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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2434 of 2017**

- Maheshram Patel S/o Shri Biharilal Patel, Aged About 47 Years Posted As Teacher (Panchayat), Government Pre- Middle School, Block Saraipali, District Mahasamund (Chhattisgarh).

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, New Raipur, P. S. 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, District Mahasamund (Chhattisgarh).
5. The Chief Executive Officer, Janpad Panchayat, Saraipali, District Mahasamund (Chhattisgarh).

---- Respondent

And**WPS No. 2437 Of 2017**

- Harendra Sahu S/o Shri Shatrughan Sahu, Aged About 38 Years Posted As Lecturer (Panchayat), Government Higher Secondary School, Keduwan, District Mahasamund (Chhattisgarh).

---- Petitioner

Vs

1. State of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, New Raipur, P. S. 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, District Mahasamund (Chhattisgarh).

---- Respondent

And

WPS No. 2435 Of 2017

- Bajrang Lal Yadav S/o Shri Dayaram Yadav, Aged About 35 Years Posted As Lecturer (Panchayat), Government Higher Secondary School, Mohda, District Mahasamund (Chhattisgarh).

---- Petitioner

Vs

1. State of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, New Raipur, P. S. 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, District Mahasamund (Chhattisgarh).

---- Respondent

For Petitioners	:	Shri Anish Tiwari, Advocate on behalf of Shri VR Tiwari, Advocate
For Respondents-State	:	Shri SP Kale, Dy. AG for the State

HON'BLE The Vacation Judge

Order On Board

26/05/2017

1. Learned counsel for the petitioners would submit that the petitioners were appointed on the post of Shiksha Karmi Grade-II in the year 1998, 2009 & 2011, respectively, as they fulfilled the required educational qualifications

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

2. 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 petitioners, who was appointed under the then existing Rules in the year 1999.
3. 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.
4. 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 petitioners may be correct in submitting that the Rules, 2012 may not put any onerous service condition, which was not applicable on the date of their 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.

5. Let the petitioners prefer representations 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 petitioners shall not be recovered.
6. 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.
7. Accordingly, all the writ petitions are disposed of.

Sd/-

V. Judge
(Prashant Kumar Mishra)

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