

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.501 OF 2017**

1. Pratham Kumar Sahu S/o Bhulan Sahu Aged About 36 Years R/o Village Kirwai, Tahsil Rajim, District Raipur, Chhattisgarh.
2. Khomendra Kumarverma S/o Lakhanlal Verma Aged About 30 Years R/o Village Silyari, District Raipur, Chhattisgarh.
3. Pokhraj Sinha S/o Late Narayan Sinha Aged About 34 Years R/o Village Magarlod, Tahsil Magarlod, District- Dhamtari, Chhattisgarh.
4. Khooblal Sahu S/o Mendhura Sahu Aged About 32 Years R/o Village Saurabandha, Post Silauti, Tahsil Kurud, District Dhamtari, Chhattisgarh.
5. Leelaram Sahu S/o Lakhan Ram Sahu Aged About 33 Years R/o Village Kirwai, District Raipur, Chhattisgarh.
6. Hemant Kumar Yadav S/o Aajuram Yadav Aged About 31 Years R/o Village Tipawa, Tahsil Palari, District- Baloda Bazar-Bhatapara, Chhattisgarh.
7. Toman Lal Verma S/o Chandrabhan Verma Aged About 29 Years R/o Villagegirra, Post Sasha, Tahsil- Palari, District- Baloda Bazar-Bhatapara, Chhattisgarh.
8. Chandraprakash Dhruvanshi S/o Mukundram Dhruvanshi Aged About 31 Years R/o Village Kareljadi, Tahsil Kurud, District Raipur, Chhattisgarh.
9. Devendra Kumar Sahu S/o Chhabilal Sahu Aged About 31 Years R/o Village And Post Khorpa, Tahsil-Abhanpur, District- Raipur, Chhattisgarh.
10. Bhekhram Sahu S/o Banshiram Sahu R/o Village Anwarpur, Block Bagbahra, District- Mahasamund, Chhattisgarh
11. Sanjay Verma S/o Toran Verma Aged About 30 Years R/o Village Tikuliya, Tahsil Bhatapara, District Baloda Bazar-Bhatapara, Chhattisgarh.

...Petitioner(s)**Versus**

1. State Of Chhattisgarh Through Secretary, Cooperative Societies, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur, Chhattisgarh.
2. Registrar, Cooperative Societies, Chhattisgarh, Raipur, District Raipur, Chhattisgarh.
3. Cooperative Society Tribunal Chhattisgarh, Through Its President Chhattisgarh State Cooperative Tribunal, Bilaspur, District Bilaspur, Chhattisgarh.
4. District Central Cooperative Bank Maryadit Raipur, Through Its Chief Executive Officer, District Central Cooperative Bank Maryadit, Raipur, In Front Of Lal Ganga Shopping Mall, Jaistambh Chowk, Raipur, District Raipur, Chhattisgarh.

... Respondent(s)

For Petitioners	:	Shri Manoj Paranjpe and Ms. Rashul Bhawnani, Advocates.
For Respondent-State	:	Shri Sameer Behar, Panel Lawyer.
For Respondent No.4	:	Shri SC Verma and Shri Rajat Agrawal, Advocates.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25.02.2019**

1. Challenge in this petition is to the order dated 09.11.2016 (Annexure P/1) passed by the Chhattisgarh Co-operative Tribunal and the order dated 05.08.2016 (Annexure P/4) passed by the Registrar, Cooperative Society.
2. The grievance of the petitioners is that, the petitioners in the present case have been engaged by the respondent No.4 bank in the capacity of Data Entry Operator. The nature of appointment of the petitioners was contractual in nature and the contract was being renewed continuously from the date of their initial appointment which for all the petitioners vary between 2008 to 2013.
3. The petitioners herein had raised a dispute before the Registrar, Cooperative Society under Section 55 (2) of the Cooperative Societies Act, 1960 (in short, the Act) read with Section 64 of the Act. The claim was for a direction to the respondents to consider regularization of the petitioners considering the fact that they have put in a considerable period of service with the respondent No.4. The Registrar vide order dated 05.08.2016 rejected the claim application on the ground that the same was not maintainable since the petitioners did not fall within the definition of "employee" under the Act and that their engagement was contractual in nature.
4. The said order of Registrar was questioned before the Chhattisgarh State Cooperative Tribunal and the Tribunal also vide its order dated

09.11.2016 (Annexure P/1) have affirmed the order of Registrar and rejected the appeal preferred by the petitioners.

5. The contention of the petitioners while assailing the two orders is that, the findings of the Registrar as well as of the Tribunal are erroneous and deserve to be set aside. The Act, 1960 does not lay down a clear definition of an employee and that the definition of employee has to be construed in a liberal manner as is provided in the dictionary which says the relationship of employer and employee. Where the employer engages the service of the employee on consideration of wages, the person engaged becomes an employee.
6. The petitioner further submits that the respondent No.4 as of now has taken a stand for considering the case of the petitioners for regularization but pendency of writ petition and the orders passed by the Registrar and the order of Tribunal is coming in the way of the petitioners from being considered.
7. Counsel appearing for the respondent No.4 do not dispute this contention which the counsel for the petitioners has made.
8. Having heard the contentions put forth on either side and on perusal of records, so far as the facts narrated by the petitioners in the preceding paragraph is concerned, the same is not disputed by the counsel for the respondents and it also stands established from the pleadings that they have made in the writ petition and the documents enclosed herewith.
9. At this juncture it would be relevant to take note of the provisions of the Act, 1960. Section 2 of the said Act does not lay down any

specific definition of an employee. Neither does the said Act, in any manner, enumerate a clause whereby a person engaged on contract basis have been held to be excluded from being brought within the ambit of the Act, 1960.

- 10.** It would also be relevant at this juncture to take note of the provisions of Section 55 of the Act, 1960. For ready reference, the provisions of Sub-sections (1) and (2) of Section 55 of the Act is reproduced herein:

“55. Registrar's power to determine conditions of employment in societies (1). The Registrar may, from time to time, frame rule governing the terms and conditions of employment in a society or class of societies and the society or class of societies to which such terms and conditions of employment are applicable shall comply with the order that may be issued by the Registrar in this behalf.

(2). Where a dispute, including a dispute regarding terms of employment, working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding on the society and its employees.”

- 11.** A plain reading of the aforesaid provision, it clearly reflects that all that is mentioned in the said provision is that a dispute between the society and its employees. The term 'employee' have not been defined under the Act, 1960. Since there is no specific definition of employee provided under the Act, neither does it provide for exclusion of any particular category of employee like contractual, adhoc, temporary or daily wagers. The term 'employee' referred to under Section 55 of the Act has to be given a liberal interpretation and would have to be looked into with a wider perspective. Indisputably, there is a specific order of appointment issued in favour of each of the petitioners. The terms and conditions of the service is

also clearly enshrined. The remunerations payable to each of the petitioners is also specifically mentioned in this order. All these ingredients would clearly bring the relationship of petitioners with the respondent No.4 that of employee and employer relationship.

12. Under such circumstances, this court is of the opinion the conclusion arrived at by the Registrar, Cooperative Societies as also the Tribunal later vide in the two orders dated 05.08.2016 and 09.11.2016 (Annexures P/4 & P/1 respectively) are not sustainable. The same deserve to be and accordingly set aside.
13. The view of this court stands further fortified from the Division Bench decision of MP High Court in case of Mithilesh Kumar Dubey Vs. Brahattakar Krishi Saakh Sahakarit Samiti Mydt., 2010 (3) MPLJ 242 wherein in paragraphs 17 to 19 it has been held as under:

“17. True, there is no averment of petitioner in his memorandum of dispute filed before the Deputy Registrar as to whether he is a permanent employee or a daily wager, but it has been specifically pleaded by him that he is serving in the Society since 1984-1985 as salesman and this fact has not been denied by the Society in its written statement. Similarly, the Society also in its written statement has not pleaded that the petitioner is a daily wager. Be that as it may, since it is borne out from the record that petitioner was in service for the last 19 years in the Society may be either as a permanent employee or a daily wager, according to us, he was an employee of the Society. We also do not find any merit in the contention of learned counsel for the respondent/Society that petitioner being a daily wager, was not an employee. Even if for the sake of arguments it is held that petitioner was a daily wager, since in the definition clause of the *Act* the word “employee” has not been defined, therefore, we cannot accept the argument of learned counsel for the respondent/Society that section 55(2) of the *Act* is applicable only for the permanent employee. According to us, the term “employee” used in section 55 of the *Act* would also include even a daily wager.

18. Since the term “employee” has not been defined under the *Act*, hence, we are borrowing the meaning of word “employee” from different dictionaries. In Black's Law Dictionary, the term “employee” has been explained as under:—

“One who works for an employer; a person working for salary or wages; applied to anyone so working.”

According to Prem's Judicial Dictionary, the word "employee" contemplates the existence of a relationship of master and servant. As per Webster's third New International Dictionary Volume I, "employee" would mean one employed by another usually in a position below the executive level and usually for wages, in labour relations: any worker who is under wages or salary to an employer. The term "employee" has also been elucidated in the Legal Glossary published by Government of India. According to which, employee means one who is employed by another, especially by a business concern or government; one employed in a position below the executive level. Hence, according to us, the term "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment.

19. In the present case, the respondent has also not pleaded that the petitioner was a daily rated employee and therefore we are not expressing our view on this point and leave this point open. But for all practicable purposes under the *Act*, the petitioner was an employee of the Society as he was working for the Society on the post of salesman for the wages."

14. In view of the same, the present writ petition deserves to be and is accordingly allowed. The two orders dated 05.08.2016 and 09.11.2016 (Annexures P/4 & P/1 respectively) stand set aside/quashed and the matter stands remitted back for a fresh adjudication before the Registrar, Cooperative Societies, who in turn, considering the seniority of the dispute shall decide the claim of the petitioners at the earliest preferably within a period of six months from the date of receipt of certified copy of this order.

15. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge