

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 4517 of 2012**

D. R. Yadav S/o Shri Ghosila Ram Yadav, aged about 42 years, R/o
village Kaskela, District Sarguja (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Department of Revenue,
DKS Bhavan, Raipur (CG)
2. Collector, Koriya, District Koriya (CG)

---- Respondents

For Petitioner	:	Ms. Sharmila Singhai, Advocate
For State	:	Shri Ratan Pusty, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22/10/2018**

This is the second round of litigation. Through this writ petition the petitioner has sought for grant of regularization.

2. The claim of the petitioner is that he was appointed on part time basis in the year 1991 vide Annexure P-2 dated 25/14.05.1991. In due course of time, except the petitioner, other persons who were appointed along with the petitioner have been regularized in service vide Annexure P-5 dated 10.08.2009. Thereafter, the petitioner filed a writ petition i.e. WPS No. 3409/2011 which was disposed of by this Court vide order dated 30.06.2011. While disposing off the writ petition this Court had made the following observations:

“Learned counsel for the petitioner submits that claiming similar treatment and regularization, the petitioner has moved application but the same has remained undecided.

Considering the submissions made by the learned counsel for the petitioner and that the person appointed along with the petitioner has been regularized, the case of the petitioner is also required to be considered, in accordance with the policy of regularization and strictly in accordance with the guidelines laid down by the Supreme Court in the case of Secretary, State of Karnataka and others v. Uma Devi (3) and others (2006) 4 SCC1.

Accordingly, it is directed that respondent no.2 shall undertake necessary exercise and decide the case of the petitioner, as expeditiously as possible.

With the aforesaid observations, the petition is finally disposed off.”

3. Subsequent to the disposal of the said writ petition, the respondents vide impugned order Annexure P-1 dated 20.04.2012 rejected the claim of the petitioner.

4. What is relevant to be taken note of at this juncture is that the petitioner had specifically mentioned details of the persons who were appointed along with him and who have in due course of time been regularized. However, it was only the petitioner who has been left out from being considered for regularization. The order Annexure P-5 dated 10.08.2009 would show that the persons who were senior to the petitioner and the persons who were below the petitioner in the order of appointment have been granted regularization. No reason whatsoever has been given while rejecting the representation as to why the case of the petitioner is not similar to the persons who have been granted regularization and who were also appointed along with the petitioner.

5. The impugned order Annexure P-1 dated 20.04.2012 is totally silent so far as the other similarly placed persons are concerned. The impugned order only reflects the judgment of the Supreme Court in the case of

Secretary, State of Karnataka and others Vs. Uma Devi (3) and others, 2006 (4) SCC 1 which has been borne in mind while deciding the same. In the case of Uma Devi (supra), the Supreme Court had made an observation that people who are in service for more than 10 years and whose appointment is not otherwise illegal but is only irregular, they should be considered for regularization as one time measure.

6. What is pertinent to take note of the fact is that once when there are instances brought to the notice of the authorities of discrimination in as much as people identically placed have been considered for regularization and the petitioner being left out gives rise to the allegation of pick and choose or also gives us to draw an inference that the petitioner has been left out for obvious reasons.

7. Given the said facts and circumstances of the case, this Court is of the opinion that the order Annexure P-1 dated 20.04.2012 is not sustainable at all. The same therefore is set aside/quashed. The matter is remitted back to respondent no.2, Collector to reconsider the case of the petitioner for regularization. While reconsidering the case of the petitioner, respondent no.2 shall take note of the order of appointment of the petitioner Annexure P-2 as also the order Annexure P-5 which would reflect that people appointed along with the petitioner and who were placed above and below the petitioner have been considered for regularization. Let respondent no.2 pass a detail order in this regard keeping in view the aforesaid observation within a period of 90 days from today.

8. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE