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2025:CGHC:9860

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3488 of 2018

1 - Rakesh Kumar S/o S/o Arjun Lal Rajak Aged About 39 Years Working As A Time Keeper At Rest House, Rajnandgaon, Kawardha, Podhi Road, District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh.

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary, Public Works Departgment, Mahanadi Bhavan, Mantralaya New Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - Executive Engineer, Public Works Department, Bhavan, And Sadak Khairagarh, District Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

3 - The Sub- Divisional Officer, Public Works Department Khairagarh, District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh.

---- Respondents

For Petitioner : Shri B.P. Singh, Advocate.
For Respondents/ State : Shri Pramod Shrivastava, Dy. G.A.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

27.02.2025

1. The petitioner has filed this petition seeking the following relief(s):-

> “10.1 That this Hon'ble court may kindly be pleased to set aside the order dated 29/01/2018 ANNEXURE P1 and direct the respondent authorities to regularize the service of petitioners in the light of circular dated

05/03/2008, order dated 27/06/2017.

10.2 That this Hon'ble Court may kindly be pleased to direct the respondent authorities to consider the matter of petitioner for regularization since the year 1999 when the ld. Labour has already decided on the point of 240 days work in a calendar year.

10.3 That any other relief which this Hon'ble Court deems fit and proper may also be granted in favor of the petitioner safeguarding his interest."

2. Learned counsel for the petitioner would submit that the petitioner was appointed as a daily-rated timekeeper under the respondents in the year 1996 and he worked there till 16.7.1998. The services of the petitioner were terminated by the Sub-Divisional Officer of the department by an oral order. He would contend that the petitioner challenged this oral termination before the learned Labour Court and an award was passed in his favour with the order of reinstatement without back-wages. He would contend that the petitioner has been reinstated in the services but his claim with regard to regularization has been negated by the respondent authorities by an order dated 29.1.2018. He would further contend that earlier a direction was issued to the respondent authorities to consider the claim of the petitioner for regularization and the same has been rejected. He would also contend that the petitioner was appointed against the sanctioned and vacant post, the order of reinstatement was passed by the Labour Court and the petitioner has been working on the said post continuously for more than 10 years, therefore, the authority concerned ought to have considered the claim of the petitioner for regularization.

3. On the other hand, learned counsel for the State would oppose the submissions made by counsel for the petitioner. He would submit that the petitioner has not worked for 240 days in a calendar year and has not continuously worked for more than 10 years. Therefore, the respondent authorities have rightly rejected his claim, and the petition deserves to be dismissed.

4. I have heard learned counsel for the parties and perused the documents present on record.

5. An award was passed in favour of the petitioner and he was reinstated in service without back-wages. The award passed by the Labour Court dated 29.11.2011 has not been challenged by the State and thus, attained finality. The petitioner was reinstated in service and has been working as a timekeeper for more than 10 years. The petitioner made an application for regularization, and when no action was taken, he filed WP(S) No.631 of 2016, which was disposed of vide order dated 28.7.2017 and the respondent authorities were directed to consider the claim of the petitioner in light of the judgment passed in the matter of ***State of Karnataka and Ors. vs. Umadevi and Ors., 2006 (4) SCC 1***. The petitioner made a representation and the same has been rejected by the Superintendent Engineer, Public Works Department, Division Durg, Durg.

6. The petitioner was appointed against a sanctioned and vacant post, he has worked for more than 10 years; and has remained in service since 2011 pursuant to the award passed by the learned Labour Court, therefore, the order dated 29.1.2018 passed by the

Superintendent Engineer, Division Durg is hereby quashed.

7. The Superintendent Engineer and the Executive Engineer of the Department are directed to consider the claim of the petitioner for regularization expeditiously preferably within a period of 90 days from the date of receipt of a copy of this order.

Sd/-
(Rakesh Mohan Pandey)
Judge

Nimmi