

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5807 of 2021**

Shyamu S/o Chhedu Ram Aged About 56 Years R/o Village And Post- Pisid,
Police Station- Kasdole, District Baloda Bazar Bhatapara Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Water Resource, Mahanadi Bhawan, New Raipur P. S. Rakhi Atal Nagar Raipur, District Raipur Chhattisgarh.
2. Chief Engineer Water Resource Department Mahanadi Godawari Kachhar Shankar Nagar, Raipur Chhattisgarh.
3. Executive Engineer Water Resource Division (Construction) Kasdol, District- Baloda Bazar Bhatapara Chhattisgarh.
4. Sub Divisional Officer Water Resource Division, Kasdol Tahsil And P. S. Kasdol, District- Baloda Bazar Bhatapara Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Vinod K. Deshmukh, Advocate
For State	:	Mr. Anshuman Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/10/2021**

1. With the consent of the parties, the matter was heard finally at the admission stage.
2. The claim of the petitioner in the present writ petition is for an appropriate direction to the respondents for considering his claim for regularization in service.
3. The facts of the case in brief is that according to the petitioner he was initially engaged as a daily wage worker by the respondents as early as on 01.05.1986. He continued to work under the respondents for a period of roughly 8 years and he stood discontinued w.e.f.

01.08.1994. The discontinuance part was challenged by the petitioner by way of a dispute under Section 31(3) of the MPIR Act, 1960. The said case was registered as Case No 198/95/MPIR Act. The said dispute stood allowed in favour of the worker-petitioner as early as on 27.08.2001. The order of Labour Court was subjected to challenge in an appeal under Section 65 before the Industrial Court and the Industrial Court also vide order dated 11.10.2004 rejected the appeal of the State. The two orders i.e. the order passed by the Labour Court as also the order passed by the Industrial Court was subjected to challenge in WPL No. 1961/2008. The writ petition also finally stood dismissed on 05.05.2014. The said order has also been challenged in W.A. No. 678/2015, which was too dismissed vide order dated 11.01.2016. Thus, the order of the Labour Court stood affirmed. Meanwhile, the petitioner was reinstated in service w.e.f. 03.09.2007 and since then the petitioner uninterruptedly is working under the respondents.

4. The grievance of the petitioner is that the Department had moved the proposal for regularizing similarly placed daily wage workers and the Department shorted out list of 22 candidates of all similarly placed who were entitled for consideration of regularization. However of the 22 candidates only one was considered and regularized by the Department and the others have been left out or ignored without any cogent or justifiable reason, which has led to the filing of the present writ petition.
5. Counsel for the petitioner submits that in the light of the order of the Labour Court declaring the discontinuance of 1994 to be illegal and

the order of the Labour Court getting affirmed by the Industrial Court in an appeal and also by this Court in a writ petition applying the principles of relating back the employment of the appellant-worker has to be treated as to be in continuous employment from the time of the discontinuance made w.e.f. 01.08.1994 which has been struck down by the Labour Court. The petitioner relies upon the judgment of the Division Bench of this Court in case of “**Tukaram Sahu v. State of Chhattisgarh & others**” WPS No. 1703/2015 decided on 16.05.2017, whereby a similar view has been affirmed by the Division Bench of this Court.

6. According to the petitioner there is no reason why the petitioner should not be regularized, particularly taking into account the fact that the initial engagement of the petitioner was w.e.f. 01.05.1986 onwards and therefore he falls under Clause (A) of the circular of the State Government dated 05.03.2008.
7. The State counsel on the other hand submits that since the claim of the petitioner has till date not been finally decided by the respondents, the matter can be disposed of in the light of the Relief clause No. 10(A) of the writ petition and the authorities can be ordered to take an appropriate decision after due verification of his entitlement part.
8. In view of the submission made by the learned State counsel, the writ petition at this juncture disposed of directing the respondents to scrutinize the claim of the petitioner for regularization and to pass an appropriate decision keeping in view the employment of the petitioner between 01.05.1986 to 01.08.1994 and also the claim of the petitioner

having been reinstated from 03.09.2007, on which post he is till date working. The Department also in the course of deciding the representation would keep in view the judgment of the Division Bench of this Court in the case of “**Tukaram Sahu**” (supra).

9. Let an appropriate decision in this regard be taken by the respondent authorities within an outer limit of 4 months from the date of receipt of the copy of this order.
10. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved