

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5199 of 2012**

Vijay Kumar Kashyap S/o Late Jeevanlal Kashyap Aged About 54 Years Assistant Fitter, E & M Store Sub-Department, Water Resources Department, Gangrel, District Dhamtari, Chhattisgarh R/o Ambedkar Chowk, Dhamtari, P.S., Post And District Dhamtari, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through: Secretary, Water Resources Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Chief Engineer, Mahanadi Reservoir Project, Water Resources Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
3. Bajrang Lal Sahu S/o Darashram Aged About 63 Years R/o. Village And Post Cherkapur, P.S. And Tahsil Palari, District Balauda Bazar, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Adil Minhaj, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate
For respondent No.3	:	Mr. A.D. Kuldeep, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/07/2018**

1. The challenge in the present writ petition is to the order Annexure P/11 dated 23.04.2012, whereby the representation for grant of regularization from a back date has been rejected by the respondents.
2. The contention of the petitioner is that the petitioner has been working with the respondents as a daily wage employee since 1977 and along with him one respondent No.3 Bajrang Lal Sahu was also working, but the respondent No.3 was junior to the petitioner so far as the original date of engagement is concerned.

3. According to the petitioner, the respondent No.3 had been regularized by the respondents in the year 1996, but the petitioner who was senior to the respondent No.3 had not been regularized and therefore he had preferred a petition before the State Administrative Tribunal, which subsequently stood transferred to the Chhattisgarh High Court on the abolition of the Tribunal, where the writ petition was registered as WPS No. 2316/2015. He submits that the writ petition finally stood withdrawn vide order dated 16.03.2012 with a liberty to file a representation so far as his grievance relating to the seniority is concerned. The representation having being made, the same has been rejected vide the impugned order, leading to the filing of the present writ petition.
4. According to the petitioner the respondents have not dealt with the issue so far as the petitioner being senior to the respondent No.3 in service and therefore the benefit, which have been provided to the respondent No.3, should have been granted to the petitioner also, if not from an earlier date, atleast from the date the respondent No.3 who was junior to the petitioner was granted the benefits. He submits that though the petitioner has since been regularized in the year 2005, but in fact he was to be regularized in the year 1996 itself along with the persons, who were immediate junior to him and who have been regularized about 10 years ahead of the petitioner.
5. Perusal of the record would show that the order Annexure P/2 reveals that after having being engaged in the year 1977, there was a break in service of the petitioner for a period of about 3 years i.e. from 08.09.1985 to 08.08.1988. The fact that he was substantively a daily wage employee and voluntarily did not report for duties for a

period of 3 years, by itself would show that there is a break in service so far as the petitioner is concerned, during the intervening period between 1985 to 1988. After the break in service for all the practical purposes, the petitioner would have to be treated as a person who is in employment since 1988 only with the respondents and he cannot be equated with a person, who had uninterruptedly continued in service of the respondents since 1977. The fact that the petitioner had resumed his duties after a long unauthorized absence of about 3 years in year 1988, the petitioner's service for all practical purposes would be treated to have commenced only from 1988 onwards. If that be so then the petitioner would not be entitled for equating himself with the respondent No.3 in whose service the issue of break in service was not there.

6. In view of the same, this Court does not find any strong case made out by the petitioner in the present writ petition for grant of a relief as sought for. Moreover, the petitioner on the same set of facts had already filed a writ petition which he had withdrawn vide order dated 16.03.2012. In view of the same, this Court is left with no other option but to dismiss the writ petition.
7. Accordingly, the present writ petition stands dismissed.

Sd/-
(P. Sam Koshy)
Judge