

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 543 of 2019

(Arising out of order dated 17/07/2019 passed by learned Single Judge in WPS No. 5220 of 2019)

- Director General of Chhattisgarh Council of Science and Technology, vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni Raipur C.G. 492001
-----Appellant

VERSUS

1. State of Chhattisgarh, through: The Secretary Department of Higher Education Technical Education Science and Technology Mantralaya, Mahanadi Bhawan, Naya Raipur, C.G. 492002
2. Amrit Das Patela S/o Late Daduram Patela Aged About 41 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Water Tanki Naya Raipur , Police Station Manakapara, District Raipur Chhattisgarh. Pin 492001
3. Bhojeshwar Chandrakar S/o Shri Arun Chandrakar Aged About 32 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni Baiga Para , Police Station - City Kotwali District Durg Chhattisgarh. Pin 491001
4. Bhupesh Kumar Nishad S/o Shri Mahavir Prasad Nishad Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni Raipur R/o Village Bendri , Police Station Utai , District Durg Chhattisgarh. Pin 491107
5. Sunil Yadu S/o Shri Shankarlal Yadu Aged About 29 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni, Raipur . R/o Near Khalarri Temple , Mahadev Ghat Road , District Raipur Chhattisgarh Pin 492001.
6. Dooman Lal Soni S/o Shri Bahalram Soni Aged About 39 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni Raipur . R/o Near Durgesh Grocery Shop , Baijnath Para Police Station City Kotwali District Durg Chhattisgarh Pin 491001
7. Ashok Kumar Gaikwad S/o Shri Seukram Gaikwad Aged About 36 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Village Bharenga ,police Station Abhanopur District Raipur Chhattisgarh. Pin 493661.
8. Smt. Mamta Tandi S/o Shri Dilip Tandi Aged About 47 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Veer Shivaji Nagar , Kota Police Station Saraswati Nagar District Raipur Chhattisgarh. Pin 492001.
9. Santosh Dhruv S/o Shri Aghanuram Dhruv Aged About 40 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Village Korada Police Station Kashdol District Balodabazar Bhatapara Chhattisgarh.Pin 493118

10. Madan Sona S/o Shri Chinta Sona Aged About 32 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Ward No 12, Jyoti Nagar , Police Station Saraswati Nagar District Raipur Chhattisgarh Pin 492001.
11. Kheluram Yadav S/o Shri Arti Yadav Aged About 44 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Julum Tekari Abhanpur, Police Station Abhanpur Disitric Raipur Chhattisgarh. Pin 493661
12. Aryahind Yadav S/o Shri Sitaram Yadav Aged About 32 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Trishul Chowk Baiga Para Police Station City Kotwali District Durg Chhattisgarh Pin 491001.
13. Devendra Chandrakar S/o Shri Ishwari Chandrakar Aged About 34 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Village Kodawa Police Station Dhadi District Bemetara Chhattisgarh. Pin 491335
14. Satish Kumar Chandra S/o Shri Ram Lal Chandra Aged About 32 Years Working As Peon Chhattisgarh Council Of Science And Technology Vigyan Bhawan , Vidhan Sabha Road , Daldal Seoni , Raipur. R/o Ramlal Chandra Police Station Jaijaipur District Janjgir Champa Chhattisgarh Pin 495690

-----Respondents

For Appellant	:	Dr. Saurabh Kumar Pande, Advocate
For Respondent-State	:	Mr. Ghanshyam Patel, Govt. Adv.
For Respondent No. 2-14	:	Mr. Vinay Pandey, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, J.

21/01/2020

1. Heard on I.A. No. 01/2019, application for condonation of delay of 65 days in filing the present appeal. Considering the explanation offered on the part of the appellant as satisfactory, we find it appropriate to condone the delay in filing the appeal. It is heard and ordered accordingly.
2. Challenge in this appeal is to the order dated 17-07-2019 passed by learned Single Judge whereby learned Single Judge while deciding the writ petition directed the 2nd respondent/ appellant to take a decision on the claim of the respondent No. 2 to 14/ petitioners for confirmation on their post within a period of four months from the date of receipt of the copy of the order.

3. The case of the appellant is that, respondent No. 2 to 14/ petitioners have been appointed as daily wage employees and posted as 'Peon'. Subsequently, they have been temporarily regularized by order dated 25-08-2014 and 30-09-2014, but it has been found that their appointments have not been considered for confirmation in service as regular employees.
4. Learned counsel for the appellant submits that the impugned order has been passed without issuing notice to the appellant and therefore correct facts of the case were not available on the record of writ petition. It is further contended that against 10 sanctioned posts, 18 persons are working, enquiry was directed by the Director General of Chhattisgarh, Council of Science and Technology (CCOST) and the appointments of the respondent No. 2 to 14/ petitioners were found to be not in accordance with law and there was recommendation for termination of service of respondent No. 2 to 14/ petitioners. He submits that without giving an opportunity of hearing, impugned order is passed against the appellant.
5. Per contra, learned counsel appearing for respondent No. 2 to 14/ petitioners submits that they have been appointed strictly in accordance with the law though as a daily wages employees but subsequently they have been temporarily regularized by the concerned authority after considering the overall records of their cases. He submits that looking to the law laid down by the Supreme Court, the daily wage employees who have completed considerable length of service are required to be regularized on their posts and to be confirmed in their service.
6. Be that as it may, the order impugned which is under challenge before this Court is only a direction to take decision on the claim of the respondent No. 2 to 14/ petitioners for their confirmation on the post of peon. In the impugned order, learned Single Judge has not decided the rights of the parties, but looking to the period after temporarily regularization in service without confirmation, only it is directed to take decision. There is no direction to pass any particular order, but the respondent was left open to decide the claim either way, of course in

accordance with law. It is settled law that the daily wage employees cannot claim for confirmation on the post as a matter of right, but the confirmation or regularization of their service can be considered on the basis of the guidelines issued by the Supreme Court in the matter of **Secretary, State of Karnataka and others v. Umadevi** reported in **(2006) 4 SCC 1** and other judgments on the issue.

7. Looking to the nature of order impugned passed by learned Single Judge which is only a direction to take decision, merits of the case is not decided but it was left to the authority for consideration and to pass appropriate orders, we are not inclined to interfere with the order impugned. The appeal is dismissed, however the appellant will be at liberty to consider the claim of the respondents in accordance with law.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge