

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 763 of 2011**

U. K. Jain S/o Shri N. C. Jain, aged about 63 years, Retd. Director,
Directorate of Technical Education, R/o Kocheta Niwas, Jal Vihar, P.O.
Ravigram, Raipur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Department of Technical Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Director, Directorate of Technical Education, Girls Polytechnic Compound, Bairon Bazaar, Raipur, Chhattisgarh
3. Principal, Government Polytechnic Rudri, Dhamtari, Chhattisgarh
4. State of Madhya Pradesh through Secretary, Department of Technical Education (Training and Skill), Vallabh Bhawan, Bhopal (MP)

---- Respondents

For Petitioner	:	Shri Chandresh Shrivastava, Advocate
For Respondents 1 to 3	:	Shri B. Gopa Kumar, Dy. Advocate General
For Respondent no.4	:	Shri Avinash Choubey with Shri Malay Shrivastava, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/03/2018**

The petitioner through this writ petition has sought for a relief of a direction to the respondents to include the services rendered by him at Dhamtari Polytechnic College from 11.08.1972 to 18.07.1981 for the purpose of counting the total length of service for retiral dues. He has also prayed for an appropriate direction to the respondents for preparing pension of the petitioner taking his past service into account.

2. The grievance of the petitioner is that he was initially appointed as Assistant Lecturer, Mechanical Engineering, at Dhamtari Polytechnic College which was a private college on 29.07.1972 and continued his services in the

said college till 09.06.1981. Subsequently, he applied for the post of H.O.D. Mechanical at Polytechnic College Seoni which was again a private college where he was selected on the said post on 10.06.1981 and joined his duty accordingly. Subsequently, on 19.11.1984, the State Government on a policy decision had taken over 7 polytechnic colleges in the erstwhile state of Madhya Pradesh. As a consequence, the polytechnic colleges at Seoni as well as Dhamtari where the petitioner had worked were also taken over and in due course of time, in the year 1991, the petitioner stood absorbed in service of the State Government. The petitioner subsequent to the bifurcation of State of M.P. stood allotted to the State of Chhattisgarh from where the petitioner stood retired w.e.f. 31.08.2009. The petitioner made a request to the respondents for counting his past service that he had rendered at Dhamtari Polytechnic College from 1972 to 1981 for the purpose of computing pensionary benefits. The said request was initially turned down by the Chhattisgarh Government vide order dated 26.10.2004 only on the ground that the Finance Department has not given approval for the said proposal leading to the filing of the present writ petition.

3. Contention of the counsel for the petitioner is that the erstwhile state of Madhya Pradesh i.e. the previous employer of the petitioner had vide order dated 22.04.1997 recommended the case of the petitioner for taking his past services into account for pensionary benefits on the ground of parity at par with Shri A. C. Sindhe and Shir G. P. Rajpal. Both of whom had initially served to different private polytechnic colleges which later on were taken over by the State Government. Counsel for the petitioner submits that the petitioner is also entitled for the benefits at par with the two persons and prayed for an appropriate direction in this regard.

4. Though the respondents have filed their return but in their return, it has not been disclosed as to why the petitioner could not be treated at par with Shri A. C. Sindhe and Shir G. P. Rajpal who were identically placed and who

have been granted the benefit by the erstwhile state of Madhya Pradesh which had already vide Annexure P-8 dated 22.04.1997 recommended for similar benefits to the petitioner also. The respondents even today are not in a position to show how the petitioner's case is different than that of Shri A. C. Sindhe and Shir G. P. Rajpal.

5. During the course of argument, counsel for the petitioner has brought to the notice of the Court that one Shri R. P. Chouhan who also under similar circumstances has been granted the benefit by the state of Madhya Pradesh.

6. Another aspect which cannot be lost sight is that while absorbing the services of the petitioner in 1991, the respondents had accepted the past service of the petitioner rendered at Dhamtari Polytechnic College for the purpose of counting his services for pensionary benefits.

7. Given the facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the matter is placed before the Secretary, Department of Technical Education, State of Chhattisgarh for considering the case of the petitioner at par with identically placed persons appointed along with the petitioner in the erstwhile state of Madhya Pradesh and also keeping in view the recommendation made by the erstwhile state of MP vide Annexure P-8 dated 22.04.1997 to consider the services of the petitioner rendered between 1972 to June 1981 for the purpose of counting his length of service for retiral benefits. It is ordered accordingly. Let respondent no.1 take an appropriate decision in this regard within a period of four months from today. It shall be the responsibility of the petitioner to make available the order of this Court to respondent no.1 at the earliest.

Sd/-
(P. Sam Koshy)
JUDGE