

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4108 of 2021**

1. Sanjeev Singh S/o Jitendra Bahadur Singh, Aged About 37 Years R/o Village - Mohada Dafai (Now Ledri), Post - Ledri, Tahsil - Manendragarh, District - Korea Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh, Through The Secretary, Health And Family Welfare Department, Atal Nagar, Mantralaya, Nawa Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director, Directorate Of Health Services And Chairman Chhattisgarh Medical Board, Chhattisgarh, Old Nursing Hostel, Mantralaya Parisar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Chief Medical And Health Officer, District - Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- **Respondents**

For Petitioners	:	Mr. J. K. Saxena, Advocate
For State	:	Mr. Suyash Dhar, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****11.08.2021**

1. The claim of the petitioner in the present writ petition is for an appropriate direction to the respondents to consider regularization of the petitioner
2. The petitioner herein is working as a Rural Medical Assistant under the National Rural Health Mission Program of the respondents. The petitioner is qualified with the Degree of PMHM (practitioner in modern and holistic medicine). The initial appointment of the petitioner was vide order dated 08.05.2011, since then the petitioner has been working continuously. The appointment of the petitioner was on contract basis. The contract was for a fixed tenure of one year or till a regular appointment is made, whichever is

earlier. However, since no recruitment was made, the government continued to renew the contract of the petitioner every year continuously till now and as such the petitioner has put in around 10 years of service.

3. The contention of the petitioner is that the petitioner has discharged his duties with utmost commitment and has also been awarded and complemented on various occasions for outstanding work discharged by them particularly during this Pandemic period for last 1 and ½ years. The petitioner has now filed the writ petition seeking for a direction to the respondents to consider his claim for regularization. According to the petitioner, there are large number of vacancies available for the petitioner to be regularized against regular sanctioned vacant post available in the department considering the experience and the length of service that the petitioner has gained for the last 10 years. The petitioner should be considered by the State for being regularized in service.
4. The counsel for the petitioner submits that the State Govt. time and again have been regularizing the services of daily wage employees who were never appointed under any rules, guidelines or instructions of the State Govt. yet after a considerable period of time the daily wage employees are getting regularized. However, the petitioner herein who has undergone due process of selection and were found meritorious at the time of selection and in the past 10 years of time he has been discharging exemplary service yet the respondents are not considering the claim of the petitioner for regularization. It is further contention of the petitioner that under the garb of contractual appointment the petitioner is made to work against the post which is otherwise to be discharged by a regular Rural Medical Assistant and yet the petitioner is substantially denied of salary and incentive package which is otherwise payable to a regular Rural Medical Assistant. The contention of the petitioner also is that there are many other States in India like State of

Uttarakhand, Haryana and Karnataka where the Govt. have already taken a policy decision for regularizing the contractual Rural Medical Assistant. Therefore, the State of Chhattisgarh may also consider the claim of the petitioner in this regard. Thus, for all these reasons, the counsel for the petitioner prays for appropriate direction to the respondents to consider the claim of the petitioner for regularization.

5. The State counsel on the other hand submits that the petitioner is appointed under specific rules pertaining to contractual appointment. The order of appointment is very explicit so far as his tenure of service is concerned. It is also the contention of the State that the petitioner having accepted the conditions of appointment with wide open eyes cannot now be permitted to turn around and agitate for his claim for regularization. That it was also specifically mentioned in the order of appointment that by virtue of the contractual appointment the employee would not be permitted to raise a claim in this regard at a later stage. It was also the contention of the State counsel that even when the appointment of the petitioner was renewed every year, the extension also was specifically mentioning the fixed tenure. Thus, for all these reasons the petitioner does not have any legal right for regularization.
6. Having heard the contentions put forth on either side and on perusal of records, indisputably the petitioner has undergone due selection process and was found meritorious while being appointed. It is also not in dispute that the petitioner has put in more than decade of service though under contractual appointment. The services of the petitioner was definitely found to be satisfactory which is evident from the periodical extension of contractual engagement. There is also no dispute to the fact that there are sanctioned vacant post available under the State Govt.

7. Given the said facts, it is now for the State Govt. to take a decision whether they intend to consider the length of satisfactory service rendered by the petitioner particularly taking into consideration his service which were rendered during the Pandemic period for last 1 and ½ years and consider whether the petitioner could be regularized in service by taking appropriate policy decision or atleast the State Govt. can in the alternative consider for going in for filling up of regular post of Rural Medical Assistant by giving some preferential treatment to the petitioner considering the length of service that they have rendered.
8. Let the petitioner in this regard raising their claim for regularization, move appropriate representation to the respondents No.1&2 who in turn shall take appropriate decision on the claim of the petitioner for regularization at the earliest preferably within a period of four months from the date of receipt of representation moved by the petitioner.
9. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge

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