

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CONT No. 747 of 2020**

- H.P. Mishra S/o Shri Mahaveer Prasad Mishra Aged About 52 Years R/o H-65, Sinchai Colony, Shanti Nagar, Raipur, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. Avinash Champawat Secretary, Department Of Water Resources, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.
2. Jayant Pawar Engineer In Chief, Department Of Water Resources, Shivnath Bhawan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.
3. Gopal Menon Executive Engineer, Water Resources Department, Division Raipur, Civil Lines, District Raipur Chhattisgarh.

---- Respondents

For Petitioners : Mr. K.P.S. Gandhi, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****13-10-2020**

1. Heard.
2. Learned counsel for the petitioner submits that by order dated 25-2-2020 in WPS No. 1273 of 2020, the following order was passed.

“25-2-2020

Heard.

1. Grievance of the petitioner, as ventilated through this petition is that even though the petitioner is continuing as daily wage employee since long, his claim for regularization has not been decided till date. It is submitted that though the petitioner was terminated in the year 1995, award of reinstatement was passed in his favour by the Labour Court in the year 2014 with the legal consequence that the petitioner shall be deemed to be in service from the initial date of appointment in the year 1990.

2. If the case of the petitioner is considered treating his initial date of appointment as in the year 1990, he would be entitled to be considered for regularization under circular dated 05/03/2008 issued for consideration of cases of regularization pursuant to direction of the Supreme Court in the case of Secretary, State of Karnataka and others Vs. Uma Devi (3) and others, 2006 (4) SCC 1 for consideration of cases of those, who have completed 20 years of service.

3. After going through the records and orders passed by the Labour Court, it is quite clear that the effect of the order would be that the petitioner shall be deemed to be in service without any break. This would entitle the petitioner for due consideration for regularization under circular dated 05/03/2008. It is ordered accordingly.

4. Let the case of the petitioner be considered by a duly constituted Committee as

per policy dated 05/03/2008 and a decision be taken within an outer limit of three months from the date of receipt of copy of this order”.

3. Learned counsel for the petitioners submits that thereafter the respondents have not complied with the order and the case of the petitioner for regularization has not been considered by the Committee as per policy dated 5-3-2018 which would be evident from Annexure A/4.
4. Perusal of Annexure A/4 would show that against the order of the Labour Court, WPL No.104/2015 has been preferred which is pending adjudication before this court. Consequently, regularization of the petitioner was not considered favourably on the ground the issue is subjudice.
5. Learned counsel for the petitioner further submits that the case of other similarly placed employees is also pending. However, that issue cannot be amalgamated with the order which is complained being an issue of contempt. In the instant case, contempt has been filed for non-compliance of the order dated 25-2-2020. After going through Annexure P/4, it is obvious that if the department succeeded in the High Court, then the entire scenario and consideration would be different.

6. After going through the decision of the committee, I am of view that no case of deliberate disobedience of the order is made out. Accordingly, this contempt petition is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju