

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 397 of 2016**

- Baldau Singh Thakur S/o Late Shambhu Singh Thakur, Aged About 58 Years R/o Near Shri Hari Hospital, Bus Stand Abhanpur, Post And Police Station Abhanpur, District Raipur Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Department of School Education Mantralaya Mahanadi Bhawan New Raipur Chhattisgarh
2. The District Education Officer, District Raipur, Chhattisgarh.
3. The Chief Executive Officer, District Panchayat Raipur, Chhattisgarh.
4. Block Development Education Officer, Abhanpur, District Raipur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Jitendra Gupta, Advocate
For Respondent/State	: Shri R. K. Gupta, Dy. Advocate General

Hon'ble Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board**Per Thottathil B. Radhakrishnan, Chief Justice****31.07.2017**

1. This writ appeal stands with an application seeking condonation of delay of 71 days.
2. Since the writ petition was dismissed by the learned Single Judge in *limine*, the official respondents were given an opportunity to place their pleadings on record because it was thought appropriate to consider whether the petitioner has been illegally deprived of some claim in relation to payment or lawful eligibility of seniority. The response of the official respondents are on record.
3. The petitioner started working in a Government school in 1976. For the first time, he came to this Court in 2008 holding out the decision of the Madhya Pradesh Administrative Tribunal, Jabalpur in O.A. No. 2745 of 1989 (*Madhukant Yadu*

and Others Vs. State of Madhya Pradesh and Others) and contending that he is similarly situated to the applicants in that case. He accordingly claimed that he was entitled to be treated as an Assistant Teacher in a particular pay-scale from 1976. This Court ordered WPS No. 4167 of 2008 filed by the writ petitioner by directing the Government to consider the case of the Petitioner; in particular, as to whether he is eligible to be treated as one similarly situated to the applicants in *Madhukant Yadu and Others*. That judgment was rendered by this Court on 31.07.2008. It appears that the Petitioner, thereafter, moved to the Government only on 21.06.2011. That representation was dismissed on 09.08.2011. When confronted with this situation, the learned counsel for the appellant / petitioner submitted that there were earlier representations as well. Be that as it may, the adverse decision rendered by the Government against the Petitioner on 09.08.2011 was attempted to be questioned against him by instituting WPS 1067 of 2016, the writ petition from which this appeal arises, only in the year 2016. That has been dismissed by the learned Single Judge holding it as highly belated.

4. The response of the official respondents shows, *inter-alia*, that at least from two years after the Petitioner started working as teacher from 1976, he had been drawing emoluments in the regular pay-scale of the Assistant Teachers. Whatever that be, the claim that is now raised by the Petitioner relates back to the period from his entry into service. He, essentially, claims treatment at par with similarly situated persons and thereby claims relief by way of promotions, payments etc. At the risk of repetition, we may say that the Petitioner challenged the decision of the Government rendered on 09.08.2011 only by instituting the writ petition in 2016. Under such circumstances, we are unable to find fault with the impugned decision of the learned Single Judge refusing to entertain the writ petition.
5. The learned counsel for the writ petitioner / appellant, referring to the judgment of

the Apex Court in *M.R. Gupta Vs. Union of India and others*; (1995) 5 SCC 628, argued that the case in hand is one where there is recurring cause of action and therefore, the writ petition cannot be treated as belated. We are unable to accept this argument because recurring cause of action which may arise in situations relating to rights which accrue from time to time does not apply to comparable position in the seniority lists and eligibility to be treated at par with a person appointed along with or one appointed as immediate junior; which claims would accrue *eo instanti* atleast upon the appointment of such admitted junior. Any such issue in the case in hand is relatable only to 1976 and 1978 and not independently thereafter to sustain a fresh or recurring cause of action. That way, we cannot but hold that this case does not fall within the ratio of *M.R. Gupta (supra)*. That plea of the Petitioner / Applicant is hence rejected.

6. For the foregoing reasons, the writ appeal fails.
7. In the result, the writ appeal is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge