

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2344 of 2021

1. Premlal Patel S/o Shri Gajalu Patel Aged About 43 Years R/o Behind Sitamani Rest House, Kumhar Mohalla, Korba Chhattisgarh Presently Working To The post of Chowkidar As A Daily Wager At Office Of SDO, Sub Division, Water Resource Department (E & M) And (R & R) Darri, District Korba, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh.
2. Engineer-In-Chief Water Resources Department, Sihava Bhawan, Raipur District Raipur Chhattisgarh.
3. Chief Engineer Water Resources Department, District Bilaspur Chhattisgarh.
4. Superintendent Engineer Office Of Superintendent Engineer, Hasdeo Barrage Water Management, Division Rampur (WRD), P. S. Rampur, Tahsil And District Kobra Chhattisgarh.
5. Executive Engineer Hasdeo Barrage Water Management, Division Rampur (WRD), P. S. Rampur, Tahsil And District Kobra Chhattisgarh.
6. Sub Divisional Officer Sub Division, Water Resource Department, (E & M) And (R & M) Darri, District Kobra Chhattisgarh.

---Respondents

For Petitioner	:	Shri Vinod Deshmukh, Advocate.
For State	:	Ms. Akanksha Jain, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14.06.2021

1. The present writ petition has been filed by the petitioner claiming for a direction to the respondents to consider his claim for regularization.
2. According to petitioner, he was initially engaged as daily wage employee on 01.12.1989 and continued to work under the respondents till February, 1995. Thereafter the services of the petitioner were abruptly discontinued. The petitioner immediately raised a dispute before the Labour Court. The reference made to the Labour Court i.e. case No.04/ID Act/2009 (Ref.) was rejected by the Labour Court vide order dated 26.02.2010. The order of the Labour Court was subsequently challenged by way of a writ petition

before the High Court vide WPL No.08 of 2012. The writ petition finally stood allowed vide order dated 13.07.2018 setting aside the award of the Labour Court and allowing the claim of the petitioner granting the relief of reinstatement with 50 percent backwages. The order of the High Court was duly complied with without any further challenge by the State and the petitioner was reinstated in service on 06.11.2019 and since then he is in service and discharging his duties under the respondents.

3. The counsel for the petitioner submits that since the order of discontinuance have been set aside by this court and as the order of reinstatement has been granted, for all practical purposes the order of discontinuance from service would not be reflected to have occurred at all and the said period has to be treated as continuity in service. Relying upon Division Bench decision of this High Court in case of Tuka Ram Vs. State of Chhattisgarh & Ors. he submits that his case for regularization squarely falls within the conditions stipulated in the circular of the State Govt. dated 05.03.2008.
4. The State counsel on the other hand opposing the petition submits that it is a case where the petitioner was automatically out of employment for a considerable period of time i.e. from 1995 till 2019 when ultimately he got a relief from the High Court and therefore the petitioner for all practical purposes does not have continuity in service and that there was a break in service taking into consideration the fact that the petitioner was a daily wage employee.
5. All said and done admittedly there is an order of the High Court in WPL No.08 of 2012 whereby the High Court had, setting aside the order of Labour court and has ordered for reinstatement with 50 percent backwages. The order of the High Court of reinstatement has been

complied with. The petitioner has been taken back in service. The moment the order of reinstatement and the order of reinstatement being complied with, it amounts to reinstatement in service technically from the period he stood discontinued by an illegal order of the State. Therefore, the law laid down by the Division Bench in Tuka Ram Vs. State of Chhattisgarh & Ors. WPS No.1703 of 2015, decided on 16.05.2017 would come into play.

6. Given the facts, the writ petition stands disposed of directing the respondents No.2 to 4 to take an early decision on the claim of the petitioner for regularization keeping in view the judgment of this court in favour of petitioner granting reinstatement with 50 percent backwages in WPL No.08 of 2012, decided on 13.07.2018 and also keeping in view the judgment of this court in case of Tuka Ram (Supra) at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.
7. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder