

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2402 of 2019**

Santosh Kumar Kori S/o Shri Jagairam Kori, Aged About 48 Years,
R/o Prince Bakery, Darri, Police Station - Darri, Korba, District Korba
Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Water Resources, Mantralaya, Atal Nagar, District Raipur, Chhattisgarh
2. Executive Engineer, Water Resource Department, Rampur, District Korba, Chhattisgarh
3. Sub Divisional Officer, Hasdeo Barage, Water Management Department, Darri, Korba, District Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Shri S. P. Kale, Advocate
For State	:	Shri Smir Behar, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****03.04.2019**

1. The claim of the petitioner in the present writ petition is for a direction to the respondents to consider the case of the petitioner for regularization.
2. Contention of the counsel for the petitioner is that the petitioner has been working as a daily wage employee with the respondents right from November, 1990 onwards. According to the petitioner, he was

initially engaged as a daily wage employee on 01.11.1990. The department meanwhile on 14.02.1997 was directed to scrutinize the claim of the petitioner for regularization. However, the petitioner was discontinued from service on 01.07.1996. The petitioner moved an application before the State Administrative Tribunal which in turn directed the petitioner to approach the competent Court under Labour Law. The petitioner thereafter is said to have moved the Labour Court by raising a dispute under the Provisions of the Industrial Dispute Act and the matter was referred to the Labour Court vide reference No. 09/ID Act/2005/Ref. The Labour Court finally vide its award dated 02.01.12 granted reinstatement without back wages and the petitioner subsequently was reinstated w.e.f. 21.02.2012 and since then the petitioner is continuously working with the respondents.

3. Contention of the counsel for the petitioner is that applying the principles laid down by the Division Bench of this Court in the case of **Tukaram Vs. State of Chhattisgarh and others, WPS No. 1703/2015** and analogous writ petitions decided on 16.05.2017, the petitioner has to be treated as working with the Department since November, 1990 onwards. He submits that the petitioner for all practical purposes by now has put in 29 years of continuous service and thus his case should have been considered for regularization by the Department in view of the circular of the State Govt. dated 05.03.2008 dealing with regularization.
4. State counsel, however, opposing the petition submits that substantively the engagement of the petitioner is that of a daily wage employee and as such there is no indefeasible right created in his

favour for regularization. He submits that it could be a case where seniors to the petitioner as a daily wage employee would also be available in the Department whose case has to be considered ahead of the petitioner.

5. The documents particularly the award passed by the Labour Court as also the order passed by the State Administrative Tribunal on 14.02.1997 shows that the petitioner admittedly has been working with the respondents as a daily wage employee for quite sometime. Given the fact, this Court is of the opinion that let the respondent authorities, keeping in view the judgment of the Division Bench of this Court in the case of Tukaram (supra) and also keeping in view the circular of the State Govt. dated 05.03.2008 and all subsequent circulars dealing with regularization, take a decision on the claim of the petitioner at the earliest preferably within a period of 4 months from the date of receipt of copy of this order.
6. The writ petition accordingly stands disposed of.

Sd/-
P. Sam Koshy
Judge