

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No.737 of 2017

Manharan Lodhi S/o Ramkanhai, Aged About 53 Years Working As Labour/ Gang Man Daily Wages In The Office Of Sub Divisional Officer Chhuikhadan, Division Chhuikhadan, Department Of Water Resources, District Rajnandgaon, Chhattisgarh, R/o Village Amlidih, Piparia, Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh **---- Petitioner**

Versus

A. K. Graham At Present Posted As Executive Engineer Water Resources Department Division Chhuikhadan, District Rajnandgaon, Chhattisgarh **--- Respondent**

For Petitioner	:	Mr. F.S. Khare, Advocate
For Respondent	:	Mr. S.P. Kale, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

20/02/2020

Heard.

1. In compliance of direction issued by this Court on 03.01.2020, Shri Jayant Pawar, Engineer-In-Chief, Water Resources Department, Government of Chhattisgarh as well as Shri G.D. Ramteke, present Incumbent of the Office of Executive Engineer, Water Resources Department, Chhuikhadan are present in the Court.
2. Learned counsel for the respondent informs the Court that the petitioner's claim was considered and Chief Engineer vide order dated 19.03.2019 has rejected the petitioner's claim on the ground that the exercise of consideration of cases for regularization was one time exercise as neither the posts are available nor there being any need, the petitioner is not found fit for regularization.
3. Learned counsel for the petitioner submits that while disposing of the writ petition though there was no specific direction for creation of any supernumerary post, nevertheless, this Court had observed that the petitioner's claim for regularization would be considered in accordance with

the applicable Circular dated 05.03.2008. Under that Circular, it is argued, sub-clause (vii) of clause 2 requires creation of supernumerary post as and when necessary once daily wage employee is found fit for regularization as per the Circular dated 05.03.2008.

4. Submission of learned counsel for the petitioner that while considering his case for regularization, the circular dated 05.03.2008 has not been applied in its proper perspective and spirit.

5. In the contempt petition, that aspect cannot be gone into. This Court while disposing of the writ petition had directed consideration of petitioner's claim for regularization without treating the period during which he remained out of employment as break in service. The order which has been placed before me does not contain any stipulation that break in service has been treated as an operative reason for non regularization.

6. Therefore, I have to hold that irrespective of the merits of the decision taken in the case of the petitioner by the Chief Engineer on 19.03.2019, present is not a fit case for initiating the contempt proceedings against the respondent authority.

6. A copy of order dated 19.03.2019 be supplied to learned counsel for the petitioner today itself.

7. In the result, the contempt petition is dismissed.

8. This shall, however, leave the petitioner with liberty to challenge the order dated 19.03.2019 and/or any other order/orders, direction/directions in the matter of consideration of his case for regularization on such grounds as may be available to him under the law including those which has been raised before this Court.

Sd/-

(Manindra Mohan Shrivastava)
Judge