

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4505 of 2018

Shyam Narayan Khunte S/o R.N.Khunte, aged about 38 years,
Presently working as Assistant Teacher Panchayat, Govt. Primary
School Baigamar, Block Korba, District Korba (C.G.).

---Petitioner

Versus

1. State Of Chhattisgarh, Through the Secretary, Panchayat and Rural Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (C.G.).
2. Collector, Korba, District Korba (C.G.).
3. Chief Executive Officer, Janpad Panchayat, Korba, District Korba (C.G.).

---Respondents

For petitioner	:	Shri C.J.K.Rao, Advocate.
For State	:	Shri S.P.Kale, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/07/2018

1. The solitary grievance of the petitioner in the instant Writ Petition is that, though the petitioner was initially terminated by the respondents, but by the order of the Collector dated 20/07/2012, he has been reinstated in service and the respondent No.3 subsequently vide Annexure-P/2 dated 08/12/2016 have held that, the intervening period which the petitioner was out of employment i.e. between 31/03/2008 to 20/04/2008 and 17/08/2009 to 13/08/2012 would be treated as no work no pay.
2. According to the counsel for the petitioner, since, Annexure-P/2 is only an order of no work no pay, the same cannot be considered as the

intervening period not to be counted for the purpose of calculating the length of service of the petitioner. He further submits that, the said period if taken into consideration as period spent on duty, the petitioner would be eligible for absorption in the department as per the scheme of the State Government. He further submits that, the respondents have granted absorption who have otherwise 8 years of service, but so far as the petitioner is concerned, they have not considered their case for absorption in this regard.

3. Given the nature of dispute raised by the petitioner, this Court prima-facie is of the opinion that, since the order of termination has been set aside by the Collector vide order dated 20/07/2012, for all practical purpose the petitioner would have to be treated as if he has been on duty. That the intervening period also has to be treated as period spent on duty and this Court does not see any good reason on part of the respondents not to count the said intervening period for the purpose of counting length of service of the petitioner.

4. Given the aforesaid factual matrix of the case, let the petitioner file a detailed representation to the respondent No.3 in this regard within a period of 3 weeks' from today and in turn the respondent No.3 shall consider and decide the representation in accordance with the rules governing the field and also keeping in view the judgment of the division Bench of this Court in the case of **Tukaram v. State of Chhattisgarh (WPC No.1703 of 2015 and batch of petitions)** decided on 16/05/2017 the judgment of which also would be produced by the petitioner to the respondent No.3.

5. Let the respondent No.3 take a final decision on receipt of the representation of the petitioner within a further outer limit of 90 days.
6. The Writ Petition accordingly stands disposed off.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE