, Pali, Police Station Pali, District Korba (CG) PIN 495454

**---- Petitioners****Versus**

1. State of Chhattisgarh, through Secretary, Forest Department, DKS Bhawan, Raipur, Police Station Civil Lines, District Raipur (CG)
2. Conservator of Forest, Bilaspur Circle, Police Station Civil Lines, Bilaspur (CG)

3. Divisional Forest Officer, Katghora Division, Katghora, Police Station  
Katghora, District Korba (CG)

---- Respondents

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|-----------------|---|---------------------------------------|
| For Petitioners | : | Shri K. N. Nande, Advocate            |
| For State       | : | Shri S. P. Kale, Dy. Advocate General |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order On Board**

**01/10/2018**

The claim of the petitioners in the present writ petition is to the order Annexure P-19 dated 04.10.2012 whereby the claim for regularization of the petitioners has been turned down by the respondents.

2. Contention of the counsel for the petitioners is that the petitioners have worked with the respondents for a period of about 18-20 years and that the State Govt. in between in compliance to the directives given by the Supreme Court in the case of Secretary, State of Karnataka and others Vs. Uma Devi (3) and others, reported in 2006 (4) SCC 1 had taken a policy decision vide circular dated 05.03.2008 for considering regularization of all the daily wage employees who were appointed prior to 31.12.1997.

3. State counsel in their reply have come up with a categorical stand that the contention of the petitioners is incorrect and that they have not put in continuous service for the period as claimed by the petitioners. It was contended by the State counsel that they have found the experience certificates which have been produced by the petitioners to be doubtful and against some of the officers, they have already initiated disciplinary action for issuance of such fake experience certificates.

4. Given the aforesaid factual matrix of the case where there is a contention and categorical denial by the petitioners as well as by the State

on either side, this Court in exercise of its power under Article 226 of the Constitution of India would find it difficult to substitute itself as a fact finding Court by conducting a roving enquiry which otherwise would have to be undertaken by a competent Court under the provisions of the Labour Laws.

5. So far as the regularization is concerned, the law by now is well settled that the High Court under Article 226 of the Constitution of India would not consider the suitability of a person for deciding whether he is entitled for regularization or not. It is well within the domain of the employer to take a decision in this regard.

6. Thus, reserving the right of the petitioners for approaching the concerned Labour Court for ventilating their grievances by producing relevant documents and also by moving application for calling upon the concerned officers and records available with the respondents to substantiate their claims of continuous uninterrupted service with the respondents as daily wage employees, the present writ petition in its present form stands disposed of.

**Sd/-  
(P. Sam Koshy)  
JUDGE**