

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5189 of 2021**

1. Sawant S/o Udavan Aged About 41 Years R/o Aamgaon, Post Rampur, P.S. Salewara, Tehsil Chhuikhadan, District Rajnandgaon (C.G.), District : Rajnandgaon, Chhattisgarh
2. Gaunu S/o Udavan Aged About 45 Years R/o Aamgaon, Post Rampur, P.S. Salewara, Tehsil Chhuikhadan, District- Rajnandgaon (C.G.), District : Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- The Secretary, Public Works Department Mantralaya, Mahanadi Bhawan, Nava Mantralaya, Atal Nagar District- Raipur (C.G.), District : Raipur, Chhattisgarh
2. The Superintending Engineer Public Works Department, Public Works Division, Durg Division, District- Durg (C.G.), District : Durg, Chhattisgarh
3. The Executive Engineer Public Works Department, Public Works Division, Khairagarh, District- Rajnandgaon (C.G.), District : Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. C. Jayant K. Rao, Advocate.
For State	:	Mr. Ishan Verma, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23.09.2021**

1. The claim of the petitioners through the present writ petition is for an appropriate direction to the respondents for considering their claim for regularization in service.

2. Facts of the case is that the petitioners were working under the Public Works Department, Durg Division, Durg and were initially engaged in the year, 1987, however, after having put in about 9 years of service they were discontinued on 27.04.1996. The workers thereafter raised a claim under the provisions of Chhattisgarh Industrial Relations Act before the Labour Court and where the Labour Court vide order dated 31.10.2007 ordered for reinstatement without backwages. The order of the Labour Court was subjected to challenge in an appeal before the State Industrial Court and the Industrial Court also vide order dated 05.08.2010 rejected the appeal of the State and partly allowed the appeal of the workers to the extent of modifying the order of Labour Court so far as grant of backwages is concerned and awarded 50 percent of backwages.
3. The order of the Labour Court dated 31.10.2007 and the order of the Industrial Court dated 05.08.2010 was later on subjected challenge in a writ petition preferred by the State Govt. vide WPL No.4771 of 2011. The said writ petition was finally partly allowed by this court on 08.01.2021. The order of reinstatement granted by the Labour Court and the Industrial Court was not interfered with however awarding of backwages was interfered with and quashed by this court vide the said judgment. The petitioners meanwhile were taken back in service after the order of the Labour court and since then they are continue in service. Thereafter the petitioners have now raised the claim for regularization.

4. The contention of the petitioner is that while considering the claim of the petitioners for regularization the respondent authorities should take into consideration the order passed by the Division Bench of this High Court in a bunch of writ petition which were disposed of on 16.05.2017, leading case of which was WPS No.1703 of 2015, Tukaram Vs. State of Chhattisgarh & Others. In case of Tukaram (Supra) this court had categorically held that the period which was spent on litigation before the court or any other forum, the same has to be treated as period spent on duty for all practical purposes as the order of discontinuance have been held to be an illegal order of termination and applying the said analogy the counsel for the petitioners prays that the respondents be directed to consider the claim of the petitioners for regularization keeping in view the judgment of Division Bench in Tukaram (Supra).
5. Considering the limited grievance that the petitioners have, the writ petition at this juncture stands disposed of directing the respondent authorities to consider the claim of the petitioner for regularization in accordance with rules and regulations governing the field and while taking a decision, the respondents shall also keep in mind the judgment rendered by the Division Bench of this High Court in case of Tukaram (Surpa).
6. The writ petition accordingly stands disposed of.

Sd/-

P. Sam Koshy
Judge

J/-