

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 4270 of 2006**

1. State of Chhattisgarh through Secretary, Public Works Department, Mantralay Bhawan, Raipur Chhattisgarh
2. Superintending Engineer, Public Works Department, Durg, District Durg, Chhattisgarh
3. Executive Engineer, Public Works Department, Khairagarh, District Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. Bhaiyalal Bansod, President, Dainik Vetan Bhogi Shramik Sangh, Registration No. 4286, Rajnandgaon, R/o Station Para, Ward No.10, Rajnandgaon, Chhattisgarh
2. Presiding Officer, Industrial Court, Raipur (CG)
3. Presiding Officer, Labour Court, Rajnandgaon (CG)

---- Respondents

For Petitioner : Mr. Ishan Verma, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****11.04.2019**

1. The challenge in the present writ petition is to the order passed by the Industrial Court dated 09.11.2005 in Civil Appeal No. 46/CGIR Act/A-II/2004 and also to the order passed by the Labour Court, Rajnandgaon dated 19.02.2003 in Case No. 56/CGIR Act/97(civil).

2. The facts of the case in brief are that the respondent no.1 raised a dispute before the Labour Court under Section 31(3) of the MPIR Act, 1960, now CGIR Act, 1960. The said claim application was filed in the representative capacity by the President of Daily Wage Employees Union, Rajnandgaon representing 104 workers working in Sub-Divisions Khairagarh, Dongargarh and Kawardha in District Rajnandgaon. The claim of the Union before the Labour Court was that all the workers who had raised the dispute through respondent no.1 had in fact been working with the petitioner Department for the last 25-30 years and therefore, the State should have made all endeavours for regularization of these workers who had put in more than 2 decades of continuous employment with the petitioner department.
3. On behalf of the workers the President of the Union namely Bhaiyalal Bansod and 3 other workers namely Makhan Lal, Vishnuprasad and Dhela Singh were examined and all of whom have made similar statement of having worked as daily wage employee uninterruptedly under the establishment since 1977 onwards.
4. On behalf of the petitioner-State, the Statement of an SDO Shri S. L. Markam was recorded. The State Govt. in their return have categorically accepted the employment of the workers in the contingency establishment. However, they have opposed the relief which has been sought for by these workers on the ground that they were substantively a daily wage employee and do not fulfill the requisite length of service and eligibility required for regularization.
5. The Labour Court vide its order dated 19.02.2003 allowed the

application and ordered to regularize the services of the workers from the date the application was made before the Labour Court i.e. w.e.f. 02.08.1997 onwards. The petitioner-State was directed to ensure that the workers are granted permanency and also ordered for grant of regular benefits that are paid to the regular employees in the department.

6. This order of the Labour Court dated 19.02.2003 was subjected to challenge before the Industrial Court under Section 65 of the CGIR Act, 1960 and the Industrial Court vide its order dated 09.11.2005 rejected the appeal of the State Govt. affirming the order passed by the Labour Court. The Industrial Court also took into consideration the total length of service which these workers had put in and finally rejected the appeal.
7. The said order passed by the Industrial Court is under challenge in the present writ petition which was filed as early as in August, 2006. Today, we are in the year 2019 and as such more than 12 years have lapsed from the date the writ petition was filed. The proceedings show that there was no interim order granted to the State against the operation of the two orders passed by the Labour Court as well as by the Industrial Court. In all probability, the order of the Labour Court and the Industrial Court must have been complied by now.
8. On a query being put to the State counsel he was unable to state whether the workers have since been regularized or not.
9. Perusal of the record and also considering the period of engagement of the respondent employees, this Court is of the opinion that by now all the workers involved in the dispute must have reached the age of

superannuation or by efflux of time, most of them must have already retired in between.

10. At this juncture, it would not be proper on the part of this Court now to unsettle which already stands settled for so long. Most of the workers must have either got the benefit or crossed the age of superannuation and settled down in their life somewhere. For this limited reason alone, this Court is of the opinion that the two orders passed by the Labour Court as well as by the Industrial Court Annexure P-2 and P-1 respectively do not warrant any interference and the writ petition accordingly stands dismissed.

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