

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 6182 OF 2010**

- Parmeshwar Prasad Gupta, S/o Late Shri Ram Vrit Sao, aged about 53 years, posted as Varisht Antrik Lekha Parikshan Avam Kararopan Adhikari, presently posted at Balrampur, Janpad Panchayat Balrampur, District Surguja (C.G.)

... Petitioner**versus**

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)
2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)
3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents**WRIT PETITION (S) NO. 5236 OF 2010**

- Rungtu Ram, S/o Late Shri Temru Ram, aged about 54 years, presently posted as Sahayak Antrik Lekha Parikshan Avam Kararopan Adhikari, Janpad Panchayat Lundra, District Surguja (C.G.)

... Petitioner**versus**

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)
2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)
3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents**WRIT PETITION (S) NO. 4800 OF 2010**

1. Satish Kumar Shrivastava S/o Shri Rana Shyam Kumar Shrivastava, aged about 52 years, Presently Posted As Varisht Antrik Lekha Parikshan Evam Kararopan Adhikari, At Janpad Panchayat Rajpur, Distt. Surguja CG
2. Kamleshwar Tiwari S/o Shri Ramvyas Tiwari, aged about 52 years, Presetnly Posted As Varisht Antrik Lekha Parikshan Evam Kararopan Adhikari, Janpad Panchayat Shakergarh, Distt. Surguja CG
3. Ram Charitra Ram S/o Late Shri Mohan Ram, aged about 54 years, R/o Batoli, Presently Posted As Varishta Antrik Lekha Parikshan Evam Kararopan Adhikari, Janpad Panchayat Batoli, Distt. Surguja CG
4. Qayum Khan S/o Late Shri Shamir Khan, aged about 52 years, Presently Posted As Varisht Antrik Lekha Parikshan Evam Kararopan Adhikari, Janpad Panchayat Sitapur, Distt. Surguja CG
5. Kashinath Tigga S/o Shri Shavna Tigga, aged about 50 years, Presently Posted As Varisht Antrik Lekha Parikshan Evam Kararopan Adhikari, Janpad Panchayat Mainpath, Distt. Surguja CG
6. Kameshwar Yadav S/o Late Shri Vasudev Prasad Yadav, aged about 50 years, Presently Posted As Varist Antrik Lekha Parikshan Evam Kararopan Adhiari, Janpad Panchayat Lundra, Distt. Surguja CG

7. S.P. Kushwaha S/o Shri R.D. Kushwaha, aged about 51 years, Presently Posted As Varisht Antrik Lekha Parikshan Evan Kararopan Adhiari, Janpad Panchayat Surajpur, Distt. Surguja CG

8. Mahendra Prasad Kushwaha S/o Shri Ramdev, aged about 54 years, Presently Posted As Varisht Antrik Lekhan Parikshan Evam Kararopan Ahdikari, Janpad Panchayat Lakhanpur, Distt. Surguja CG

9. Ramdev Patel S/o Late Shri Puranlal, aged about 56 years, Presently Posted As Varisht Antrik Lekha Parikshan Evam Kararopan Adhikari, Janpad Panchayat Pratappur, Distt. Surguja (CG)

... Petitioners

versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)

2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)

3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents

WRIT PETITION (S) NO. 5115 OF 2010

1. Ramesh Kumar Dubey S/o Janardan Prasad Dubey, aged about 53 years, post Antrik Lekha Parikshan evam Kararopan Adhikari, presently posetd at Janpad Panchayat Ambikapur, District Surguja (C.G.)

2. Laxman Prasad Baghal S/o Ribnath Ram, aged about 56 years, post Antrik Lekha Parikshan evam Kararopan Adhikari, presently posted at Janpad Panchayat Sitapur, District Surguja (C.G.)

3. Manjhar Khalkho, S/o Mansukh Khalkho, aged about 50 years, post Antrik Lekha Parikshan evam Kararopan Adhikari, presently posted at Janpad Panchayat Batoli, District Surguja (C.G.)

4. Vijay Kumar Das S/o Aatma Das, aged about 56 years, post Antrik Lekha Parikshan evam Kararopan Adhikari, presently posted at Janpad Panchayat Sitapur, District Surguja (C.G.)

... Petitioners

versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)

2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)

3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents

WRIT PETITION (S) NO. 5958 OF 2010

• Lohar Sai Paikra, S/o Shri Ram Prasad Paikra, aged about 50 years, R/o Village Bhogra, Post Bilaspur, Tahsil- Batauli, Thana Batauli, District Surguja (C.G.)

... Petitioner

versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)

2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)

3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents

WRIT PETITION (S) NO. 6181 OF 2010

• Sudhir Kumar Sinha, S/o Shri B.P. Sinha, aged about 49 years, posted Antrik Lekha Parikshan Avam Kararopan Adhikari, presently posted at Lundra, Janpad Panchyat Lundra, District Surguja (C.G.)

... Petitioner

versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)
2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)
3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents

WRIT PETITION (S) NO. 6180 OF 2010

• P.R. Nagwanshi, S/o Shri Hetram Nagwanshi, aged about 53 years, posted Antrik Lekha Parikshan Avam Kararopan Adhikari, presently posted at Dipadhikalan, Janpad Panchyat Shankargarh, District Surguja (C.G.)

... Petitioner

versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)
2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)
3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents

WRIT PETITION (S) NO. 6472 OF 2010

• Bechan Ram, S/o Shri Kahlu Ram, aged about 52 years, R/o Gram Dohna, Post Sihar, Janpad Panchayat Shankargarh, Surguja (C.G.)

... Petitioner

versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)
2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)
3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)
4. Shri Bisahu Ram, presently posted as Sahayak Antrik Lekha Parikshan and Kararopan Adhikari, Janpad Panchayat Kamari, District Surguja (C.G.)

... Respondents

WRIT PETITION (S) NO. 7440 OF 2010

• Arun Kumar Verma, S/o Shri Krishan Chand Verma, aged about 54 years, posted Antrik Lekha Parikshan Avam Kararopan Adhikari, R/o Bhatti Road, Ambikapur, Surguja, Post Office Ambikapur (C.G.)

... Petitioner

versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Social Welfare Department, DKS Bhawan, Mantralaya, Raipur (C.G.)
2. Director, Directorate of Panchayat and Social Services, DKS Bhawan, Mantralaya, Raipur (C.G.)
3. Deputy Director, Panchayat and Social Welfare, Ambikapur, District Surguja (C.G.)

... Respondents

For Petitioner(s)	:	Mr. Amrito Das, Advocate.
For Respondent-State	:	Mr. Ashutosh Pandey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/07/2018**

1. In this bunch of writ petitions, the challenge is to Annexure P-1, dated 15.7.2010, whereby the Petitioners have been posted on a lower post of Antrik Lekha Parikshan Evam Kararopan Adhikari while one set of Petitioners for the past one year were discharging the duties of Varistha Antrik Lekha Parikshan Evam Kararopan Adhikari. Likewise, the other Petitioners who were working as Antrik Lekha Parikshan Evam Kararopan Adhikari have been brought down to the level of Sahayak Antrik Lekha Parikshan Evam Kararopan Adhikari.
2. The brief facts of the case are that the Petitioners undoubtedly were appointed under the erstwhile State of Madhya Pradesh on the post of Sahayak Gram Panchayat Adhikari which was a dying cadre in the State of Madhya Pradesh. By virtue of creation of the State of Chhattisgarh these Petitioners were allocated to the State of Chhattisgarh and in the State of Chhattisgarh also they were discharging the duties that of Sahayak Gram Panchayat Adhikari. In 2009, i.e., on 2.3.2009, the State Government came up with a policy decision whereby the dying cadre of Sahayak Gram Panchayat Adhikari was restored back from being a dying cadre and it was restructured and reclassified as Sahayak Antrik Lekha Parikshan Evam Kararopan Adhikari (as is reflected from Annexure P-2). In the said order dated 2.3.2009, Annexure P-2, it was further decided by the State Government as a

policy matter that the post of Sahayak Antrik Lekha Parikshan Evam Kararopan Adhikari would be classified into three categories, that is, the lowest post being Sahayak Antrik Lekha Parikshan Evam Kararopan Adhikari with the pay-scale of 4000-6000 for graduates and 3000-5200 for non-graduates. The next higher post being Antrik Lekha Parikshan Evam Kararopan Adhikari with the pay-scale of 4500-7000 and the third being the post that of Varistha Antrik Lekha Parikshan Evam Kararopan Adhikari with the pay scale of 5000-8000. In the said scheme, the State Government further had categorically held that the posting of these officers shall be made in the different categories mentioned above as per their seniority-cum-merit decided by the Joint Director/Deputy Director, District Office, Panchayat & Social Welfare Department, State of Chhattisgarh.

3. According to the Petitioners, by virtue of policy decision dated 2.3.2009, Annexure P-2, the Petitioners were given posting orders whereby they were posted on the post of Varistha Lekha Parikshan Evam Kararopan Adhikari and also as Antrik Lekha Parikshan Evam Kararopan Adhikari, vide Annexure P-3. The Petitioners immediately had also assumed the charge and were discharging their duties on the respective posts assigned to them as per the order of the Deputy Director, Panchayat and Social Welfare Department of the concerned district. Later on, abruptly, the service of the Petitioners was changed from their postings as per Annexure P-3 to the the place as assigned in Annexure P-1 while the place of postings was changed. The Petitioners were also ordered to be posted on a lower post than that they were working as per Annexure P-3, inasmuch as the persons who were posted as Varistha Lekha Parikshan Evam Kararopan Adhikari have been posted as Antrik Lekha Parikshan Evam Kararopan Adhikari and the Petitioners who were working as Antrik Lekha Parikshan Evam Kararopan Adhikari have been posted as

Sahayak Antrik Lekha Parikshan Evam Kararopan Adhikari. It is this order which is under challenge in the present writ petition.

4. Learned Counsel for the Petitioners submits that having once implemented the policy decision of the State Government, dated 2.3.2009, vide Annexure P-3, the Respondents could not have brought a change in the status of the Petitioners without there being a policy decision taken by the State Government recalling the benefits granted to the Petitioners. He further contended that even before issuance of the impugned order which by modification lowers the status of the Petitioners so far as the post and pay-scale that they were drawing, no opportunity of hearing whatsoever was granted to any of the Petitioners. It was also contended that while issuance of Annexure P-2 there is also no reference to Annexure P-3 whereby the Petitioners have been posted as Varistha Lekha Parikshan Evam Kararopan Adhikari as well as Antrik Lekha Parikshan Evam Kararopan Adhikari having been recalled, therefore unless the benefits which have been granted to the Petitioners vide Annexure P-3 is recalled the status of the Petitioners could not have been withdrawn by the Director of the Panchayat & Social Welfare Department and thus for all these reasons the writ petitions deserve to be allowed.

5. Learned Counsel for the State on the contrary submitted that it is only an order of posting which is under challenge and it would not in any manner affect the interest of the Petitioners adversely and that they would continue to get the benefits that are otherwise envisaged by Annexure P-2 a policy of the State Government restructuring the post of Sahayak Gram Panchayat Adhikari. It was further contended by the State Counsel that the Annexure P-3 is an order which has been issued by the Deputy Director, Panchayat & Social Welfare Department, District Surguja, in excess of his jurisdiction and powers

which are otherwise conferred upon him. He thus prayed that the writ petitions being devoid of merits are liable to dismissed.

6. Having heard the contentions put forth on either side and on perusal of record, what clearly reflects from the proceeding and annexures which are enclosed and the return filed by the State Government, admittedly is that the Petitioners were working as Sahayak Gram Panchayat Adhikari which was a dying cadre in the erstwhile State of Madhya Pradesh. This cadre has been subsequently restored by the State of Chhattisgarh by restructuring the same and the name of the post was changed from Sahayak Gram Panchayat Adhikari to Sahayak Antrik Lekha Parikshan Evam Kararopan Adhikari. While restructuring the post the State Government has classified the post into three different categories which are: Sahayak Antrik Lekha Parikshan Evam Kararopan Adhikari, Antrik Lekha Parikshan Evam Kararopan Adhikari and Varistha Antrik Lekha Parikshan Evam Kararopan Adhikari. While taking the policy decision it is the State Government which has empowered the Joint Director/Deputy Director, Panchayat & Social Welfare Department in the Districts competent to implement the policy decision and place the officers in accordance to their seniority on the three different posts classified as per Annexure P-2 which stood implemented vide Annexure P-3.

7. The Petitioner had assumed their duties immediately and had been performing their duties right from since March, 2009 onwards till the impugned order passed on 15.7.2010. Though the State Counsel has relied upon the Annexure R-1 to be the reason for passing of the Annexure P-1 but the order, Annexure P-1, is totally silent as to the status of the Petitioners which was conferred to them vide Annexure P-3. What is also relevant at this juncture is that while implementing the policy decision dated 2.3.2009, Annexure P-2, vide Annexure P-3, dated 27.8.2009, an intimation was immediately sent to the Director itself who is the authority who has issued the Annexure P-1 yet the

Director while issuance of Annexure P-1 does not recall the order of the Deputy Director, dated 27.8.2009, neither does it hold to be bad in law or in excess of its powers at any point of time. What further reflects from the proceedings is that by virtue of an interim order granted by this Court in these bunch of writ petitions, the Petitioners have been discharging the duties that of Varistha Antrik Lekha Parikshan Evam Kararopan Adhikari as well as Antrik Lekha Parikshan Evam Kararopan Adhikari right from the date they have assumed the duties till date, though it is contended by the Petitioners that they have not been paid the salary as per the pay-scale of the post on which they are working.

8. Apparently the impugned order, Annexure P-1, has been passed by the respondent-State without recalling the order, Annexure P-3. It is also apparent that the Petitioners were never given an opportunity before issuance of Annexure P-1 whereby the status of the Petitioners appears to be fixed at a lower level. Thus, prima facie, the order has been passed in violation of basic principles of natural justice wherein the least that was required was that, since by virtue of the implementation of Annexure P-1 the Petitioners would be put to loss so far as their status is concerned so also the pay-scale at which they were working, the authorities should have given at least an opportunity of hearing to the Petitioners. The impugned order to that extent so far as the Petitioners are concerned may not be sustainable.

9. Reserving the right of the Respondents in initiating fresh proceedings so far as the status of the Petitioners are concerned after giving an opportunity of hearing, the writ petitions in its present form stand allowed and the impugned order, Annexure P-1, so far as the posting of the Petitioner is concerned stands set aside/quashed. It is also directed that since by virtue of the interim order granted by this Court the Petitioner have been discharging the duties that of Antrik Lekha Parikshan Evam Kararopan Adhikari as well as Varistha

Lekha Parikshan Evam Kararopan Adhikari, they would be entitled for the salary and allowances including the revision of pay which are otherwise payable to these two respective posts on which the Petitioners have discharged their duties.

10. So far as W.P.(S) Nos. 5115/2010, 5958/2010 & 6472 of 2010 are concerned, learned Counsel for the Petitioners submits that except for the place of posting the status of the Petitioners in these three writ petitions has been maintained by the Director while issuance of Annexure P-1. In view of the same, these writ petitions have no merits and the same thus deserve to be and are accordingly dismissed. However, since by virtue of interim protection the Petitioners have continued at the present place of posting, the Respondents may not act upon Annexure P-1 so far as the posting of these Petitioners are concerned, reserving the right of issuance of fresh orders of posting if administrative exigency so arises, these three writ petitions accordingly stand dismissed.

11. In the result, W.P.(S) Nos. 6182/2010, 5236/2010, 4800/2010, 6181/2010, 6180/2010, 7440/2010 stand allowed and W.P.(S) Nos. 5115/2010, 5958/2010 & 6472 of 2010 stand dismissed, accordingly.

Sd/-

(P. Sam Koshy)
Judge