

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 155 of 2019

1. Managing Director Chhattisgarh Rajya Krishi Vipnan Mandi Board, Bilaspur Division, District - Bilaspur Chhattisgarh
2. Deputy Director, Chhattisgarh, Rajya Krishi Vipnan Mandi Board, Bilaspur Division, District - Bilaspur Chhattisgarh

---- Petitioners

Versus

1. Ram Niranjana Yadav S/o Shri Dashrath Lal Yadav Aged About 52 Years R/o Mazid Road, Post Akaltara, Tehsil Akaltara Police Station Akaltara, District Janjgir - Champa Chhattisgarh
2. State Of Chhattisgarh Through Secretary, Department Of Agriculture, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
3. Collector, Janjgir Champa District Janjgir Champa Chhattisgarh
4. Secretary Krishi Upaj Mandi Samiti, Akaltara, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioners	:	Shri A.S.Kachhawaha and Shri Harshmander Rastogi, Advocate
For Respondent No.1	:	Shri Lav Sharma, Advocate
For State	:	Ms. S. Harshita, Advocate

S.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/09/2019

Heard on prayer for review of the order dated 14/03/2018.

Learned counsel for the petitioner would argue that an occasion to seek review / clarification of order dated 14/03/2018 has arisen as the respondent / employee, is claiming regularisation by contending that the order passed by this Court has directed that the entire period of service as daily wage employee, right from the initial date of appointment i.e. 25/01/1989 upto reinstatement, has to be

treated as continued in service.

2. Learned counsel for the petitioner would contend that the only issue decided by this Court was whether the period during which the respondent / employee remained out of employment on account of order of termination dated 31/01/2000 till his reinstatement pursuant to the order of the Labour Court, is to be treated as continuous or not. According to him, this Court had no occasion to deal with the continuity or otherwise of service of the respondent / employee in respect of the period prior to termination order dated 31/01/2000. Further submission is that the authorities, in respectful obedience of the order of the Court, have complied the order of the Court to avoid any consequence of contempt but clarification has been sought on valid grounds.

3. Learned counsel for respondent No.1, at the first place, would submit that as the petitioner had already taken a decision to regularise the services under the scheme of regularisation, the review petition is rendered infructuous. The next submission is that the spirit of the order passed by this Court is that service breaks not occasioned by voluntary act of the employee but the orders of the authority are to be ignored and has to be treated as continuous.

4. Having heard learned counsel for the parties, I find that the clarification is necessary lest any confusion prevails with regard to the period which was intended to be regularised under the orders of this Court.

The respondent / employee was terminated on 31/01/2000 and was later on, reinstated in service by the Labour Court.

The employee came to this Court with an argument that the period during which he remained out of employment on account of termination should be treated as part of continuous service in view of the verdict of the Division Bench of this Court in the case of *Tukaram v. State of Chhattisgarh and ors.* decided on 16/05/2017. It was in the light of the aforesaid decision that this Court ordered that the period during which the employee remained out of employment on account of termination order, has to be treated as part of continuous service by legal fiction as a necessary consequence flowing from a judicial verdict of this Court. However, this Court had no occasion nor did this Court declared that the entire service as daily wage employee prior to 31/01/2000, right from the date of first appointment on 25/01/1989 should also be treated as continued in service. Whether that period is

to be treated as continuous or not, will depend on the basis of circumstances, which were neither raised nor decided by this Court. Therefore, while examining the employee's case for regularisation, in the light of regularisation policy dated 05/03/2018, the judicial verdict would require the authority to treat the period of service from 31/01/2000 till reinstatement after Labour Court's order as continued. In respect of the period prior to 31/01/2000, the authorities have liberty to decide the same in accordance with law and the policy of the Government.

5. The review petition is accordingly disposed off with the aforesaid clarification.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge