

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 4644 of 2018

- Minesh Kumar Kaushik S/o Shri Suraj Prasad Kaushik Aged About 38 Years Presently Working As Assistant Teacher Panchayat Government Primary School Karmadi Block Korba District Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through - The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan Mantralaya Naya Raipur District Raipur Chhattisgarh.
2. Collector, Korba District Korba Chhattisgarh.
3. Chief Executive Officer, Janpad Panchayat Korba District Korba Chhattisgarh.

---- Respondents

For Petitioner : Shri C.J.K. Rao, Advocate

For Respondents : Shri Dheeraj Wankhede, Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

30.07.2018

1. The solitary grievance of the petitioner in the instant Writ Petition is that, though the petitioner was initially terminated by the respondents on 17/08/2009, but by the order of the Collector dated 21/10/2011, 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 15/04/2008 and 17/08/2009 to 05/11/2011 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. The case in hand is squarely covered by the order dated **20/07/2018** passed by this Court in **Writ Petition (S) No. 4709 of 2018 (Smt. Manju Sharma v. State of Chhattisgarh and Others)**.

4. Looking to the facts and circumstances of the case, submission of the counsel for the petitioner and aforesaid order of this Court, this Court is of the opinion that, since the order of termination has been set aside by the Collector vide order dated 21/10/2011, 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.

5. 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.

6. 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.

7. The Writ Petition accordingly stands disposed off.

Sd/-

(Sharad Kumar Gupta)
JUDGE