

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4719 of 2018

Krishna Kumar Kashyap S/o Vyas Narayan Kashyap, Aged About 42 Years, R/o Village- Mudpar, Police Station Khisora (Semar), Police Station And Tahsil- Navagarh, District- Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through- Secretary, Water Resource Department, Mahanadi Bhawan, New Raipur, Tahsil And District- Raipur, Chhattisgarh
2. Chief Engineer, Water Resources Department, Raipur, District- Raipur, Chhattisgarh
3. Executive Engineer, Hasdev Nahar Jal Prabandh, Division Champa, District- Janjgir-Champa, Chhattisgarh
4. Sub Divisional Officer, Hasdev Sub-Miner Sub Division No. 4, Navagarh, District- Janjgir-Champa, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Garry Mukhopadhyay and Mr. Ravindra Sharma, Advocates
For State	:	Mr. P. Acharya, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/03/2019

1. The grievance of the petitioner is that though the petitioner is entitled to be considered for regularization, but the respondents authorities till date have not considered the same.

2. According to the petitioner, he was initially engaged as a daily wage employee by the respondents way back in the year 1985 and continued to work till 1990, when abruptly services of the petitioner were discontinued.
3. The contention of the counsel for the petitioner is that the discontinuance of the petitioner was challenged by way of a dispute before the Labour Court, where the case was registered as Case No. 12/I.D.Act/2010(Reference). The Labour Court thereafter vide its award dated 12.08.2011 allowed the application and ordered for reinstatement without back wages. However, the Labour Court while denying back-wages had made a categorical observation that the intervening period during which the petitioner was out of employment shall be treated as continuous service for the purpose of counting the total length of service. The award of the Labour Court dated 12.08.2011 was challenged by the State before the High Court in WPL No. 72/2012 and the writ petition of the State Govt. was allowed vide order dated 12.10.2015. The order of the Single Bench was put to challenge in Writ Appeal No.574/2015 and the Division Bench allowed the writ appeal vide judgment dated 27.11.2015 setting aside the order passed by the Single Bench and confirming the order of the reinstatement granted by the Labour Court. Meanwhile, the petitioner, pursuant to the award of the Labour Court was reinstated in service w.e.f. 14.10.2011 and since then he is still in service.
4. The petitioner in the light of the directions given by the Labour Court treating the intervening period as period spent on duty would have to

be treated as continuous employment since 1985 onwards. After the order of the Labour Court, the petitioner has since been reinstated and is still in duty. Thus, for all practical purposes, the petitioner has to be treated as in service from 1985 till date.

5. Given the said facts and the order of the Labour Court, this Court is of the opinion that, the case of the petitioner thus would fall within the parameters of the conditions stipulated in the circular dated 05.03.2008 dealing with a regularization.
6. In view of the same, let the respondents consider the case of the petitioner for regularization keeping in view the observations made by this Court in the preceding paragraphs and also taking note of the order of the Labour Court treating the services of the petitioner to be spent on duty during the period, he was out of employment.
7. Let a decision be taken at the earliest preferably within a period of 4 months from the date of receipt of the copy of this order.
8. With the aforesaid observations, the present writ petition stands disposed off.

**Sd/-
(P. Sam Koshy)
Judge**