

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2213 of 2011**

- Vinod Kumar Yadav S/o Parshuram Yadav, aged about 48 years, presently working on the post of lecturer Govt. Girls High School, Charcha Colliery, Tahsil Baikunthpur, District Korea (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through the Secretary, Tribal Welfare Department, D.K.S. Bhawan, Raipur (CG)
2. Assistant Commissioner, Tribal Development, Baikunthpur, Distt. Korea, (CG)
3. Principal, Govt. Girls High School, Churcha, District Korea (CG)

---- Respondent

For Petitioner : Shri A.N. Pandey, Advocate.
 For Respondents : Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****09/05/2016**

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction to the respondents to pay him salary for the period 14.9.2010 to 19.12.2010 with interest, as also for quashing the impugned order dated 11.4.2011 whereby salary has been denied to him.
2. Facts of the case lies in narrow compass. The petitioner, who is working as Lecturer (Political Science) in department of ST and SC Development, was posted at Government Higher Secondary School,

Bisunpur, Block Baikunthpur, District Korea. On 23.8.2010, he was transferred to Government Girls High School, Churcha Colliery in the same block. The petitioner was relieved on 13.9.2010 and thereafter he submitted his joining at the transferred place on 14.9.2010. However, the Principal sought guidance from the Assistant Commissioner, Tribal Development, Korea. The Assistant Commissioner in turn sought guidance from the State Government in his communication dated 17.9.2010 stating that under the new set up of Girls High School, Churcha Colliery, the post of Lecturer (Political Science) is not sanctioned. The petitioner thereafter preferred WPS No.6343/2010 seeking direction to the respondents to allow him to join and pay him salary. This Court directed the respondents to decide the petitioner's representation within 3 weeks from the date of submission of representation.

3. Pursuant to the said order of this Court, the State Government passed an order on 15.12.2010 allowing the petitioner to join at Girls High School, Churcha Colliery. As a consequence, the Assistant Commissioner, Tribal Development, Korea directed the Principal of the School to allow the petitioner to join and eventually the petitioner submitted his joining on 29.12.2010.
4. It is argued that the petitioner was ready and willing to join at Churcha Colliery, however, the authorities sought guidance and the petitioner was kept away from his working place, therefore, he is entitled for salary.

5. Per contra, learned State Counsel would submit that since the petitioner has not worked at either place after his relieving from Bisunpur on 14.9.2010 till his joining at Churcha Colliery on 29.12.2010, he is not entitled for salary on the principle of no work no pay.
6. Having heard learned counsel for the parties, it needs to be appreciated that the principle of no work no pay would apply only in such cases where the employee was undergoing some kind of punishment, therefore, he was kept away from duty by a specific order of the Government and the basis of the said order was not completely wiped off at a subsequent period. The principle would not apply where the employee was willing to work but was denied to join on some non-existing or flimsy grounds. The present case would fall in the latter category wherein after his transfer to Government Girls High School, Churcha Colliery, he was relieved from his previous place of posting on 14.9.2010 and submitted his joining at the transferred place on the said date. However, the Principal and the Assistant Commissioner did not allow him to work on the ground that the post of Lecturer (Political Science) has not been sanctioned in the set up of Government Girls High School, Churcha Colliery. It was only due to intervention of the Secretary of the Department pursuant to the direction of this Court for deciding the petitioner's representation, the petitioner was allowed to join and eventually he submitted his joining on 29.12.2010. Thus the petitioner was not at fault at any point of time for not doing the work but it is a case where he was kept away from the work by the

authorities and the petitioner has not at all contributed to the said cause.

7. In the considered opinion of this Court, the petitioner is entitled to salary from 14.9.2010 till date he submitted his joining at Government Girls High School, Churcha Colliery.
8. For the foregoing, the Writ Petition is allowed and the respondents are directed to make payment of salary for the post of Lecturer (Political Science) to the petitioner for the period 14.9.2010 till he submitted his joining at Government Girls High School Churcha Colliery. Payment be made to the petitioner within a period of 3 months from today failing which the amount shall carry interest @ 9% from the date of this order till the actual payment.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve