

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4838 of 2007

S.K. Shukla S/o Late Mr. Ramdayal Shukla, aged about 63 years,
Retired Head - Master of Girls Middle School Kharawat, R/o
Kacheharipara Baikunthapur, District Korea, Chhattisgarh.

---Petitioner

Versus

1. State of Chhattisgarh through its Secretary, S.T. & S.C. Department, D.K.S. Bhavan, Mantralay Raipur, Chhattisgarh.
2. Assistant Commissioner, Tribal Development Korea, District Baikunthapur, Chhattisgarh.
3. The Collector, Tribal Development Korea, Chhattisgarh.
4. Accountant General of Pension, Kosh & Lekha, Head office Chhattisgarh State, Raipur, Chhattisgarh.

---Respondents

For petitioner	:	Shri Sourabh Dangi along with Ms. Aditi Singhvi, Advocate.
For State	:	Shri B.Gopa Kumar, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/03/2018

1. The petitioner in the instant case claims for direction to the respondents to grant the advantage of Kramonnati on completion of 12 years of service with effect from 05.04.1983 on the post of Head Master.
2. The factual matrix of the case is that, the petitioner was initially appointed as an Assistant Teacher and was subsequently promoted on 1977 as Upper Divisional Teacher and the promotion was came into effect from 25.03.1970. Thereafter, in due course of time, the petitioner was again promoted with effect from 01.04.1981. The petitioner claims that since the

petitioner in 1970 itself was discharging the duties as an incharge Principle, his services for the post of Headmaster should have been counted from the date he was discharging the duties as incharge Principle i.e from 1970 and accordingly he should have got the benefit of Kramonnati also in the year 1983 itself counting 12 years service from 1970 onward.

3. The undisputed fact in the instant case is that, the post of Headmaster itself was created with effect from 1981 and from date benefit has been granted to the petitioner and it is settled position of law that a person cannot claim benefit of a post which was not in existence. In the instant case, the post itself came in existence in the year 1981 and the petitioner has been granted benefit from 1981 itself. Thus, there does not appear to be any justified claim made out by the petitioner through the present Writ Petition.

4. So far as, grant of Kramonnati is concerned, the petitioner would not be entitled for the said benefit also for the reason that, the petitioner in between had been promoted on two occasions i.e. first as Upper Divisional Teacher in 1977 and then as Headmaster in 1986. The benefit of Kramonnati is only granted if a person does not obtain promotion in a particular post for a continuous period of time. Under both the circumstances the petitioner has not made out a case calling for issuance of any Writ to the respondents. The issue raised in the present writ petition also stands squarely covered by the decision of the Hon'ble Supreme Court in the three judge Bench judgment in the case of **State of Haryana v. Haryana Veterinary & AHTS Association & Anr.** [2000 8 SCC 4].

5. Under the circumstances, this Court does not find any merits in the Writ
Petition.

6. The Writ Petition thus fails and deserve to be and is accordingly
dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit