

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 3482 of 2018**

Dr. Suresh Prasad Tiwari son of late Shri K. P. Tiwari, aged about 62 years, resident of Darripara, Ambikapur, District Surguja, Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of School Education Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh
2. The Deputy Director, Directorate of Public Instruction, New Raipur, Chhattisgarh
3. The District Education Officer, District Surguja, Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Rahul Mishra, Advocate
For Respondent/State	:	Shri B. Gopa Kumar, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy

Order On Board

02/05/2018

The challenge in the present writ petition is to the orders dated 20.11.2017, 05.12.2017 and 23.03.2018.

2. The grievance of the petitioner is that before his retirement on 31.08.2017, the authorities had granted extension of service till the end of academic session i.e. 31.03.2018 and therefore, for all practical purposes, the services of the petitioner could not have been discontinued before 31.03.2018. However, the respondents have abruptly discontinued his services vide Annexure P-1 dated 20.11.2017 and since then he has not been allowed to discharge his duties.

3. According to the counsel for the petitioner, the extension of service

was by virtue of the circular of the State Government dated 05.09.2012 Annexure P-10 wherein no such condition is envisaged that the extended service of the employee could be discontinued on the vacancy being filled up by a regular person. Therefore, the impugned order Annexure P-1 is bad in law. He submits that even otherwise, the extension service could have been discontinued only after giving one month's notice which again in the instant case has not been complied with. He further submits that the petitioner, on an earlier occasion, had challenged the order of transfer dated 14.08.2017 and on the basis of the order of the writ Court dated 31.08.2017, he should have been permitted to continue his service till the end of the academic session.

4. Perusal of the record would show that true it is that the petitioner attained the age of superannuation on 31.08.2017. The petitioner was granted an extension of service till the end of academic session i.e. till 31.03.2018 vide Annexure P-2 dated 09.08.2017 before the petitioner had superannuated. At this juncture, it would be relevant to take note of condition No.5 of the order of extension dated 09.08.2017 which for ready reference is reproduced hereinunder:

“5. नियमित प्राचार्य के नियुक्ति होने पर सेवा समाप्त हो जावेगी।”

5. The said condition very emphatically makes it clear that the extension had been granted till an alternative arrangement is made. The moment, the alternative arrangement is made, the services would automatically stand discontinued. In the instant case, there is a transfer order dated 14.08.2017 issued by the department wherein one Smt. Bharti Verma has been posted as the Principal of the school where the petitioner was posted. Though vide the same order the petitioner was also transferred but the same was stayed by this Court and he was protected to continue till he retires on attaining the age of superannuation. The

petitioner superannuated on 31.08.2017. Thereafter, the order of transfer of Smt. Bharti Verma has been given effect to. Since a regular appointment/posting has been made as the Principal of the Govt. Higher Secondary School, Mendrekala where the petitioner was working, it is implied that by virtue of Condition no.5 of the order of extension, the services of the petitioner would stand discontinued.

6. The intention of granting extension of service is only to ensure that no loss or damage is caused because of the retirement of a person in a particular school which may adversely affect the institution but that does not mean that the State Government would be precluded from taking administrative decision and posting regular employees in place of persons retired during the course of academic session and having done so, it cannot be said that the respondents have acted in any arbitrary manner nor can the same be held to be malafide.

7. Given the facts and circumstances of the case, this Court does not find any strong case made out by the petitioner for grant of any relief. Moreover, the petitioner was discontinued from service since November, 2017 and the present writ petition was filed after conclusion of the said extended period of service which was till 31.03.2018. For this reason also this Court is not inclined to entertain the writ petitioner.

8. The writ petition thus being devoid of merit deserves to be and is accordingly dismissed.

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