

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 383 of 2011

1. Sevak Ram Verma S/o Shri Mant Ram Verma, Gangman, PWD Baloda Bazar, Raipur (CG)
2. Keju Ram Verma S/o Sammalal, Gangman, PWD Baloda Bazar, Raipur (CG)
3. Karan Lal Verma S/o Shri Mant Ram, PWD Baloda Bazar, Raipur (CG)
4. Anjori S/o Sri Kumar Singh, PWD Baloda Bazar, Raipur (CG)
5. Agrahit Sahu S/o Sri Pusahu, PWD Baloda Bazar, Raipur (CG)
6. Bhagvati Sahu S/o Sri Pusahu, PWD Baloda Bazar, Raipur (CG)
7. Smt. Khediya Bai D/o Sri Visnatu, PWD Baloda Bazar, Raipur (CG)
8. Raj Narayan Verma S/o Sri Ram Bharosa, Gangman, PWD Baloda Bazar, Raipur (CG)
9. Sarta Ram Verma S/o Sri Ram Bharosa, Gangman, PWD Baloda Bazar, Raipur (CG)
10. Ghyam Das S/o Sri Mangu, Gangman, PWD Baloda Bazar, Raipur (CG)
11. Chhedilal Verma S/o Sri Vishal, Gangman, PWD Baloda Bazar, Raipur (CG)
12. Bhaiya Ram S/o Sri Bhagat Yadav, Gangman, PWD Baloda Bazar, Raipur (CG)
13. Ram Singh Yadav S/o Sri Sriram Yadav, Gangman, PWD Baloda Bazar, Raipur (CG)
14. Ramhan Dhruv S/o Sri Bhagela, Gangman, PWD Baloda Bazar, Raipur (CG)
15. Baldeo Das S/o Sri Dukhu, Gangman, PWD Baloda Bazar, Raipur (CG)
16. Thukel S/o Sri Jhadi, Gangman, PWD Baloda Bazar, Raipur (CG)
17. Ajay Patel S/o Sri Ghanshyam, Gangman, PWD Baloda Bazar, Raipur (CG)
18. Mohit Ram S/o Sri Lagnu Ram, Gangman, PWD Baloda Bazar, Raipur (CG)
19. Prabhu Ram S/o Sri Jahan, Gangman, PWD Baloda Bazar, Raipur (CG)
20. Baldeo Giri S/o Sri Keja Giri, Gangman, PWD Baloda Bazar, Raipur (CG)
21. Gyanik Sen S/o Sri Churu, Gangman, PWD Baloda Bazar, Raipur (CG)
22. Kripalu Sahu S/o Sri Dayaram, Gangman, PWD Baloda Bazar, Raipur (CG)

23. Sevak Patel S/o Sri Sonau, Gangman, PWD Baloda Bazar, Raipur (CG)

---- Petitioners

Versus

1. State Of Chhattisgarh through Secretary, Department of Public Works, DKS Bhawan, Raipur (CG)
2. Engineer In Chief, Public Works Department, Raipur (CG)
3. Executive Engineer, Public Works Department, Division Baloda Bazar Raipur (CG)

---- Respondents

For Petitioners	:	Mr. Akshay Uppal, Advocate
For State	:	Mr. P. Acharya, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/08/2019

1. The limited grievance which the petitioners have raised in the present writ petition is for treating their services from 02.04.2003 till they were reinstated in service pursuant to the order dated 15.09.2005 passed by this High Court in WP No. 2048 of 2003 and other connected bunch of writ petitions, as continuous service.
2. The facts of the case are that the petitioners were working as permanent Gangmen in Public Works Department. Vide order dated 02.04.2003 the Department terminated the services of those persons who had completed 30 years of service or had attained the age of 60 years. Though the petitioner had completed 30 years of service but had not attained the age of 60 years, their services were discontinued as per the order dated 02.04.2003.

3. It is this order of discontinuance which was challenged in WP No. 2048 of 2003 and other connected bunch of writ petitions which stood allowed vide order dated 15.09.2005. Since the petitioners had not crossed the age of superannuation, by virtue of the order of the High Court dated 15.09.2005, the petitioners were reinstated in service.
4. The grievance of the petitioners is that though the respondents have reinstated them in service pursuant to the order of the High Court dated 15.09.2005, the petitioners have been deprived of their consequential benefits which they would have otherwise got had they not been discontinued. It is the said intervening period which is the issue in the present writ petition.
5. Undoubtedly, the services of the petitioner were discontinued by an order of the State Govt. dated 02.04.2003. There is also no dispute that the said order dated 02.04.2003 has been held to be bad by the High Court vide judgment dated 15.09.2005. Admittedly the petitioners, as a consequence of the order of the High Court, were reinstated in service. The petitioners on being reinstated have to be treated as if they were in continuous employment treating as if the impugned order dated 02.04.2003 never existed. The entire period for all practical purposes should have been treated as continuous service. Moreover, the State Govt. themselves have subsequently modified their policy permitting the Gangmen to retire on the age of 60 years and deleting the Clause of retiring them on completion of 30 years of service. Though the order was made effective by the Govt. w.e.f. 30.03.2005, the High Court has held that fixing of cut off date also to be bad in law. Thus, for all practical purposes, the intervening period from the date of discontinuance till the date of reinstatement has to be treated as

continuous in service. However, since the petitioners have in fact not physically worked during the said period, the doctrine of “No work no pay” would be applied and for the intervening period, the petitioners would not actually get any monetary benefits, however, the intervening period have to be extended all benefits that they would have otherwise got by giving notional fixation.

6. With the aforesaid observation, the writ petition stands disposed of.

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

Khatai