

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4446 of 2014

1. Rajeev Dubey S/o M.L. Dubey Aged About 40 Years Working As Supervisor Municipal Corporation Bilaspur R/o Opposite Lok Swar Press Khaparganj Bilaspur P.S. City Kotwali, Tahsi and Distt. Bilaspur Civil and Revenue Distt. Bilaspur C.G.
2. Ajay Kumar S/o Shri Vijay Kumar Aged About 42 Years Working As Supervisor Municipal Corporation Bilaspur R/o Jarhabhata Bilaspur P.S. Civil Line Tah and Distt. Bilaspur Civil and Revenue Distt. Bilaspur C.G.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department of Urban Administration Mantralaya Mahanadi Bhawan New Raipur C.G.
2. The Director, Department of Urban Administration and Development R.D.A. Bhavan, Distt. Raipur C.G.
3. The Commissioner, Municipal Corporation Bilaspur C.G.

---Respondents

For Petitioners	:	Shri MK Sinha, Advocate.
For State	:	Shri Sudeep Verma, Dy. Govt. Advocate.
For Respondent No.3	:	Shri AS Kachhwaha, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

09.12.2020

1. The writ petition was filed seeking for a direction to consider the claim of the petitioner for regularization.
2. Today when the matter is taken up for hearing, the counsel for the petitioners submits that pending the writ petition, the petitioner No.1 has already been regularized vide order dated 10.10.2019, however the petitioner No.2 has not been regularized.
3. The contention of the petitioners is that the petitioner No.2 is identically placed like that of the petitioner No.1 and there was no reason why the case of the petitioner should had been left out.
4. Though the counsel for the respondent-Corporation submits that in the case of petitioner No.2 there was some break in service detected by the

scrutiny committee, however, the said break in service was also available in the case of petitioner No.1 as well, yet he has been regularized.

5. At this juncture, it would be relevant to take note of the decision of the Supreme Court in case of Jivanlal Vs. Pravin Krishna, Principal Secretary & Others, 2016(15)SCC 747 wherein in paragraphs 1 to 3 the Supreme Court has held as under:

- “1. The appellants have prayed for regularization of their services with effect from the date they completed 10 years of service. Main reliance is placed on the orders passed by the respondents in the case of similarly situated persons.
2. The learned counsel for the respondents has vehemently contended that all the regularization orders passed in the case of those pointed out by the appellants are illegal since the State, in principle, had decided to discontinue the appointment to the post of Sweepers by order dated 10.12.1997. However, the fact remains that after the said order also, many similarly situated persons have been granted regularization with effect from the date of completion of 10 years of service.
3. In that view of the matter, we do not find any justification in discriminating the appellants herein. The policy had been violated in many cases. There cannot be any pick and choose policy; it would certainly lead to corruption. Hence, the appeals are allowed with a direction to the respondents to grant similar treatment to the appellants herein as well and grant regularization to them with effect from the date of completion of 10 years of service.”

6. Given the aforesaid decision of the Supreme Court, this court is of the opinion that the case of the petitioner No.2 who has not been considered for regularization, also is covered by the judgment of the Supreme Court in case of Jivanlal (Supra) and is entitled for same treatment on parity with

that of the petitioner No.1 and other similarly placed persons who have already been regularized by the department.

7. In view of above, the writ petition to that extent is allowed and disposed of directing the respondent No.3 to ensure that the case of the petitioner No.2 is considered for regularization at par on parity basis along with petitioner No.1 and other similarly placed employees regularized by the department. Let this exercise be concluded by the respondent No.3 within a period of 90 days from the date of receipt of copy of this order.

Sd/-
(P. Sam Koshy)
Judge

inder