

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 2187 of 2013**

Wahidulla Khan son of Shri Habibulla Khan, aged about 52 years, working as Driver in the officer of Chief Medical and Health Officer, Bilaspur, residence of Dabripara, PS Civil Lines, Bilaspur, District Bilaspur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Health and Family Welfare Department, Mantralaya, PS Rakhi, Tahsil Aarang, Naya Raipur, District Raipur (CG)
2. Director Health Services, Sanchanalaya, PS City Kotwali Raipur, District Raipur(CG)
3. Chief Medical and Health Officer, Bilaspur, Nutan Chowk, Seepat Road, P.S. Sarkanda, District Bilaspur (CG)

---- Respondents

For Petitioner	:	Shri C. Jayant K. Rao, Advocate
For Respondent/State	:	Ms. Astha Shukla, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/07/2018**

The limited grievance which the petitioner now raises in the present writ petition is for a direction to the respondents to consider his case for grant of seniority from the date of his initial appointment with the respondents.

2. Facts of the case are that the petitioner was initially appointed on casual basis and in the year 1992, people appointed along with the petitioner were regularized but for some reason the petitioner was left out.

Meanwhile, the services of the petitioner was terminated against which the petitioner preferred a writ petition in the year 2002 registered as WPS No. 792 of 2002. The writ petition finally was disposed of on the basis of the consent given by the respondents for reinstatement without back wages. The petitioner thereafter was permitted to resume his employment in the year 2007-08 and in due course of time, he stood regularized in the year 2011 which again was in the light of a direction given by this Court in WPS No. 6780 of 2008 decided on 26.02.2010. The respondents though have regularized the services of the petitioner but his services are being counted only from 2008 i.e. the date he was taken back in service after disposal of WPS No. 792/2002 on 05.04.2007.

3. It is this action on the part of the respondents which the petitioner is aggrieved of.

4. Counsel for the petitioner submits that once when there is an order of reinstatement without back wages this itself means that the illegal termination order has been set aside by the Court and the illegal order would not come in the way of counting the seniority of the petitioner even though the said intervening period has been treated as “no work no pay” and the period has to be considered as a period spent on duty for the purpose of counting the length of service of the petitioner.

5. This issue which has been raised by the petitioner stands decided by the Division Bench of this Court in the case of *Tukaram v. State of Chhattisgarh* (WPS No. 1703 of 2015 and batch of petitions).

6. Considering the facts and circumstances of the case, this Court is of the opinion that the petitioner for all practical purposes has to be treated as if in service from the date of his initial appointment and that the

intervening period when he was out of employment would be treated as “no work no pay” only to the purpose of grant of monetary benefit but the said period has to be reckoned for the purpose of counting the length of service and for grant of other benefits.

7. The petition accordingly stands allowed.

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