

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 269 of 2019

Raja Ram Vishwakarma S/o Late Shri G. P. Vishwakarma Aged About 59 Years Occupation - Service, Posted As Principal At Government Higher Secondary School Dumariya, Tahsil And District - Surajpur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, School Education Department (T), Mahanadi Bhawan, Atal Nagar Naya Raipur, Revenue And Civil District - Raipur Chhattisgarh.
2. State Of Chhattisgarh Through Secretary, Tribal Welfare Department, Mahanadi Bhawan, Atal Nagar, Naya Raipur, Revenue And Civil District - Raipur Chhattisgarh.
3. Director Public Education, Directorate Chhattisgarh, Mahanadi Bhawan, Atal Nagar Naya Raipur, Revenue And Civil District - Raipur Chhattisgarh.
4. District Education Officer Surajpur, District - Surajpur Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Surfaraz Khan, Advocate
For State	:	Ms. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/01/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 06.10.2018 to the extent that the monetary benefits payable to the petitioner would be only prospectively and the benefits from the actual date of promotion would not be given to him applying the principles of '**No work no pay**'.
2. The facts of the case is that the petitioner was working on the post of Lecturer since 07.07.1998. The petitioner became due for promotion to the post of Principal in the year 2008. However, the petitioner was not granted the promotion when it fell due. Subsequently, the petitioner has now been granted promotion vide Annexure P/1 dated 06.10.2018 and he has been

promoted from the post of Lecturer to the post of Principal, Higher Secondary School. The said benefit of promotion has been given from a retrospective date i.e. w.e.f. 05.06.2013 onwards. Though the promotion has been granted w.e.f. 05.06.2013, the petitioner has been paid the actual monetary benefits attached to the post of Principal only from the date he assumed the charge of Principal and for the earlier period, the authorities have ordered that it would be treated as “**No work no pay**”. It is this applying the principles of “**No work no pay**”, which is under challenge in the present writ petition.

3. The counsel for the petitioner referring to the judgment of the Madhya Pradesh High Court in the case of “**Shashi Prabha Pandey & Others v. State of Madhya Pradesh & Others**”, 2015 (2) MPHT 442 submitted that the petitioner cannot be denied the actual monetary benefits, which he is entitled for after being promoted from a retrospective date. According to the petitioner, he was always willing to discharge the duties of the promoted post and he was also fully eligible for having it from an earlier date and if the respondents for their fault or lapse do not grant promotion to the petitioner at the appropriate time and the same is granted at a later stage with retrospective effect, the petitioner should not suffer monetarily for the same and therefore the petitioner in the present case also should be paid all arrears of difference of wage, that he would be entitled for.
4. A perusal of the impugned order Annexure P/1, by which the petitioner has been promoted with a retrospective effect, would reveal that there were a large number of litigations from among the people, who were eligible for promotion and there were also it appears certain seniority disputes, for which also there were some litigations pending before the High Court filed

by different persons, the number of which are reflected in the impugned order.

5. Perusal of the order also reflects that those writ petitions stood disposed of on 30.04.2014, but the order of this Court was later on challenged before the Hon'ble Supreme Court in a Special Leave Petition, the reference of which too also finds place in the impugned order. Further reading of the impugned order reveals that in the light of certain orders passed by the Hon'ble Supreme Court, the seniority list was duly amended and thereafter a review D.P.C. was conducted and the petitioner has now been promoted vide order dated 06.10.2018.
6. Given the aforesaid facts and circumstances of the case, under which the order of promotion has been passed, it cannot be said that the State Government was at fault for not granting the promotion on an earlier date. The order clearly reflects that there were a large number of litigations pending before the High Court as well as before the Hon'ble Supreme Court and subsequently after disposal of those, the respondents/State has promptly granted the benefits to the petitioner. The benefit also has been extended from a retrospective date. As such the petitioner has not been put to loss, so far as his promotion is concerned. It is only the actual monetary benefits, which has been given to the petitioner only from the date, he assumed the charge of Principal and for the earlier period, it is ordered as ***"No work no pay"***.
7. In the opinion of this Court, though the terms ***"No work no pay"*** was not appropriately used by the authorities, in fact it is only a notional fixation, which the authorities intended in providing and which is being provided to the petitioner as well, as actual benefits is being paid to the petitioner prospectively. It also cannot be said that the respondent/State had, at any

point of time deliberately or with malafide intention, denied the benefits to the petitioner. It also reveals that, but for the litigation the State could have granted the benefits even on an earlier date. For all these reasons, this Court does not find any strong case made out by the petitioner for the claim that he has raised for.

8. So far as the judgment of the Madhya Pradesh High Court is concerned, the facts, under which that judgment was passed, were entirely different. That was a case, where the monetary benefit initially was granted to the petitioner therein, and later on there was an order of withdrawing the said benefits and an order of recovery was passed. Such is not the facts in the present case.
9. With the aforesaid observations, the writ petition stands dismissed off.

Sd/-
(P. Sam Koshy)
Judge

Ved