

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2916 of 2013**

- Anjani Kumar Pandey S/o Babulal Pandey Aged About 36 Years
R/o Village Darripara, Konhargarh, Thana Mulmula, Janpad
Panchayat Pamgarh, Civil & Revenue Distt. Janjgir Champa C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary Department Of
Panchayat & Social Welfare, Government Of C.G., Mahanadi,
Mantralaya, New Raipur C.G.
2. The Collector Cum Mission, Director Janjgir Champa Distt.
Janjgir Champa C.G.
3. The Chief Executive Officer, Janpad Panchayat Pamgarh Distt.
Janjgir Champa C.G.
4. Gram Panchayat Konhargarh Janpad Panchayat Pamgarh Distt.
Janjgir Champa C.G. Through its Secretary Sarpanch

---- Respondent

For Petitioner
For Respective
Respondents

Mr. Rakesh Anthony, Advocate

Ms. Tripti Rao, Panel Laywer, Mr.
A.S. Kachhwaha, Mr. B.L. Sahu, Mr.
Dashrath Prajapati and Mr. Akhilesh
Kumar, Advocates

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****16/5/2017**

1. Heard.
2. The petitioner has prayed for quashment of the order dated
02.04.2013 -Annexure P/1 with further direction to the

respondents to appoint the petitioner on the post of Shiksha Karmi Grade-III.

3. The necessary facts, in brief, are that the petitioner was appointed as Guruji under the Education Guarantee Scheme on 01.10.2002. However, prior to that, he was imparting education to the Primary School students without any salary for a period of 02 years. On 27.01.2003, his services were terminated on the ground that the petitioner was appointed during the ban period. Assailing the order of termination, the petitioner preferred WPS No.3144 of 2003, which came to be dismissed by the learned Single Judge of this Court on 20.2.2007, against which, the petitioner preferred WA No.51/2008. In the said writ appeal decided by the Division Bench of this Court on 17.01.2013, the following finding was recorded and direction was issued in para 8 to 11 :

“8. It is not disputed that the Appellant was appointed as the second Guruji. In view of the EG Scheme that the second Guruji should be a lady candidate, the order of the Single Judge cannot be faulted. However, it is not disputed that the first Guruji was a lady. In view of the same, defect was formal.

9. In our opinion, Respondents-2 and 3 ought not to have discontinued the services of the Appellant for the reason that:

- . The Appellant had taught for two years without any salary prior to the appointment;
- . He was recommended by the Gram Panchayat;

and

. The defect in the appointment was formal.

10. In view of above, if there is still vacancy, then Respondent-2 may consider giving fresh appointment to the Appellant.

11. In the circumstances, the appellant may file a fresh representation before the Collector and District Education Director, Rajeev Gandhi Shiksha Mission, Janjgir-Champa (Respondent No.2). In case such representation is filed, that may be decided by the concerned respondent by a speaking order, if possible, within three months from the date of receipt of the representation. The Appellant will file certified copy of this order; other necessary documents and duly stamped self-addressed envelope along with his representation. The concerned respondent after taking decision will communicate the same to the Appellant."

4. The petitioner's representation has now been dismissed by the Collector-cum-District Mission Director, Rajiv Gandhi Shiksha Mission, Janjgir-Champa on 02.4.2013 for the reason that all the posts of Guruji, now upgraded as Shiksha Karmi Grade-III/Assistant Teacher (Panchayat), have been filled up and the Education Guarantee Scheme had come to an end, therefore, the petitioner cannot be offered appointment.
5. Having heard learned counsel for the parties and on perusal of the papers, it would appear from the document -Annexure P/6

that two upgraded posts of Shiksha Karmi Grade-III/Assistant Teacher (Panchayat), which were earlier occupied by Gurujis in the Schools run under EGS scheme, are still lying vacant. It is, thus, clear that the findings recorded by the Collector that the post is not lying vacant is perverse being contrary to the facts. Similarly, the reason that the EGS scheme has come to an end shall also not hold good, because, the petitioner's claim would be considered on the date of his wrongful removal from the post. If on 27.1.2003, the petitioner was entitled to hold the post of Guruji, he would have been offered appointment on the post of Contract Teacher or Shiksha Karmi Grade-III by conversion of the post without competing in the selection process, as has been done with similarly placed Gurujis throughout the State, therefore, it is not a case where the petitioner is claiming any appointment without competing in the selection process. In fact, such facility or benefit has been extended under a Government policy to the entire class of Guruji of which the petitioner was also a member.

6. The Division Bench having already held the petitioner's removal to be illegal, in the considered opinion of this Court, the concerned Collector should have considered the matter in its right perspective rather than rejecting the same on technical grounds.
7. If the removal was wrongful, the petitioner is wholly entitled to all the reliefs flowing from the operation of law and the respondents would not be obliging the petitioner or anybody

else in making appointment. If injustice has been done to a person, he is required to be brought back to the same status as if he was wrongfully denied appointment to a post deeming him to be a Guruji.

8. For all the afore-stated reasons, the petition deserves to be and is hereby allowed. The respondent-Collector shall take immediate steps for issuing order of appointment to the petitioner on the post of Assistant Teacher (Panchayat) within a period of one month. The Collector may himself issue the order or direct the appropriate competent authority to do the needful within one month, however, in case of non-compliance of this order, the responsibility will be saddled on the Collector.

Sd/-

Judge

(Prashant Kumar Mishra)

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