

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2362 of 2017**

- Chandrabhanu Mishra S/o Shri Ravishankar Mishra, Aged About 53 Years, Posted As Lecturer(Panchayat), Government Higher Secondary School, Bichhiya, District Mahasamund, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, New Raipur, Police Station Rakhi, District Raipur, Chhattisgarh.
2. The Director, Public Instructions Chhattisgarh, Block-3, First Floor, Indravati Bhawan, New Raipur, Chhattisgarh.
3. The Commissioner-Cum-Director, Panchayat And Social Welfare, Directorate Of Panchayat, 36-C-III, Block-II, Second Floor, Indravati Bhawan, New Raipur, Chhattisgarh.
4. The Chief Executive Officer, Zila Panchayat, Mahasamund, Distt. Mahasamund, Chhattisgarh.

---- Respondent

For Petitioner	Mr. V.R. Tiwari and Mr. Anish Tiwari, Advocates
For Respondent /State	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****19/5/2017**

1. Heard.
2. Learned counsel for the petitioner would submit that the petitioner was appointed on the post of Shiksha Karmi Grade-II on 22.4.1999 as he fulfilled the required educational

qualifications applicable at that point of time. In due course, the petitioner has been promoted on the post of Lecturer (Panchayat).

3. After coming into force of the *Chhattisgarh Shikshak (Panchayat) Sanvarg (Bharthi Tatha Sewa Ki Sharte) Niyam, 2012* (in short "the Rules, 2012"), the qualification of B.Ed./D.Ed. was made an essential qualification for recruitment of Teacher (Panchayat) and any such recruits, after promulgation of these Rules, were required to obtain the qualification of B.Ed/D.Ed. within a period of 02 years, however, the said requirement was not applicable in respect of the petitioner, who was appointed under the then existing Rules in the year 1999.
4. The CEO, Jila Panchayat, Mahasamund has now issued a communication on 27.4.2017 for withdrawing the annual increment and recovery of the amount paid under the Time Bound Pay Scale/equivalent Pay Scale on the ground that the petitioner and like candidates have not acquired the B.Ed./D.Ed. Qualification within 02 years from the date of promulgation of the Rules, 2012.
5. Having heard learned counsel for the parties and having examined the provisions of the Rules 2012, the orders issued by the authorities vide Annexure P/1, filed collectively, it appears that *prima facie* the petitioner may be correct in submitting that the Rules, 2012 may not put any onerous service condition, which was not applicable on the date of his appointment. However, at the same time, it also appears that the concerned

authorities have not applied their mind to appreciate the issue as to whether such candidates, who were appointed prior to the promulgation of the Rules, were also required to obtain the qualification after coming into force the Rules, 2012, therefore, ends of justice would be served if the authorities are directed to consider the issue and take conscious decision by passing a reasoned order on merits.

6. Let the petitioner prefer a representation before the competent authority within a period of one month from today. The competent authority shall, thereafter, decide the matter within a further period of 04 months from the date of its submission. Till the matter is decided at the end of the competent authority by a speaking order, any amount already paid to the petitioner shall not be recovered.
7. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent authorities shall decide the matter, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.
8. The writ petition is accordingly disposed of. Sd/-

Judge

(Prashant Kumar Mishra)