

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 578 of 2016**

Ravindra Kumar S/o Rajkishore Prasad, aged about 40 years, R/o Baigin Dabhar, Rampur Korba, Qtr. 580A, Thana Rampur, Chowki PO Tehsil and District Korba, Chhattisgarh.

**---- Appellant****Versus**

1. State of Chhattisgarh, Through Secretary, Revenue Department, Secretariat, Mahanadi Bhawan, Naya Mantralay, New Raipur, District Raipur, Chhattisgarh.
2. Collector, Korba, District Korba, Chhattisgarh.
3. Sub Divisional Officer, Korba, District Korba, Chhattisgarh.
4. Tehsildar, Kartala, District Korba, Chhattisgarh.
5. Tehsildar, Barpali, District Korba, Chhattisgarh.
6. Suresh Kumar Jaiswal S/o Late Shri Sant Lal Jaiswal, aged about 51 years, Working as Assistant Grade II, Collectorate, Korba, PO & PS & District Korba, Chhattisgarh.

**---- Respondents**


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For Appellant : Shri Sanjay Patel, Advocate.  
 For Respondent/State : Shri Arun Sao, Deputy Advocate General

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**Hon'ble Shri Deepak Gupta, Chief Justice**  
**Hon'ble Shri Sanjay Agrawal, J.**

**Judgment on Board****Per Deepak Gupta, Chief Justice****11/01/2017**

1. IA No. 1 of 2016, has been filed to condone delay of 346 days in filing the appeal. For the reasons stated in the application, delay is condoned and the appeal is taken up for hearing.
2. This writ appeal is directed against the judgment dated 04.11.2015 passed by a learned Single Judge of this Court in Writ Petition (S) No. 3084 of 2014.
3. It would be pertinent to mention that earlier, a writ appeal being Writ Appeal No. 662 of 2015 was filed against the judgment dated 04.11.2015 but the same was withdrawn on 09.03.2016 with liberty to file a review petition. Review petition No. 66 of 2016 has also been dismissed on 03.11.2016. Hence, this appeal.

4. The case of the Petitioner is that he was appointed as Assistant Grade III vide order dated 07.12.2005. The note-sheet shows that keeping in view the qualification and experience of the Petitioner, he is appointed as Assistant Grade III on *ad hoc* basis at a salary of Rs. 1500/- per month. The Petitioner was never regularised. He was working on *ad hoc* basis only. Thereafter, the Petitioner filed a writ petition in the year 2012 claiming that he had been working from 1996 to 2005 and claimed salary for that period also. That claim of the writ petitioner has been negated by the learned Single Judge of this Court in Writ Petition (S) No. 2319 of 2013 vide order dated 04.11.2015 and we have also dismissed the appeal being Writ Appeal No. 579 of 2016 filed against the judgment passed by the learned Single Judge, holding as follows:

"6. This Court cannot believe that a person while working for 9 long years, that too as Assistant Grade III not claim any salary. It is unbelievable that such person would not even raise a demand with his office or with his higher authorities that he is made to work without salary. The case of the Petitioner is totally based on back-door entry. The judgment in *Secretary, State of Karnataka & Others v. Uma Devi & Others* {(2006) 4 SCC 1} squarely applies to such cases. Therefore, the case of the Petitioner that he is entitled to any salary was rightly rejected by the learned Single Judge."

5. The grievance of the Petitioner is that immediately after his first writ petition was dismissed, the Collector refused to permit the Petitioner to work thereafter. In a normal case, we may have set aside such order on the ground that the rules of natural justice have been violated. But there are few reasons why we do not want to exercise our extraordinary writ jurisdiction in this case.

6. The first reason is that the case of the Petitioner is based on falsehood. His claim that he was asked by Shri B.R.Thakur, Naib Tahsildar to work as Assistant Grade III in the year 1996 is patently false because Shri Thakur was himself appointed as Tahsildar in the year 1997. Secondly, the Petitioner's appointment is totally a back-door entry as he was appointed without any advertisement being published, without having appeared in any test and without giving opportunity to any other person to compete for the said post. Thirdly, the case of the petitioner

is squarely covered by the decision of the Apex Court rendered in *Secretary, State of Karnataka & Others v. Uma Devi & Others* {(2006) 4 SCC 1} and the Petitioner cannot have any claim for regularization. Lastly, the Petitioner was appointed only on *ad hoc* basis, keeping in view the exigencies of service and if those exigencies do not survive at this stage, we cannot force the State/Respondents to continue the Petitioner in service.

7. It has also been found as a fact that the order dated 15.10.1996 stated to have been passed by Tahsildar is a forged order because the Tahsildar's signature on this document is forged.

8. We find no merit in the appeal which is accordingly dismissed.

9. However, we feel that the State Government should also conduct an enquiry against the officers who appointed the Petitioner and enquire into the circumstances in which the Petitioner was appointed and also to take necessary action against those persons who gave back-door entry to the Petitioner.

10. A copy of this judgment be also sent to the Chief Secretary, Government of Chhattisgarh.

Sd/-

(Deepak Gupta)  
**CHIEF JUSTICE**

Sd/-

(Sanjay Agrawal)  
**JUDGE**