

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2192 of 2017**

- Mahendra Kumar Patel S/o Late Shri Umashankar Patel, Aged About 44 Years Occupation- Assistant Teacher Panchayat, Prathmik Shala Shankarpur, Block- Farasgaon, Resident- Bus Stand Ke Pass, Farasgaon, Thana And Tahsil Farasgaon, District Kondagaon, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat, Gramin Vikas And Labour Department, Mantralaya, Naya Raipur, Chhattisgarh.
2. The Director, Panchayat Sanchalnalaya, Chhattisgarh, Indravati Bhavan, Naya Raipur, District- Raipur, Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat- Kondagaon, District- Kondagaon, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat, Farasgaon, District- Kondagaon, Chhattisgarh.
5. District Education Officer, Kondagaon, District- Kondagaon, Chhattisgarh.
6. Block Education Officer, Farasgaon, District- Kondagaon, Chhattisgarh.

---- Respondents

For Petitioner	Shri Abdul Wahab Khan, Advocate
For Respondent-State	Shri Arvind Dubey, PL

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****10/05/2017**

1. It is contended that the length of service rendered by the petitioner in the original panchayat body is not counted for the purpose of eligibility for promotion despite the order passed by the Division Bench of this Court on 29.10.2015 in Writ Appeal No.475/2015 (**Smt. Reeta Singh vs State of Chhattisgarh and others** and other connected matters).
2. Learned State counsel would submit that if the petitioner's case is covered by the judgment rendered in the matter of **Smt. Reeta Singh** (supra), the Authorities should consider the representation.
3. In **Smt. Reeta Singh** (supra), the Division Bench of this Court held thus in paragraphs 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 timebound 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 Timebound Promotions. “

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

4. The grievance raised in the present writ petition appears to be similar, therefore, the present writ petition is also disposed of in terms of the order passed in the matter of **Smt. Reeta Singh** (supra).

5. Petitioner shall submit representation before the competent authority under Rule 18 (1) (b) of the the Chhattisgarh Teacher (Panchayat) Cadre (Recruitment and Conditions of Service) Rules 2012 seeking benefit of the order passed by the Division Bench of this Court in **Smt. Reeta Singh** (supra). If such representation is filed, the same shall be decided at the earliest, preferably within a period of 3 months from the date of submission.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala