

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2531 of 2012**

Ku. Look Rekha D/o Nadram Navrang, aged about 26 years, R/o village Navapara, Tahsil Lormi, District Bilaspur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Department of Panchayat and Rural Development, DKS Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Additional Collector, Bilaspur (CG)
3. Chief Executive Officer, Janpad Panchayat, Lormi, District Bilaspur (CG)
4. District Education Officer, District Bilaspur (CG)
5. Block Education Officer, Lormi, District Bilaspur (CG)

---- Respondents

For Petitioner	:	Smt. Renu Kocher, Advocate
For State	:	Shri Chandresh Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14.08.2018**

The limited grievance of the petitioner in the present writ petition is for a direction to the respondents for providing monetary benefits for the intervening period where she was out of employment on account of an illegal termination and for grant of seniority also.

2. The facts which led to the filing of the writ petition are that the petitioner had applied for the post of Shiksha Karmi Grade-III at Janpad Panchayat Lormi in Arts subject. The petitioner was found suitable and was

given an order of appointment dated 21.06.2008 Annexure P-1 and the petitioner later on had joined services on 26.06.2008. Just after about one month's time, the services of the petitioner was terminated vide Annexure P-3 dated 16.07.2008 without there being any show cause notice or enquiry being conducted against the petitioner neither was an explanation sought for before issuance of the order of termination.

3. The order of termination was subjected to challenge before the Collector who allowed the appeal of the petitioner vide order dated 23.03.2009 Annexure P-4. Though the petitioner had an order in her favour, the respondents did not comply with the order by giving joining to the petitioner and ultimately after filing of a contempt proceeding before the Collector, the petitioner could be reinstated in service only on 07.02.2011 and since then the petitioner is discharging her duties to the satisfaction of the higher authorities in the department. The petitioner through the present writ petition prays for a direction that she be provided the monetary benefits which she was otherwise entitled for had the order of termination not been issued.

4. It is the contention of the counsel for the petitioner that when the order of termination itself had been declared to be illegal by the Collector, as a natural consequence the petitioner ought to have been reinstated as also should have been granted the monetary benefits. Having not done so the petitioner has filed the present writ petition. It is also the contention of the counsel for the petitioner that the petitioner is also entitled for the seniority in the post of Shiksha Karmi Grade-III since the date of appointment i.e. June 2008 onwards.

5. State counsel, however, opposing the petition submits that

subsequent to the order of the Collector setting aside the termination order a fresh order of appointment has been issued in favour of the petitioner and therefore, she would be entitled for the monetary benefits only from the date of her reinstatement i.e. from 07.02.2011 onwards and she would not be entitled for the benefits from the earlier period.

6. Considering the entire facts and circumstances of the case what is necessary to be taken note of the fact is that the petitioner by virtue of her order of appointment had given joining on 26.06.2008 and without there being an enquiry or a show cause notice given to the petitioner, her services were terminated on 16.07.2008. The order of termination was held to be bad in law and illegal vide order Annexure P-4 dated 23.03.2009. It is settled position of law that once when the order of termination is set aside, the natural consequences would be that the order would relate back to the order of termination and for all practical purposes, the services of the petitioner would be treated as if it continued from the date of termination onwards uninterruptedly. The view of this Court stands strengthened by the Division Bench judgment of this Court in the case of **Tukaram v. State of Chhattisgarh** (WPS No. 1703 of 2015 and batch of petitions).

7. There cannot be a doubt to this fact as even the subsequent reinstatement order reflects that it has been issued in the light of the earlier termination order being set aside by the Collector. Once when the subsequent reinstatement order reflects the reference of an earlier termination order getting set aside, there cannot be any doubt as to why the petitioner would not be entitled for seniority of the previous period. Likewise, the petitioner would also be entitled for the monetary benefits for the intervening period for the reason that in spite of the order of termination

being set aside by the Collector promptly on 23.03.2009, the respondents have deliberately not complied with the order and forced the petitioner to remain out of employment in spite of there being an order in her favour which in due course has attained finality.

8. For the said reasons, the writ petition is allowed and it is ordered that the petitioner would be entitled for all monetary benefits for the intervening period when she was out of employment i.e. between 16.07.2008 to 07.02.2011 and the said period would also be counted for the purpose of grant of seniority to the petitioner.

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