

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.522 of 2003

Dilip Kumar Rajak, S/o Bhaiyyalal Rajak, aged 39 years, Senior Stenographer, Chhattisgarh State Agriculture Marketing (Mandi) Board, Old Ganj Mandi Campus, Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Department of Agriculture, D.K.S. Bhavan, Raipur (C.G.)
2. State of M.P. through Secretary, Department of Agriculture, Vallabh Bhavan, Bhopal (M.P.)
3. Managing Director, M.P. State Seed and Farm Development Corporation, E-1/88 A, Arera Colony, Bhopal (M.P.)
4. Managing Director, C.G. Rajaya Bheej Enam Krishi Vikas Nigam Ltd., Bheej Bhawan, Tilibandha, Ravi Gram, Raipur (C.G.)

---- Respondents

For Petitioner:	Mr. Malay Shrivastava and Mr. Gagan Tiwari, Advocates.
For Respondent No.1:	Mr. Vinod Deshmukh, Deputy Govt. Advocate.
For Respondent No.3:	Miss Pushpa Dwivedi, Advocate on behalf of Mr. A.S. Kachhawaha, Advocate.
For Respondent No.4:	Mr. R.S. Marhas, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/06/2017

1. The petitioner was promoted on the post of Senior Stenographer by order dated 18-6-1999 with effect from 19-2-1990, but consequential benefits were not granted on the principle of "no work, no pay" against which he filed a writ petition in this Court and the petitioner was directed to make representation and also the Chhattisgarh State Agriculture Marketing Federation was directed to consider the same. The said Federation has considered the representation and held that the petitioner is not entitled for

consequential benefits against which this writ petition has been filed.

2. Learned counsel for the petitioner submits that for no fault of the petitioner, he has been denied promotion on the post of Senior Stenographer, therefore, consequential benefits which he is legally entitled with effect from 19-2-1990 till 29-4-1999 have not been given to him and the representation submitted by him has been rejected, therefore, a direction be given for grant of consequential service benefits to the petitioner.
3. Learned State Counsel and learned counsel for Marketing Federation would oppose the writ petition and the submission of counsel for the petitioner.
4. The petitioner was granted the benefit of promotion on the post of Senior Stenographer by order dated 18-6-1999 notionally with effect from 19-2-1990, but he has been declined consequential benefits on the principle of “no work, no pay”. It has not been disputed that the petitioner has not worked on the post of Senior Stenographer from 19-2-1990 to the date of promotion and he has been promoted notionally. Apart from this, it does not appear from the record that he had endeavoured to get promotion on the date from which he was eligible, by resorting to legal action for getting the said promotion. Once he has been granted promotion notionally by the respondents, he claimed consequential benefit of pay with effect from the year 1990. “No work, no pay”, is the well recognised and established rule in service jurisprudence.
5. In the matter of **State of Bihar and others v. Kripa Nand Singh**

and another¹, Their Lordships of the Supreme Court have clearly held that “no work, no pay”, is the rule and “no work, yet pay”, is the exception. It was observed as under: -

“No work, no pay”, is the rule and “no work, yet pay”, is the exception. Compulsory waiting period is one such exception. But to qualify for the exception, an employee has to establish that he had made earnest endeavours and yet that he was not able to join duty for no fault on his part. He must also show his earnestness to join duty. Voluntary waiting period is not covered by the exception.”

6. Therefore, the petitioner has rightly been declined the consequential benefits of service particularly, the arrears of salary on the ground of “no work, no pay” in which I do not find any illegality. There is no merit in the writ petition, it deserves to be and is accordingly, dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma