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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3699 of 2017**

Alok Kumar Rai S/o Late Yogendra Rai, Aged About 56 Years,
Laboratory Technician, Vivekanand Government Post Graduate
College, Manendragarh, District Korla, Chhattisgarh, Civil And
Revenue District Korla, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Principal Secretary,
Department Of Higher Education Mantralaya, Mahanadi Bhawan,
New Raipur, District Raipur, Chhattisgarh
2. Under Secretary, Government Of Chhattisgarh, Higher Education
Department, Mahanadi Bhawan, Naya Raipur, Raipur, District
Raipur, Chhattisgarh
3. The Commissioner / Director, Higher Education Government Of
Chhattisgarh, Government Science College Campus, Raipur,
District Raipur, Chhattisgarh
4. The Principal, Vivekanand Government Post Graduate College,
Manendragarh, District Korla, Chhattisgarh
5. Joint Director, Treasury And Accounts, Directorate, Near Gandhi
Chowk, Ambikapur, District Sarguja, Chhattisgarh

---- Respondents**Writ Petition (S) No. 3712 of 2017**

Prem Lal Patel S/o Anari Lal Patel, Aged About 52 Years,
Laboratory Technician, Vivekanand Government Post Graduate
College, Manendragarh, District Korla, Chhattisgarh, Civil And
Revenue District Korla, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Principal Secretary,

Department Of Higher Education Mantralaya, Mahanadi Bhawan,
New Raipur, District Raipur, Chhattisgarh

2. Under Secretary, Government Of Chhattisgarh, Higher Education Department, Mahanadi Bhawan, Naya Raipur, Raipur, District Raipur, Chhattisgarh
3. The Commissioner / Director, Higher Education Government Of Chhattisgarh, Indravati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
4. The Principal, Vivekanand Government Post Graduate College, Manendragarh, District Korla, Chhattisgarh
5. Joint Director, Treasury And Accounts, Directorate, Near Gandhi Chowk, Ambikapur, District Sarguja, Chhattisgarh

---- Respondents

For Petitioner	:	Shri A. K. Prasad, Advocate
For Respondent/State	:	Shri S. P. Kale, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy

Order On Board

28.08.2018

Since the facts and grounds raised in these two writ petitions are common and identical, both are being decided by this common order. For the sake of convenience the leading case taken for adjudication of the matter was WPS No. 3699 of 2017. Except for the relevant dates all other matters are identical.

2. The claim of the petitioners is the non granting of annual increment for the ad hoc period during which the petitioners have worked as Lab Technician on which post they were later on regularized.
3. It is a case where the two petitioners in the two writ petitions were initially appointed as Lab Technician on ad hoc basis on 15.09.1984

and 26.09.1986 respectively and later on their services were regularized on 31.08.1989. Though the petitioners were regularized working on ad hoc post, they were granted annual increment right from their initial appointment on wards. However, the said benefit was subsequently withdrawn and an order of recovery was also passed against the petitioners.

4. So far as the recovery part is concerned, the petitioner has filed a writ petition i.e. WPS No. 7180/2010 which stood allowed and the order of recovery stood quashed vide judgment dated 28.02.2011.

5. So far as the non granting of annual increment for the ad hoc period is concerned, the petitioner had subsequently filed a Writ Petition i.e. WPS No. 6117/16 which came up for hearing before this Court on 09.11.2016 and this Court considering the contentions put forth on either side disposed of the writ petition with the following direction:

“(4) On perusal of papers annexed with the writ petition, it would appear that another Lab Technician Ku. Ragini Verma has been granted annual increment pursuant to order passed by M. P. State Administrative Tribunal, Raipur on 04.07.2001 (Annexure P-7) in O.A. No. 384/2001. The petitioner is also working as Lab Technician in a Government College in the department of Higher Education. It does not appear that against the order passed by the aforesaid Tribunal in favour of Ku. Ragini Verma, the State Government has preferred any writ petition before the High Court. On the contrary, the order has been complied with and regular increment has been granted to Ku. Ragini Verma from the date of initial appointment.

(5) For the foregoing, it is directed that if the case of the petitioner is similar to the case of Ku. Ragini Verma, respondent shall consider petitioner's case for grant of annual increment from the date of initial appointment on ad hoc basis."

6. A plain reading of the aforesaid direction would by itself very clearly reflect that all that this Court meant was to consider the case of the petitioner in parity with the benefit if any provided to Ku. Ragini Verma who in turn had got it at the intervention of the Court on an earlier occasion.

7. After disposal of WPS No. 6117/16 on 09.11.2016, the impugned order dated 29.05.2017 has been passed by the respondents rejecting the representation/claim of the petitioners. While rejecting the claim of the petitioners primarily two grounds have been taken by the authorities to refuse the benefit sought for by the petitioners. First being the case of the petitioners was distinguishable from that of Ku. Ragini Verma on the ground that Ku. Ragini Verma had an order in her favour from the State Administrative Tribunal. Second ground was that the petitioners had not objected the dispute involved in the present writ petitions at the time of their appointment or regularization and therefore they cannot claim it at this juncture.

8. Counsel appearing for the petitioners submits that both the grounds are not sustainable for the reason that these two grounds do not reflect any comparison to the benefit which has been given to Ku. Ragini Verma if any and that was the precise order by this Court.

9. Per contra, State counsel opposing the petitions submits that the

petitioners otherwise would not be entitled for the said benefit as in the order of appointment itself it is clearly reflected that the services of the petitioners are placed on probation for a period of 2 years and they would be getting increment thereafter and not before that, therefore, the authority concerned has rightly rejected the claim of the petitioners. He further contended that the benefit of increment for the ad hoc period cannot be granted for the reason that the rules do not provide for the said benefit.

10. Without going into the merits of the case all that this Court would like to entertain at this juncture is whether the respondent authorities while deciding Annexure P-1 had properly appreciated the observations of this Court which was made in WPS No. 6117/2016 decided on 09.11.2016. The specific direction to the respondents was that the authority concerned would consider whether the petitioners are similarly placed as that of Ku. Ragini Verma or whether Ku. Ragini Verma in turn has been granted the benefit of annual increment for the ad hoc period. The order of this Court further meant that in case the benefit was granted to Ku. Ragini Verma, the authorities would have to take a decision as to on what ground the petitioners would not be entitled for the same.

11. A plain reading of the grounds raised in Annexure P-1 appear that the authorities had not dealt with the said observations of this Court neither have they tried to make a comparative study of the case of Ku. Ragini Verma with that of the petitioners. In the absence of any comparison being done, the observation made by the respondents is per se illegal and is not sustainable.

12. So far as the second ground that the petitioners had not agitated the dispute at the initial stage is concerned, the same again is not sustainable for the simple reason that the benefit in the instant case was granted to the petitioners which at a later stage was withdrawn and the order of recovery in this regard has also been set aside by the High Court in WPS 7180/2010 decided on 28.02.2011.

13. Given the aforesaid facts, the grounds raised by the respondents in Annexure P-1 are totally unsustainable in the light of the observations of this Court in WPS 6117/16 decided on 09.11.2016. Thus, Annexure P-1 to that effect is set aside/quashed and the matter stands remitted back to respondent no.1 to reconsider the case of the petitioners in parity with the case of Ku. Ragini Verma. In case the benefit has been extended to Ku. Ragini Verma then an suitable order be passed accordingly so far as the petitioners are concerned. Let this exercise be done within a period of 90 days from the date of receipt of certified copy of this order.

**Sd/-
P. Sam Koshy
Judge**