

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 316 of 2009**

1. Nand Kumar Vaishanava, S/o. Late Shri J.D. Vaishnava, Aged about 52 years, R/o. Krishna Nagar, Raipur, Chhattisgarh
2. Smt. Monika Kelkar, W/o. Shri Prakash Kelkar, Aged about 53 years, R/o. Kelkar Bhawan, Behind Subhash Stadium, Raipur Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh, through the Secretary, Department of School Education, D.K.S. Building, Raipur, Chhattisgarh
2. The Director of Public Instructions, Raipur, Chhattisgarh
3. The District Education Officer, Raipur, Chhattisgarh
4. The Joint Director, Public Instructions, Raipur, District Raipur Chhattisgarh
5. Deputy Director, Education, District Raipur Chhattisgarh

----Respondents

For Petitioner	:	Ms. Renu Kochar, Advocate
For State	:	Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****02/05/2018**

1. The present writ petition has been filed seeking for the following main reliefs:-

“10.1] That the respondents may kindly be directed to produce the entire record of the case for kind perusal of this Hon'ble Tribunal.

10.2] The respondents be commanded by writ of mandamus to provide grant seniority from initial date of appointment along with arrears with interest.”

2. The contention of the petitioners is that they were initially appointed somewhere in the year 1982-83 and their services stood terminated in the year 1983-84. Subsequently, the petitioners had preferred an O.A. before the State Administrative Tribunal, which stood disposed of with a direction to consider the case of the petitioners in accordance with the recruitment rules applicable and subject to the

petitioners participating in a fresh recruitment process if they are found suitable, they should be granted appointment. On the basis of the said direction by the State Administrative Tribunal, the petitioners have been reappointed on 10.09.1998 (Annexure P/3).

3. The counsel for the petitioners submits that respondents ought to have granted seniority from the date of initial appointment, as the order of termination having being set-aside by the Tribunal and they having been reinstated in service, their past service should also be counted for the purpose of counting seniority.
4. Having perused the record, what reflects is that there is no order by the Tribunal so far as holding the discontinuance of the service of the petitioners in the year 1983-84 to be illegal. There is no order by the Tribunal also to the extent of granting relief of reinstatement in service, neither is there any direction so far as granting of consequential relief to the petitioners.
5. On the contrary, Annexure P/2 which has been relied by the petitioners to be the order passed in their case by the Tribunal, it is reflected that the direction was for the respondents to scrutinize the cases of the petitioners individually, and if they are found eligible for appointment and on the petitioners facing the process of selection and if they are still found fit, they should be granted an appointment. It appears that in compliance to the order of the Tribunal, the petitioners were subjected to a recruitment process and they were found eligible and accordingly Annexure P/3 dated 10.09.1998 was issued.

6. The plain reading of the operative part of Annexure P/2, the order of the Tribunal dated 29.08.1997 in T.A. No. 2693/88 and also the order of appointment issued in favour of the petitioners dated 10.09.1998 would reflect that the petitioners have been granted a fresh order of appointment on 10.09.1998 and on the basis of which they continued to be in service.
7. In the absence of any specific direction by the Tribunal holding the earlier alleged termination order to be bad, neither there being an order for grant of consequential relief, on the contrary the appointment Annexure P/3 reflecting it to be a fresh appointment, this Court is of the opinion that the petitioners cannot be granted the benefit of seniority of any service if at all if they have rendered on an earlier occasion in whatever capacity.
8. The writ petition, thus being devoid of merit, deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge