

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1248 of 2019

Ranjan Das S/o Shri Jagnudas Aged About 57 Years R/o Village Baghimar, Post Lagra, Tahsil Lormi, Police Station- Fastarpur, District Mungeli, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Forest, Mantralaya, Naya Raipur, Raipur Chhattisgarh.
2. Chief Conservator Of Forest Aranya Bhawan, North Block, Sector-19, Atal Nagar, District Raipur, Chhattisgarh.
3. Divisional Forest Officer Forest Division Mungeli, District Mungeli, Chhattisgarh.
4. Forest Range Officer Forest Range Khudia, District Mungeli, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. K.P.S. Gandhi, Advocate
For State	:	Ms. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/02/2019

1. The claim in the present writ petition is for a direction to the respondents for considering the case of the petitioner for regularization.
2. According to the petitioner, the petitioner was initially engaged as a daily wage employee in the year 1981 and he was discharging the duties of Chowkidar and continued to work with the respondents till 1998. It is said that in the year 1998, the services of the petitioner were abruptly discontinued by the respondents.
3. The said discontinuance of the services of the petitioner was challenged by the worker before the Labour Court in the year 2014

and the Labour Court vide its order dated 12.02.2018 allowed the application in favour of the worker and ordered for reinstatement without back-wages. The said order has not been challenged by the respondents any further, by virtue of which the same has attained its finality. The petitioner has now moved an application for considering the case of the petitioner for regularization.

4. It is the contention of the petitioner that since the Labour Court has passed an order of reinstatement in service and have also held that the termination to be bad in law therefore for all practical purposes, the petitioner has to be treated to be in continuous employment from 1981 till date and thus as the circular of the State Government Dated 05.03.2008 would be applicable in the case of the petitioner and he would be entitled for regularization.
5. The State Counsel however opposing, the petition submits that it is the case where though the service of the petitioner stood discontinued in 1998, the petitioner for the first time had questioned his discontinuance after a long inordinate delay of 16 years in the year 2014 and there is no proper explanation or justification for non raising dispute during the said 16 years times. Therefore, according to the State Counsel the petitioner would not be entitled for the benefits as are otherwise enshrined in the judgment of this Court in the case of ***"Tukaram Sahu v. State of Chhattisgarh & Ors"*** WPS **No. 1703 of 2015** and others connected matters decided on 16.05.2017.
6. Undisputed facts from the submission which have been put forth by either side is that the petitioner stood discontinued from service after

working between 1981 to 1998. The petitioner raised a dispute before the Labour Court for the first time after 16 years in the year 2014. The Labour Court passed an order in February, 2018 in favour of the petitioner and he was later on reinstated on 04.05.2018 and since then he is working with the respondents.

7. It would be relevant at this juncture, refer to the judgment of **“Tukaram Sahu”** (supra) wherein the Division Bench of this Court in paragraph 26 said judgment held as under:

“26. Accordingly, these Writ Petitions are allowed. The question of law discussed earlier to be decided in these petitions is answered in the affirmative in favour of the petitioners-workers holding that they would not fall in the category of litigious worker and that they would be entitled for continuity of service for the period they were out of employment while they were litigating before the Labour Court. ”

8. From the aforesaid observations, it is abruptly clear that this Court's decision was clear on this count that it is the litigating period for which the petitioner would be entitled for the benefit. Facts of the present case when considered from the judgment of the labour Court, it appears that he has worked between 1981 to 1998 thereafter he was removed. The removal has been held illegal by an order passed in February, 2018. Thereafter, he has been reinstated. The dispute was raised by the petitioner for the first time in the year 2014, when the reference was made to the labour Court. Between 1998 to 2014, the petitioner had in fact not worked anywhere neither had he challenged his removal before any forum.
9. Keeping in view the judgment of the Division Bench in the case of **“Tukaram”** (supra), it would clearly reflect that the litigating period

for petitioner would be start from 2014. Thus, it is only from 2014 onwards, the petitioner would be deemed to be in continuous service.

10. In the aforesaid factual back drop the total length of service so far as the petitioner is concerned, would be between 1981 to 1998 and thereafter from May, 2018 till date. As he has since been reinstated after the award of the labour Court, if we take the said two periods that is from 1981 to 1998 and 2018 till date apparently the petitioner has put in more than 10 years of service and the initial appointment of the petitioner was prior to 31.12.1997, therefore, the respondent authorities would have to accordingly consider the case of the petitioner and pass a fresh order, so far as his claim for regularization is concerned. Keeping in view the circular dated 05.03.2008, the writ petition accordingly stands disposed off.
11. Let an order be passed by the respondent authorities within a period of 90 days from the date of receipt of copy of this order.

Sd/-
(P. Sam Koshy)
Judge