

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1279 of 2017**

1. Smt. Asha Panda W/o Shri Sadanand Panda, Aged About 30 Years Presently Posted As Assistant Teacher Panchayat (Science) At Government Primary School Raja Saivaiya, Block Pithora, District Mahasamund, R/o Tappa Sevaiya Pithora, District Mahasamund (Chhattisgarh)
2. Smt. Santoshani Panda, W/o Shri Shiv Kumar Panda, Aged About 37 Years Presently Posted As Assistant Teacher Panchayat (Science) At Government Primary School Kishanpur, Block Pithora, District Mahasamund, R/o Atharahgudi Pithora, District Mahasamund (Chhattisgarh)
3. Smt. Damyanti Patel, W/o Shri Basant Patel, Aged About 30 Years Presently Posted As Assistant Teacher Panchayat (Science) At Government Primary School Bamhni, Block Pithora, District Mahasamund, R/o Village Telkodadar, Post Arangi, Block Pithora, District Mahasamund (Chhattisgarh)
4. Smt Radha Patel, W/o Shri Paras Ram Patel, Aged About 30 Years Presently Posted As Assistant Teacher Panchayat (Science) At Government Primary School Limdarha, Block Pithora, District Mahasamund, R/o Village Dhalam, Post Chanat Block Basna, District Mahasamund (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Panchayat & Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. Chief Executive Officer, Zila Panchayat Mahasamund District Mahasamund (Chhattisgarh)
3. Chief Executive Officer, Janpad Panchayat Pithora, District Mahasamund (Chhattisgarh)

---- Respondent**And****WPS No. 1280 Of 2017**

- Smt. Rasmita Pradhan W/o Shri Satyanand Pradhan, Aged About 28 Years, Presently Posted As Assistant Teacher Panchayat (Science) At Government Primary School Sagundhap, Block

Pithora, District Mahasamund, R/o Village Mohgaon, Post Bhagat Devari District Mahasamund (Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Panchayat & Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh).
2. Chief Executive Officer, Zila Panchayat, Mahasamund, District Mahasamund, (Chhattisgarh)
3. Chief Executive Officer,, Janpad Panchayat, Pithora, District Mahasamund, (Chhattisgarh)

---- Respondent

And

WPS No. 1571 Of 2017

1. Smt. Savitri Dhiwar W/o Shri Shivkumar Dhiwar, Aged About 38 Years Presently Posted As Assistant Teacher (Panchayat), Ahilya Bai Tretanath Higher Secondary School, Kamroud, Block Bagbahra, District Mahasamund (Chhattisgarh).
2. Smt. Poonam Lariya W/o Chintaram Lariya, Aged About 31 Years, Posted As Assistant Teacher (Panchayat), Government Primary School, Temri, Block Bagbahra, District Mahasamund (Chhattisgarh)
3. Shobhnath Manjhi S/o Shri Jaylal Manjhi, Aged About 38 Years Posted As Assistant Teacher (Panchayat), Government Primary School, Birsingpali, Block Basna, District Mahasamund (Chhattisgarh)
4. Smt. Deepa Sinha W/o Shri Lokesh Kumar Sinha, Aged About 32 Years Posted As Assistant Teacher (Panchayat), Government Primary School, Ramkheda, Block Mahasamund, District Mahasamund (Chhattisgarh)
5. Sewak Ram Soni S/o Shri Lakhan Lal Soni, Aged About 42 Years Posted As Assistant Teacher (Panchayat), Government Primary Joratarai, Block Bagbahra, District Mahasamund (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).

2. The Chief Executive Officer, Zila Panchayat, Mahasamund District Mahasamund (Chhattisgarh)

---- Respondent

For Petitioners	Mr. Mateen Siddique, Advocate and Mr. Rahul Mishra, Advocates
For Respondent/State	Mr. Adhiraj Surana, Dy. GA
For Janpad Panchayat, Mahasamund	Mr. Shashank Thakur, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

22/11/2017

1. Heard,.
2. It is not disputed that the petitioners' were transferred from one Janpad Panchayat to another Janpad Panchayat or Zila Panchayat, as the case may be and they have been accorded bottom seniority.
3. In the matter of **Smt. Reeta Singh Vs. State of Chhattisgarh and others** (WA No.475 of 2015 and other connected appeals, decided on 29.10.2015), this Court has passed the following order vide para 5, 6 & 7 :
 5. We have considered the submissions on behalf of the parties. Rule 27 of the Chhattisgarh Teacher (Panchayat) Cadre (Recruitment and Conditions of Service) Rules 2012 provides for request transfer in which event, loss of seniority only would follow at the transferred place of posting. The Learned Single Judge has correctly observed that loss of seniority due to request transfer and the eligibility to be considered for promotion by taking into account the earlier

period of service before transfer were two separate issues and the latter had to be taken into consideration for determining eligibility to be considered for promotion as distinct from seniority.

6. Considering a similar issue with regard to calculation of the time period for grant of time bound promotion in a case relating to transfer upon request, it was observed in (1999) 2 Supreme Court Cases 119 (Dwijen Chandra Sarkar V. Union of India) as follows :

“17. On the facts of the present case and especially in view of the aforesaid decisions, we are of the view that when the transfer is in public interest and not on request, the two employees transferred cannot be in a worse position than those in the above rulings who have been transferred on request and who in those cases accepted that their names could appear at the bottom of the seniority list. Even in cases relating to request transfers, this Court has held, as seen above, that the past service will count for eligibility for certain purposes though it may not count for seniority.

18. Hence the transfer order and circular concerned of 1983 which required that the past service should not count for seniority, cannot have any bearing on eligibility for time-bound promotion. Seniority and time-bound promotions are different concepts, as stated above.

19. For the above reasons, we hold that the past service of the appellants is to be counted for the limited purpose of eligibility- for computing the number of years of qualifying service, to enable them to claim the higher grade under the Scheme of Time-bound Promotions.”

7. The candidature of the Appellants for promotion has to be considered in light of the aforesaid discussion, if not already done.

4. In the present case, the petitioner's cases were considered in the light of the judgment passed by the Division Bench in the

matter of **Smt. Reeta Singh (supra)**. While they have been held eligible for consideration by counting their previous services for the purpose of eligibility, they have not been accorded the seniority by counting their previous services. In other words, at the transferred Janpad Panchayat or Zila Panchayat, as the case may be, the petitioners have been placed at the bottom seniority. This action of the respondents is under challenge in these writ petitions.

5. Considering the order passed by the Division Bench of this Court in the matter of **Smt. Reeta Singh (Supra)**, the impugned action cannot be faulted with. However, the petitions are disposed of with observation that the petitioners shall be considered for promotion along with other eligible candidates whenever their turn comes.

Sd/-

Judge

(Prashant Kumar Mishra)