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HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2229 of 2019**

Amit Kumar Sharma S/o Late R.K. Sharma Aged About 33 Years Posted As
Sub Engineer At Engineering Division Bilaspur, R/o Thethwar Para,
Raigarh District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secetary, Health And Family Welfare
Department, Mantralaya, Mahanadi Bhawan Naya Raipur, Chhattisgarh.,
District : Raipur, Chhattisgarh
2. Chahttisgar Medical Service Corporation Ltd. Through Its Managing
Director 3rd Floor, Goving Sarang Vyavsayik Parisar, New Rajendra Nagar,
Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

WPS No. 2193 of 2019

Ravikant Bhosle S/o Kailash Rao Bhosle Aged About 35 Years Posted As
Sub Engineer At Engineering Division Raipur R/o Maratha Para, Dhamtari,
District Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Health And Family Welfare
Department Mantralaya, Mahanadi Bhawan Naya Raipur, Chhattisgarh.,
District : Raipur, Chhattisgarh
2. Chhattisgarh Medical Services Corporation Ltd. Through Its Managing
Director 3rd Floor Goving Sarang Vyavasayik Parisar New Rajendra Nagar,
Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

WPS No. 2222 of 2019

Pratima Sharma D/o Sanat Chaturvedi Aged About 32 Years Posted As
Sub Engineer At Engineering Division Raipur, R/o H.No. 54/ 358, Dagniya,
Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Health And Family Welfare Department, Mahanadi Bhawan Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Chhattisgarh Medical Service Corporation Ltd. Through Its Managing Director 3rd Floor. Govind Sarang Vyavsayik Parisar New Rajendra Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

WPS No. 2202 of 2019

Lalit Kumar Verma S/o Shri M.L. Verma Aged About 30 Years Posted As Sub Engineer At Engineering Division Durg R/o Vasundhara Nagar, Bhilai, Tahsil Durg District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Chhattisgarh Medical Service Corporation Ltd. Through Its Managing Director 3rd Floor, Govind, Sarang, Vyavsayik Parisar, New Rajendra Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Mateen Siddiqui, Advocate
For State	:	Mr. Jitendra Pali, Dy. AG
For Respondent No. 2	:	Mr. CJK Rao, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

25/04/2019

1. Since the issue involved and grounds raised are identical therefore all these writ petitions are being disposed off by this common order.
2. The basic challenge in the present writ petition is to the advertisement dated 19/12/2018 initiated by the respondent No. 2- Corporation for filling up to the post of Sub Engineer(Civil). The advertisement shows that the total number of posts advertised is four,

of which two have been reserved for the reserved category and two posts have been kept vacant for the unreserved category.

3. The grievance of the petitioner is that the petitioners were appointed on contractual basis vide Annexure (P-3) dated 10/07/2013 and since then the petitioners till date are continuously working uninterruptedly as a contractual Sub Engineer(Civil).
4. Counsel for the petitioners submits that the petitioners have a right for claiming regularization and that the claim of regularization may be considered as of now or else the persons who would be appointed through the advertisement under challenge may be given appointment on regular basis and they would become senior to the petitioners in the department.
5. The claim of the petitioners is based upon a clause that was inserted in the advertisement i.e. Clause 3 which envisages that on completion of 5 years of contractual service if the services are found to be satisfactory, Corporation may consider all these Sub Engineers(Civil) for regularization.
6. According to the counsel for the petitioners since the petitioners have completed more than 5 years of satisfactory service on contractual basis the respondents in the light of the Clause-3 of the advertisement should have considered regularising the services of the petitioners.
7. Counsel for the respondent No. 2 Corporation on notice has filed their detailed reply and in the reply they have taken a stand that the claim of the petitioners would not in any manner be prejudiced as of now by issuance of the advertisement for the simple reason that total number of posts advertised is only four and that as per the set up

there are 44 posts of Sub Engineer(Civil) in the respondent No. 2-Corporation. Further contention of the counsel for the respondent No. 2 is that the rules under which the contractual appointments were given to the petitioners does not have a clause for regularization on completion of stipulated period of service. Neither does the rules governing the service conditions in the respondent No. 2-Corporation which was inacted in the year 2017 does have such a clause and therefore the petitioners do not have any indefeasible right created for regularization. Thus prayed for the rejection of the writ petition.

8. Having heard the contentions put forth on either side and on perusal of record, though as has been found that the statutory rules under which the petitioners appointment were made on contractual basis and at the same time the rules governing the service conditions in the respondent No. 2-Corporation do not have a clause for regularization of a contractual employee but what cannot be lost sight of is that the fact that petitioners were inducted by the respondent No. 2-Corporation when it was first established and since then the petitioners have been working under the respondent No. 2 uninterruptedly. The fact that there is continuous uninterrupted service rendered by the petitioners show that there services were satisfactory in nature. Undoubtedly, all the petitioners have completed more than about six years of service with the respondent No. 2-Corporation and as per the records that have been made available the set up shows that there are about 44 posts of Sub Engineer(Civil) sanctioned for the respondent No. 2-Corporation. As per the petitioners, they also fulfill all the requisite eligibility criteria and they also have all minimum educational qualification that is required for

the appointment to the services of the respondent No. 2-Corporation and therefore the petitioner should have been considered for regularization. Another aspect which cannot be lost sight of is that when the petitioners were appointed it was through a proper selection process and an advertisement was published by the department in this regard and the advertisement itself carried a clause which for ready reference reproduced hereinunder:-

“ 5 वर्ष की संविदा सेवा पश्चात् कार्य के मूल्यांकन के आधार पर निगम की सेवा में नियमितिकरण किया जा सकेगा!”

9. At this juncture it would also be relevant to take note of the Clause 63 of the Chhattisgarh Medical Service Corporation Limited, Raipur (Service Recruitment and promotion Rules, 2017) which envisages regularization of the daily wage and ad-hoc employees working in the Corporation in accordance with the rules of the State Government with the approval of the Board of Directors.
10. All these factors would show that it is not a case where the petitioners cannot be considered for regularization by the department at all. In the advertisement under which the petitioners were appointed and the rules which have been framed by the department governing the service conditions of its employees, there is a clause that in a given case for regularization could be considered. The petitioners in the instant case therefore have a claim for being considered for regularization.
11. Given the said facts, this Court is of the opinion that the respondent No. 2 may consider the claim of the petitioners for regularization. All these writ petitions accordingly stands disposed off with a direction to respondent No. 2 to consider the claim of the petitioners for

regularization in accordance with the rules and regulations governing the establishment by passing an appropriate order. It is made clear that the claim of the petitioner for regularization would not under any circumstance come in the way of respondent No. 2 in further proceeding with the process initiated vide advertisement dated 19/12/2018.

12. The writ petitions accordingly stands disposed off .

Sd/-
(P. Sam Koshy)
Judge

Rohit