

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 411 of 2020**

Ram Kumar Gupta, son of late Jagdish Prasad Gupta, aged about 59 years, working as Vehicle Driver, Public Health Engineering, Sub-Division, Kansabel, District – Jashpur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, Through the Secretary, Public Health Engineering Department, Mahanadi Bhawan, Nawa Raipur, District – Raipur (C.G.)
2. The Engineer-In-Chief, Public Health Engineering, Indravati Bhawan, Atal Nagar, Raipur (C.G.)
3. The Chief Engineer, Public Health Engineering, Bilaspur Division, Bilaspur (C.G.)
4. The Superintending Engineer, Public Health Engineering, Ambikapur Division, District – Surguja (C.G.)
5. The Executive Engineer, Public Health Engineering Division, Jashpur, District – Jashpur (C.G.)

---- Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. N.K. Chatterjee, Advocate alongwith Mr. D.K. Vishwakarma, Advocate.
For Respondents	:	Mr. H.S. Ahluwalia, Deputy Advocate General.

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Justice N.K. Chandravanshi, Judge

Judgment on Board

Per Arup Kumar Goswami, Chief Justice

03.12.2021

Heard Mr. N.K. Chatterjee, learned counsel for the appellant alongwith Mr. D.K. Vishwakarma. Also heard Mr. H.S. Ahluwalia, learned Deputy Advocate General appearing for the respondents.

2. This writ appeal is directed against the order dated 23.06.2020 passed by the learned Single Judge in Writ Petition (S) No. 2354 of 2020, dismissing the writ petition.
3. The case of the writ petitioner in the writ petition is to the effect that he was engaged as a vehicle Driver on daily-wage, since 26.07.1989. He was regularized by an order dated 14.08.2008, not in the post of Driver, but in the post of Helper. Being aggrieved, he filed a writ petition, registered as Writ Petition (S) No. 668 of 2011, which came to be disposed of on 04.11.2011 with a direction to the respondent No. 5 therein, *i.e.*, Superintending Engineer, Public Health Engineering Department, Ambikapur to pass appropriate order within two months from the date of receipt of the copy of the order.
4. Subsequent thereto, the service of the petitioner was regularized by an order dated 17.05.2012 in the post of Driver with effect from his date of joining in the post of Driver.
5. The writ petition was instituted with the grievance that he ought to have been granted the benefit of regular pay-scale in the post of Driver from the date of regularization in the post of Helper on 14.08.2008 with arrears, salary and other benefits.

6. The petitioner had retired from service on 31.05.2021. It is also noted that the writ petition was instituted after 8 years of his appointment to the post of Driver on 17.05.2012.
7. The learned Single Judge, by the impugned order, had held that whether the petitioner was discharging the job of Driver with effect from 14.08.2008 to 17.05.2012 is a disputed question of fact and that apart, the order of the Court dated 04.11.2011 was only for consideration of his case for appointment to the post of Driver.
8. Having regard to the direction as contained in the order dated 04.11.2011 in Writ Petition (S) No. 668 of 2011, and when, admittedly, the petitioner was regularized, at the first instance, as a Helper, we are of the opinion that in the facts and circumstances of the case, learned Single Judge was justified in refusing to direct payment of salary of Driver for the period from 14.08.2008 to 17.05.2012 alongwith arrears.
9. Accordingly, writ appeal is dismissed. No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(N.K. Chandravanshi)
Judge