

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 246 of 2020

- Suraj Prasad Soni S/o Jhukuram Soni, Aged About 50 Years R/o Bemetara, P.S. Bemetara, Working As Section Writer, Tahsil Office, Bemetara, Tahsil And District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh.

--- Petitioner.

Versus

1. Reeta Sandil, Aged About 56 Years Posted As Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur Chhattisgarh., District : Raipur (CG)
2. Shiv Anant Tayal, Aged About 50 Years, Posted As Collector, Bemetara, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh (CG)

--- Respondents.

For the petitioner :- Mr. Bharat Rajput, Adv.
For the respondents:- None.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor.

Order on Board by Justice Manindra Mohan Shrivastava, J.
29.06.2021

Counsel for the petitioner is heard.

2. This contempt petition has been filed by the petitioner alleging willful disobedience of common order dated 13.05.2019 passed by this Court in Writ Appeal No.178/2016 and Writ Appeal No.396/2016. What has been stated in the contempt petition is that the order passed on the writ appeals made it clear that regularization shall be with effect from the date on which juniors have been given the benefit of regularization.

According to the petitioner there were number of employees who were junior to the petitioner and their names have been mentioned in paragraph 10 of representation dated 27.09.2019 made to the State Government after the order was passed in the writ appeal.

3. We find that after the order was passed in the writ appeals, the petitioner made a representation to the Government, as also to the Collector concerned. We also find that thereafter, on 21.11.2019, State Government directed Collector Bemetara and Collector Durg to take necessary steps in compliance of the order passed by the Court in the writ appeals mentioned herein-above. This was followed by another memo dated 26.12.2019 of the Commissioner Durg, Division Durg to Collector Durg and Bemetara for compliance of the Court order in the matter of petitioner's claim for regularization with effect from the date his juniors were regularized.

However, the order dated 22.01.2020 passed by Collector Bemetara regularizes the petitioner only from the assumption of charge and not from the claimed date i.e. 21.04.1994.

From order dated 10.12.2020 passed by Collector Durg in respect of other two petitioners in the writ appeals, namely Tilotma Dewangan and Motilal Sinha, it is reflected that they were regularized with effect from 21.04.1994. But, as far as, the Collector Bemetara who is presently the controlling authority of the petitioner Suraj Prasad Soni has not granted the said benefit to the petitioner and the petitioner's representation has been rejected vide order dated 18.02.2020 by Collector Bemetara.

4. The common order passed in two writ appeals i.e. WA No.178/2016 and WA No.396/2016 is very clear. In last paragraph 10 of the order it was clarified as below:-

“...However we make it clear that regularization shall be with effect from the date on which their juniors has been given the benefit of regularization.”

The aforesaid aspect has not been examined by Collector Bemetara. Though in the order passed learned Single Judge as well as in the order passed in the writ appeals there is no specific finding that the petitioner should be granted regularization with effect from 21.04.1994, nevertheless, Collector Bemetara was obliged under the law to examine petitioner's claim for regularization with effect from 21.04.1994 in view of petitioner's claim that his juniors Rajendra Dadsena, Ku. Girija Yadav, Santram Yadav and Ku. Laxmi Chauhan were earlier regularized by Collector Durg vide order dated 21.04.1994. This fact has been clearly stated by the petitioner in his representation dated 24.09.2019 addressed to the Government of Chhattisgarh, after the orders were passed in the writ appeals. We also find that State Government also brought it to the notice of Collector Durg as well as Collector Bemetara vide memo dated 21.11.2019 that the order passed by the Division Bench of the Court in writ appeal on 13.05.2019 is clear that regularization is to be granted from the date which juniors have been regularized.

5. The Collector Durg rightly examined the cases of other co-petitioners namely Tillotma Dewangan and Motilal Sinha and granted them benefit of regularization with effect from 21.04.1994 when the juniors were regularized.

However, as far as compliance of the order passed by this Court in writ appeals is concerned, Collector Bemetara did not examine this aspect despite this being very clearly stated in the order passed in the writ appeal and it being explicitly brought to its notice by the State Government vide memo dated 21.11.2019.

In the writ petition filed by the present petitioner Suraj Prasad Soni, Moti Lal Sinha and Tilotma Dewangan, learned Single Judge recorded in order dated 19.11.2015 in paragraph 2 that all the petitioners were appointed as temporary Section Writer in the erstwhile Durg District Collectorate in the year 1988, 1990 and 1989 respectively. The order also mentions that petitioner No.1 Suraj Prasad Soni was working in District Collectorate Bemetara whereas petitioner No.2 Moti Lal Sinha and petitioner No.3 Tilottma Dewangan were working in Durg District.

It is thus clear that, as far as, petitioner Suraj Prasad Soni is concerned he was even senior to Moti Lal Sinha and Tilottma Dewangan.

6. From the aforesaid materials which have been placed on record including the order passed by this Court in the Single Bench as well as Division Bench from time to time, the petitioner was entitled to be regularized with effect from the date his juniors were regularized. This has not been done by Collector Bemetara though the order was complied in true spirit by Collector Durg in respect of other petitioners namely Moti Lal Sinha and Tilottma Dewangan because of bifurcation of the district petitioner Suraj Prasad Soni was given under the establishment of Bemetara and other two petitioners were kept in the jurisdiction of District Durg.

7. We have passed the aforesaid detailed order only to remind Collector Bemetara that he was required to be careful and cautious in the matter of compliance of order passed by the High Court. While the petitioner has been regularized, the direction of this Court to regularize from the date of the juniors were regularized as has been done by

Collector Durg, has not been done by Collector Bemetara in so far as petitioner Suraj Prasad Soni is concerned.

8. Since regularization has been done, at this stage, we are not inclined to initiate contempt proceedings against the Collector Bemetara who has passed the order of regularization of the petitioner without giving benefit of regularization from the date the juniors were regularized. Now he shall pass necessary orders within a period of 30 days from the date of receipt of copy of this order.

9. If appropriate order with regard to petitioner's claim for regularization from the date his juniors were regularized is not passed, it will be open for the petitioner to revive the contempt petition.

10. Contempt petition is accordingly disposed off at this stage.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay