

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2354 of 2020**

- Ram Kumar Gupta S/o Late Jagdish Prasad Gupta Aged About 59 Years Working As Vehicle Driver, Public Health Engineering, Sub Division Kansabel, District Jashpur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Public Health Engineering Department, Mahanadi Bhawan, Nawa Raipur, District Raipur, Chhattisgarh
2. The Engineer-In-Chief Public Health Engineering, Indravati Bhawan, Atal Nagar, Raipur, Chhattisgarh
3. The Chief Engineer Public Health Engineering, Bilaspur Division, Bilaspur, Chhattisgarh
4. The Superintending Engineer Public Health Engineering, Ambikapur Division, District Surguja, Chhattisgarh
5. The Executive Engineer Public Health Engineering Division, Jashpur, District Jashpur, Chhattisgarh

---- Respondents

For Petitioner : Shri D.K. Vishwakarma, Advocate

For Respondents/State : Shri Amrito Das, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri**Order****23/06/2020**

1. Heard.
2. The grievance of the petitioner is that the petitioner was appointed as a dailywager in the Public, Health & Engineering Department. It is contended that though the petitioner was performing the job of Driver, however, he was

regularized to the post of Helper on 14.08.2008. The petitioner therefore, filed a writ petition bearing WPS No.668/2011, wherein this Court has ordered on 04.11.2011 to pass an appropriate order in the case of the petitioner. Thereafter, the orders were passed on 17.05.2012 (Annexure P-4) and the petitioner was appointed as a Driver. It is contended that the petitioner while was regularized on 14.08.2008 though was discharging the job of Driver but he was not paid the salary of Driver which should have been paid till he was appointed to the post of Driver.

3. Per contra, learned State counsel opposes the arguments and would submit that the issue raised by the petitioner is a disputed question of fact.
4. Perused the documents. Perusal of the documents would show that the petitioner was regularized on 14.08.2008 vide Annexure P-2 to the post of Helper. The order passed by this Court in WPS No.668/2011 dated 04.11.2011 is on record, which reads as under:-

“Shri Naha Roy submits that the case of the petitioner is under active consideration for appointing him on the post of driver and the present petition can be disposed of with a direction to the respondent No.5 to pass appropriate order within some timeframe.

Counsel for the petitioner agrees to the proposal as put forth by Shri Roy.

In view of the above, the petition is disposed of with a direction to the respondent No.5 to pass appropriate order in the case of the petitioner within two months from the date of receipt of copy of this order.

It would be the duty of the petitioner and the State counsel to apprise the respondent No.5 about the passing of this order.

It is made clear that this Court has not expressed any opinion on merits of the case and the authority concerned would be at liberty to decide the same strictly in accordance with law.”

5. Perusal of Annexure P-4 would show that on 17.05.2012 the petitioner was appointed to the post of Driver on a certain pay-scale. The submission of the petitioner that the petitioner though was regularized on 14.08.2008 and was discharging the job of driver, however, he was regularized to the post of helper and was not paid the salary of driver, do not find place in the order dated 04.11.2011 passed by this Court in WPS No.668/2011. Only the direction was given to pass an appropriate order in case of the petitioner, thereafter, the order dated 17.05.2012 has been passed whereby the petitioner was appointed on the pay-scale of driver. In between 14.08.2008 to 17.05.2012, the petitioner was discharging the job of driver or not is a disputed question of fact, which cannot be gone into by this Court, more so when the order dated 04.11.2011 is silent. Under these circumstances, no relief can be granted to the petitioner as of now.
6. The petition being devoid of merit is liable to be and is hereby dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu