

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2995 of 2015**

1. Sanjay Sahu S/o Shri Gokul Prasad Sahu Aged About 37 Years Working as JCB Operator, Municipal Corporation, Bilaspur, R/o Kududand, Bilaspur, Tah. and Distt. Bilaspur, Civil and Revenue Distt. Bilaspur, Chhattisgarh.
2. Anand Kumar Mogrel S/o Shri Kishore Mogrel, Aged About 40 Years Working as Labour, Municipal Corporation, Bilaspur, R/o Bapu Nagar, Near Railway Station, Bilaspur, Tah. and Distt. Bilaspur, Civil And Revenue Distt. Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Urban Administration And Development, Mahanadi Bhawan, Raipur, Distt. Raipur, Chhattisgarh.
2. Director, Department Of Urban Administration and Development, R.D.A. Bhavan, Distt. Raipur, Chhattisgarh, District : Raipur, Chhattisgarh.
3. The Commissioner, Municipal Corporation, Bilaspur, Distt. Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Aashutosh Shukla, Advocate
For State	:	Mr. S.S. Thakur, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25.02.2021**

1. The writ petition was filed seeking for a direction to consider the claim of the petitioner for regularization.
2. Today when the matter is taken up for hearing, the counsel for the petitioners submits that pending the writ petition, the petitioner No.1 has already been regularized vide order dated 10.10.2019, however the petitioner No.2 has not been regularized.

3. The contention of the petitioners is that the petitioner No.2 is identically placed like that of the petitioner No.1 and there was no reason why the case of the petitioner should have been left out.
4. Though the counsel for the respondent Corporation submits that in the case of petitioner No.2 there was some break in service detected by the scrutiny committee, however, the said break in service was also available in the case of petitioner No.1 as well, yet he has been regularized.
5. At this juncture, it would be relevant to take note of the decision of the Supreme Court in case of Jivanlal Vs. Pravin Krishna, Principal Secretary & Others, 2016(15)SCC 747 wherein in paragraphs 1 to 3 the Supreme Court has held as under:
 - “1. The appellants have prayed for regularization of their services with effect from the date they completed 10 years of service. Main reliance is placed on the orders passed by the respondents in the case of similarly situated persons.
 2. The learned counsel for the respondents has vehemently contended that all the regularization orders passed in the case of those pointed out by the appellants are illegal since the State, in principle, had decided to discontinue the appointment to the post of Sweepers by order dated 10.12.1997. However, the fact remains that after the said order also, many similarly situated persons have been granted regularization with effect from the date of completion of 10 years of service.
 3. In that view of the matter, we do not find any justification in discriminating the appellants herein. The policy had been violated in many cases. There cannot be any pick and choose policy; it would certainly lead to corruption. Hence, the appeals are allowed with a direction to the respondents to grant similar treatment to the appellants herein as well and grant regularization to them with effect from the date of completion of 10 years of service.”
6. Given the aforesaid decision of the Supreme Court, this court is of the opinion that the case of the petitioner No.2 who has not been considered for

regularization, also is covered by the judgment of the Supreme Court in case of Jivanlal (Supra) and is entitled for same treatment on parity with that of the petitioner No.1 and other similarly placed persons who have already been regularized by the department.

7. In view of above, the writ petition to that extent is allowed and disposed of directing the respondent No.3 to ensure that the case of the petitioner No.2 is considered for regularization at par on parity basis along with petitioner No.1 and other similarly placed employees regularized by the department. Let this exercise be concluded by the respondent No.3 within a period of 90 days from the date of receipt of copy of this order.

Sd/-
(P. Sam Koshy)
Judge

vaishali