

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 198 of 2017**

{Arising out of order dated 09.05.2017 passed by learned Single Judge in Writ Petition (S) No. 197 of 2011}

- Ramu Ram, aged about 39 years, S/o Shri Sunderlal, Resident of Bapu Up Nagar, Budhwari Bazar Bilaspur, Police Station – Torwa, Tahsil, Civil & Revenue District – Bilaspur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, Through the Secretary, Department of Tribal Welfare, New Mantralaya, Raipur, Police Station – Kewli, Tahsil, Civil & Revenue District Raipur (C.G.)
2. Assistant Commissioner, Tribal Welfare Department Bilaspur, Police Station – Civil Lines, Tahsil, Civil & Revenue District – Bilaspur (C.G.)
3. Collector, Tribal Welfare Department Bilaspur, Police Station – Civil Lines, Tahsil, Civil & Revenue District – Bilaspur (C.G.)
4. Jitendra Kumar Manikpuri, Cook, Schedule Caste Post Matric Boys Hostel, Block Bilha, Police Station – Civil Lines, Tahsil, Civil & Revenue District – Bilaspur (C.G.)

---- Respondents

For Appellant	:	Shri Raghvendra Verma, Advocate.
For Respondent Nos.1 to 3/State	:	Shri U.N.S. Deo, Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu****Judgment on Board****Per Ajay Kumar Tripathi, Chief Justice****03.12.2018**

1. Heard counsel for the Appellant and learned Government Advocate for the State.
2. The Appellant moved the High Court for regularization on the post of a Sweeper on the ground that he has been working with the Department since 20.01.1989.

His assertion before the learned Single Judge was that he is covered by the terms and conditions of the circular dated 05.03.2008 which was issued keeping in mind the law laid down by the Hon'ble Apex Court in ***Secretary of Karnataka & Others v. Uma Devi & Others*** reported in **(2006) 4 SCC 1**. A copy of the said circular is Annexure P/3 to the writ application.

3. The learned Single Judge did take note of the fact that the Appellant was allowed Rs.300/- per month as a part-time Sweeper for a work of 4 hours in a day. However, a new pay scale of a daily wager seems to have been conferred upon the Appellant vide an office order dated 24.10.1996 w.e.f. 01.04.1996 at the rate of Rs.1,245/- with a direction to work for 8 hours a day. This document has been now brought on record as Annexure P/8 in the writ appeal.
4. However, while considering the writ application of the Appellant while relying upon Annexure P/1 dated 03.11.2010 which was subject matter of challenge in the writ, the learned Single Judge had taken note that only on 22.07.1998 the Appellant had been appointed as a full-time Sweeper, therefore, he agreed with the order of rejection (Annexure P/1) that he became a daily wager w.e.f. 22.07.1998 and therefore, did not come within the ambit of the circular dated 05.03.2008 where regularization of daily rated employee was required to be considered between 01.01.1989 till 31.12.1997 only.
5. There seems to be something amiss somewhat because if the notification or the order dated 24.10.1996 contained in Annexure P/8 is considered, the monthly rate of Rs.1,245/- was granted w.e.f. 01.04.1996 and for 8 hours of work assigned to the Appellant. Which in terms is an indication that actually he does come within the ambit of consideration since his status as a daily wagers has to relate back to his engagement w.e.f. 01.04.1996 instead of 22.07.1998.
6. We are not willing to accept stand of the State that since the office concerned which has issued Annexure P/8 has closed down now, therefore, the

authenticity of the document annexed with Annexure P/8 will vanish. We also notice that the other facts with regard to initial hiring of the Appellant as a part-time Sweeper is not disputed. It is only the date from which he has been given regular pay, was the issue.

7. In view of the same the impugned order of learned Single Judge dated 09.06.2017 is quashed. As a consequence thereof even Annexure P/1 to the writ application dated 03.11.2010 passed by concerned Respondent is also set aside. A direction is issued to consider the case of the Appellant for regularization keeping his dates for engagement as a daily wager w.e.f. 01.04.1996 within a period of 3 months from the date of production of a copy of this order.
8. Appeal is allowed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge