

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 111 of 2019**

Smt. Rukhmeen Bai @ Rukhmani Bai W/o Tulsiram, Aged About 61 Years, R/o Village Kalyanpur, P.O - Dongargarh, Police Station - Dongargarh, District – Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of PWD Mantralaya, Mahanadi Bhawan, Naya Raipur, District - Raipur Chhattisgarh
2. Chief Engineer, PWD Department, Raipur Range, District - Raipur Chhattisgarh
3. Superintendent Engineer, PWD Department, Durg Division, District - Durg Chhattisgarh
4. Sub Divisional Officer, PWD Department, Sub Division - Dongargarh, District - Rajnandgaon Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Garry Mukhopadhyay, Advocate
For State	:	Mr. Rahul Mishra, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09/01/2019**

1. The claim of the petitioner is for grant of regularization. The challenge in the present writ petition is to the order Annexure P-1 dated 29.09.2018 passed by respondent no.2 rejecting the claim of the petitioner for regularization.
2. Brief facts relevant for disposal of the present writ petition are that the petitioner was initially appointed as a daily wage employee vide

order dated 20.02.1987. This fact stands established vide impugned order Annexure P-1 itself. The correspondence Annexure P-2 dated 01.08.1998 reflects that the services of the petitioner were terminated in 1998. It appears that the petitioner during the period from 1987 to 1998 had been working with the respondents continuously on being engaged for a period of 89 days each with artificial breaks. Upon the petitioner being discontinued from service in the year 1998, the petitioner raised a conciliation proceeding under the provisions of the Industrial Disputes Act. During the course of conciliation, the respondents agreed to take back the petitioner in service w.e.f. 01.06.1999 onwards. Admittedly from 01.06.1999 till date the petitioner has been continuously discharging her duties with the respondents. Later on, when the petitioner moved her claim for regularization, the impugned order Annexure P-1 has been passed rejecting her claim stating that there is no proof of employment of the petitioner between 1987 to 2001. This according to the petitioner is a total contradictory stand taken by the respondents.

3. Perusal of the record would show that the petitioner was initially appointed on 20.02.1987. Annexure P-2 shows that the services of the petitioner were terminated vide the said letter dated 01.08.1998. Annexure P-3, the conciliation proceeding would show that the services of the petitioner were taken back by the Department w.e.f. 01.06.1999. All these dates would show that the petitioner was in employment when his services were discontinued in 1998. This would give a strong inference of the petitioner being in employment

from 1987 to 1998. The conciliation proceeding also reflects that her services were taken back in employment from 01.06.1999 onwards and since then she is continuously in service.

4. From the aforesaid dates and documents it appears that the finding given by respondent no.2 vide Annexure P-1 does not seem to be correct, proper and justified. Even otherwise from 01.06.1999 onwards the petitioner has put in about 20 years of service. Under the circumstances, this Court is of the opinion that the grounds of rejection of the claim for regularization of the petitioner do not seem to be proper and justified.
5. The impugned order Annexure P-1 therefore is not sustainable and the same deserves to be and is accordingly set aside. The matter stands remitted back to respondent no.2 to pass a fresh order taking into consideration the aforestated facts and documents referred to in this order. Let the petitioner produce the copy of this order with all relevant documents which have been enclosed with this petition before respondent no.2 for a fresh order to be passed. It is expected that respondent no.2 shall take a decision on the claim of the petitioner at the earliest preferably within a period of 90 days from the date of receipt of copy of this order without being influenced by the earlier order.
6. The writ petition thus stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge