

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 6218 of 2014**

Santosh Kumar Sahu S/o Shri Budhari Ram Sahu, aged about 29 years, R/o Village & Post Bilari, Thana Shivrinarayan, Tahsil Pamgarh, Civil & Revenue District Janjgir Champa, CG

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Panchayat & Rural Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, Dist Raipur, CG
2. Chief Executive Officer, Jila Panchayat, Janjgir, Dist Janjgir Champa, CG
3. Chief Executive Officer, Janpad Panchayat, Pamgarh, Dist Janjgir Champa, CG
4. Block Education Officer, Pamgarh, Dist Janjgir Champa, CG

---- Respondents

For Petitioner	:	Shri Rakesh Sahu, Advocate
For Respondents/State	:	Shri S. P. Kale, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****28/02/2017**

The present petition has been filed seeking for a direction to the respondents to permit the petitioner to join his service as Assistant Teacher (Panchayat) Grade III at Shaskiy Purv Madhyamik Shala, Dongakohraod, Block Pamgarh, District Janjgir-Champa.

2. The relevant facts in the instant case are that the petitioner was initially appointed as Shiksha Karmi (Panchayat) Grade-III on 27.06.2005. Subsequently, the petitioner without any authority or sanction from the higher Authority remained absent from 08.04.2008 to 10.09.2013. In this regard, there is an admission in the petition itself that during the said period the petitioner was undertaking his decree course in Mechanical Engineering from Satyadeva Institute of Technology, District Rajnandgaon.

Subsequently, the Chief Executive Officer, Janpad Panchayat, Pamgarh vide Annexure P-6 dated 10.09.2013 issued a letter ordering the petitioner to resume his duty immediately failing which they would initiate a disciplinary action. Even pending the petition before this Court, a similar letter has been issued by the Block Education Officer, Pamgarh vide letter dated 03.08.2016 Annexure P-8 directing the presence of the petitioner in service. Counsel for the petitioner submits that in spite of these letters having been passed, the respondents are not permitting the petitioner for joining his duty.

3. Counsel for the State submits that since there is an admission on the part of the petitioner of his being absent without any authority for a considerable period of more than five years, the petitioner does not have any right to resume his duty and he is also entitled for a disciplinary action for the said misconduct.

4. However, on a query being put to the State counsel, he fairly admits that in the light of the correspondence made by the Chief Executive Officer as well as by the Block Development Officer, it appears that the name of the petitioner is still on the rolls and therefore joining of the petitioner cannot be refused though the petitioner is still liable to be prosecuted for the alleged misconduct of unauthorizedly remaining absent for the period of more than five years.

5. If that be so, the present writ petition is disposed of with a direction to the respondent Authorities for grant of joining to the petitioner. However, if the respondents so prefer, they are at liberty to initiate disciplinary proceedings against the petitioner for the alleged misconduct.

Sd/-
(P. Sam Koshy)
JUDGE