

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1320 of 2019

Panna Lal Rajput S/o Shri Swaroop Singh Rajput Aged About 52 Years, R/o. Jal Karya, Vibhag, Police Station Civil Line, District- Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary Urban Administration And Development Department, Mantralaya, Naya Raipur, Chhattisgarh.
2. Nagar Palika Nigam, Through- Commissioner, Nagar Palika Nigam, Bilaspur, District- Bilaspur, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. K.P.S. Gandhi, Advocate
For State	:	Mr. Saleem Kazi, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/02/2019

1. The present writ petition has been filed seeking for a direction to the respondents to consider the claim of the petitioner for regularization.
2. The facts of the case is that the petitioner was engaged as a daily wage employee by the respondents on 18.10.1996. He continued to work till 02.08.1999, when he was discontinued from service.
3. The discontinuance of service was immediately challenged before the Labour Court vide case No. 04/I.A. Act/2007 (Reference). The Labour Court passed an order in favour of the petitioner on 14.01.2010 ordering reinstatement without back wages and also continuity of service.

4. Pursuant to the order of the Labour Court, the petitioner has also been reinstated in service. The order of the Labour Court dated 04.01.2010 was subjected to challenge by the Nagar Palika Nigam before the High Court in WP227 No. 2753/2010. The said writ petition has been dismissed by this Court vide its order dated 18.09.2015. In the light of the writ petition preferred by the Nagar Palika Nigam having dismissed, the order of the Labour Court stands affirmed and the petitioner shall be deemed to be in service from 1996 onwards.
5. The State Counsel however opposing, the petition submits that it is the case where though the service of the petitioner stood discontinued in 1999, the petitioner for the first time had questioned his discontinuance after a long inordinate delay of 8 years in the year 2007 and there is no proper explanation or justification for non raising dispute during the said 8 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 Versus State of Chhattisgarh & others"*** WPS ***No. 1703 of 2015*** and 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 1996 to 1999. The petitioner raised a dispute before the Labour Court for the first time after 8 years in the year 2007.

7. The Labour Court passed an order in January, 2010 in favour of the petitioner, thereafter the said order of the Labour Court was challenged by the Municipal Corporation before the High Court vide WP227 No. 2753 of 2010. The said writ petition was subsequently dismissed on 18.09.015. That, he was later on reinstated on 03.03.2016 and, since then he is working with the respondents.
8. It would be relevant at this juncture, refer to the judgment of “**Tukaram**” (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.”

9. From the aforesaid observations, it is apparently 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 1996 to 1999, thereafter he was removed. The removal has been held illegal by an order passed on 14.01.2010. Thereafter, he has been reinstated. The dispute was raised by the petitioner for the first time in the year 2007, when the reference was made to the labour Court. Between 1999 to 2007, the petitioner had in fact not worked anywhere neither had he challenged his removal before any forum.

10. 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 from 2007. Thus, it is only from 2007 onwards, the petitioner would be deemed to be in continuous service. In the aforesaid factual back drop the total length of service so far as the petitioner is concerned, would be between October, 1996 to August, 1999 and thereafter from the year 2016 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 1996 to 1999 and 2007 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.
11. The writ petition accordingly stands disposed off. 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