

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 24 of 2019

1. Karlu Ram S/o Mangal Sai, Aged About 52 Years, Working As Gangman, In The Office Public Works Department, Ambikapur, District Surguja, Chhattisgarh.
2. Nanhu Ram S/o Chetan Ram, Aged About 51 Years, Working As Gangman, In The Office Public Works Department, Ambikapur, District Surguja, Chhattisgarh.
3. Angur Sai S/o Rajnath, Aged About 52 Years, Working As Gangman, In The Office Public Works Department, Ambikapur, District Surguja, Chhattisgarh.
4. Thakur Dayal S/o Amrit Ram, Aged About 58 Years, Working As Gangman, In The Office Public Works Department, Ambikapur, District Surguja, Chhattisgarh.

---Petitioners

Versus

1. State Of Chhattisgarh, Through The Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, Atal Nagar Raipur, District Raipur, Chhattisgarh.
2. Engineer In Chief, Public Works Department, Nirman Bhawan, Sector-19, North Block, Atal Nagar Raipur, District Raipur, Chhattisgarh.
3. Superintendent Engineer, Public Works Department, Ambikapur Division, Ambikapur, District Surguja, Chhattisgarh.
4. Superintendent Engineer, Public Works Department, Sub Division No. 2, Ambikapur, District Surguja, Chhattisgarh.

---Respondents

For petitioners	:	Shri C.J.K.Rao, Advocate.
For State	:	Shri Sameer Behar, Panel Lawyer.

Hon'ble Shri Justice P. Sam KoshyOrder on Board08/01/2019

1. The challenge in the instant Writ Petition is to the order Annexure-P/1 dated 29/05/2018 which has been passed by the respondents.

2. Vide the said impugned order, the claim for regularization of the petitioners has been rejected. The claim has been rejected only on the ground that, the petitioners were not in employment till 30/04/2000 to 10/02/2005.

3. According to the counsel for the petitioners, all the petitioners had worked with the respondents as a Daily Wage Employees between 1996 to 2000. Thereafter, the services of the petitioners were abruptly discontinued.

4. The discontinuance was immediately challenged before the Labour Court and the Labour Court passed an order in favour of the petitioners in the year 2001 itself.

5. According to the counsel for the petitioners, pursuant to the order of the Labour Court, the services of the petitioners have been reinstated vide Annexure-P/2 dated 23/08/2001 wherein the name of the petitioners are reflected. He further submits that, right from August-2001 till date, the petitioners have been continuously working uninterruptedly, but the respondents till date have not considered the case for regularization. He submits that, it is a case where after the discontinuance, the petitioners had immediately raised a petition before the Labour Court challenging their discontinuance and the Labour Court passed an order in their favour. Therefore, the said intervening period during which the petitioners had been litigating before the Labour Court should also be taken into consideration for the purpose of regularizing their services. The counsel for the petitioners relies upon the judgment passed by the Division Bench of this Court in the

case of Tukaram v. State of Chhattisgarh & Ors. [WPS No. 1703 of 2015 & Other connected matters d/on 16/05/2017] in this regard and prayed for a direction to the respondents to reconsider the case of the petitioners.

6. The State counsel however opposing the petition submits that, the petitioners has not been able to show an order in their favour passed by the Labour Court and therefore it is difficult to accept the contention of the petitioners. He further submits that, the plain reading of Annexure-P/1 would show that, the petitioners were not working during 30/04/2000 to 10/02/2005 i.e. for a period of about 5 years and therefore also the petitioners are not entitled for any benefit.

7. Be that as it may, taking into consideration the order Annexure-P/2 which shows that there is an order of reinstatement in the case of the petitioners, let the petitioners case be reconsidered by the respondents in the light of the documents that are available with the department.

8. In case if the petitioners had filed the claim case before the Labour Court promptly and there is an order in their favour, the said litigating period would also have to be treated as period spent on duty and the same cannot be treated as break in service as has been laid down by the division Bench of this Court in the case of Tukaram (Supra) which has also been affirmed by the Hon'ble Supreme Court.

9. Let the case of the petitioners be considered and an specific detailed order be passed in case if the respondents did not find the petitioners eligible for regularization.

10. Let this exercise be done within a period of 90 days from the date of receipt of copy of this order.

11. The Writ Petition accordingly stands disposed off.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE