

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 7275 of 2018

Rajendra Prasad Nayak S/o Shri Harinath Nayak Aged About 47 Years C/o Sundar Lal Patel, Balgi Road Lata, Village - Lata, Post Office - Jamni Pali, Police Station Bankimongra, Korba, District Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Water Resources, Mantralaya, Naya Raipur, Raipur Chhattisgarh.
2. Executive Engineer Hasdeo Barage Water Management, Division Rampur, District Korba Chhattisgarh.
3. Sub Divisional Officer Hasdeo Barage Water Management, Sub Division Darri, District Korba Chhattisgarh.

---- Respondents

For petitioner- Shri K.P.S. Gandhi, Advocate.
For State- Shri Syed Majid Ali, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

02/11/2018

Heard.

1. It is contended by the petitioner that the petitioner was appointed as daily wage employee on 4/12/1989, thereafter his services were discontinued on 28/02/1995. Thereafter, he approached the Labour Court and by an order dated 22/01/2014, he was reinstated in service.
2. It is stated that in the meanwhile number of the daily wage employees were considered and regularized as per circular dated 5/03/2008 promulgated by the State Government to consider cases of daily wage eligible employees for regularization as one time measure in compliance of the judgement of the Supreme Court in the case of **Secretary, State of Karnataka & ors. Vs. Umadevi (3) and others, 2006 (4) SCC 1.**
3. Learned counsel for the petitioner further submits that in similar writ

petition bearing number WPL No.229/2017 the coordinate bench of this court has considered the same issue and has passed order for consideration of the similarly placed employees.

4. Learned State counsel is not able to dispute the fact which is recorded in WPL No.229/2017 wherein it was stated that despite writ petition even if is filed notwithstanding the pendency of the writ petition against the order of the award at the instance of the State, cases of regularization are considered. Learned State counsel further submits that he do not exceed to the order dated 31/10/2017 passed in WPL No.229/2017. Query having been raised to the learned State counsel that whether any writ appeal have been filed against WPL No.229/2017 he shows his inability and submits that he cannot make any submission. It is unfortunate that the State counsel would not apprise the fact that what are the steps taken in similarly placed litigation as it appears and in the instant case contention has been made by the State counsel that different grounds are being raised, as on that nothing was placed on record that order passed in WPL No.229/2017 was subject of any writ appeal or not?

5. Perused the order passed in WPL No.229/2017 by the coordinate bench of this court on 31/10/2017. Considering the order passed in WPL No.229/2017 this court is inclined to pass similar order in this case also which reads as :-

“3.The facts pleaded in the petition and the orders of the Labour Court placed on record do show that the petitioner was terminated in the year 2000. Under award of the Labour Court, he has been directed to be reinstated, therefore, he shall be deemed to continue in service as held by the Division Bench of this Court in the case of Tukaram Vs. State of Chhattisgarh in WPS No.1703 of 2015 and batch of petitions decided vide common order dated 16.05.2017. Therefore, in these circumstances and further taking into consideration that this Court has already disposed off similar cases for consideration, the respondents are directed to consider

petitioner's claim for regularization strictly in accordance with the policy contained in circular dated 05.03.2008 promulgated by the State Government for consideration of eligible daily wage employees for regularization as one time measure in compliance of the judgment of the Supreme Court in the case of Umadevi (supra). This exercise shall be completed within a period of three months from the date of receipt of copy of this order.

4. It is also stated that against the award of the Labour Court, a petition has been filed before this Court which is still pending. However, it is submitted that the said award has not been stayed. It goes without saying that regularization if any done by the respondents, would be subject to the outcome of the pending writ petition filed by the State Government.”

6. Under the circumstances, it is directed that the State shall be obliged to consider the case of the petitioner to regularize pursuant to the circular dated 5/03/2008 which was as one time measure in compliance of the judgement of the Supreme Court in case of Umadevi (supra). Said exercise shall be completed within a period of three months from the date of receipt of copy of this order.

7. With such direction, the petition stands disposed off.

Sd/-

(Goutam Bhaduri)

JUDGE