

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7499 of 2018**

Surya Kumar Tiwari S/o Shri Harprasad Tiwari, Aged About 55 Years,
R/o Village Amora, Police Station Janjgir, District Janjgir Champa
Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Water Resources, Mantralaya, Naya Raipur, Raipur Chhattisgarh
2. Executive Engineer Hasdeo Canal Water Management, Division Janjgir, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	:	Shri Lav Sharma, Advocate
For State	:	Shri D. Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14.11.2018**

The relief sought for by the petitioner in the present writ petition is for a direction to the respondents for considering his case for regularization.

2. The petitioner herein was initially engaged as daily wage employee with the respondents in the year 1986. Subsequently, the services of the petitioner were discontinued w.e.f. 1995. Later on, the petitioner raised a dispute under the Industrial Disputes Act before the Labour Court, Bilaspur where the case was registered as Case No. 20/IDA/2007(Ref.). The said case was allowed by the Labour Court vide award dated 01.10.2008 and the

Labour Court granted the benefit of reinstatement in service with 50% back wages and it was further held that the intervening period would be treated as continuation in service for the purpose of calculating the length of service. The said order of the Labour Court was challenged by the State Govt. before the High Court in WPL No. 2195/2009 and the writ petition was partly allowed to the extent that the reinstatement part was affirmed by the High Court. However, granting of 50% back wages was set aside. It is relevant at this juncture to take note of the operative part of the award of the Labour Court which specifically holds that the intervening period i.e. “the period from the date of termination till the date of reinstatement would be counted as continuous service” has not been disturbed by the High Court. Thus, the same has attained finality.

3. As a consequence, it has to be presumed that the petitioner is in continuous employment from 1986 onwards and subsequent to the award of the Labour Court also he was reinstated and he is still in service.

4. Given the facts and circumstances of the case and taking into consideration the judgment of the Supreme Court in the case of **Secretary, State of Karnataka and others v. Uma Devi (3) and others (2006) 4 SCC1**, and the subsequent circular of the State Govt. issued on 05.03.2008, the case of the petitioner deserves to be considered for regularization.

5. Accordingly, the present writ petition stands allowed directing respondent no.1 to consider the case of the petitioner for regularization keeping in view the judgment of the Labour Court as also the judgment of the Division Bench of this Court passed in the case of **Tukaram v. State of Chhattisgarh** (WPS No. 1703 of 2015 and batch of petitions). Let this exercise be completed within a period of 4 months from the date of receipt

of certified copy of this order.

6. The writ petition accordingly stands allowed.

**Sd/-
P. Sam Koshy
Judge**

Bhola