

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 144 of 2019**

Gajendra Kumar Diwan S/o Dashrath Diwan Aged About 35 Years R/o Village Hadapara Post and Thana Kasdol District Balodabazar Bhatapara Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary Health Department Mahanadi Bhawan Mantralaya Capital Complex New Raipur District Raipur Chhattisgarh.
2. Director Directorate Of Health Services Block I Indrwati Bhawan 3rd Floor Naya Raipur Post Office and Police Station Naya Raipur District Raipur Chhattisgarh.
3. The Collector Collectorate District Baloda Bazar Bhatapara Chhattisgarh.
4. Chief Medical And Health Officer Raipur District Raipur Thana Raipur Chhattisgarh.
5. The Chief Medical And Health Officer Baloda Bazar District and Thana Baloda Bazar Bhatapara Chhattisgarh.

---- Respondents

For Appellant	:	Shri Anshul Tiwari, Advocate.
For Respondents/State	:	Shri Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****27.02.2019**

1. Heard the learned counsel for the Appellant and the learned Deputy Government Advocate for the State.
2. I.A. No. 1 of 2019 which is an application for condonation of delay of 437 days.
For the reasons indicated in the said I.A. coupled with the fact that identically situated persons have already been granted relief in W.A. No. 448 of 2017 and other analogous cases which was the case of *Krishna Kumar Daharia vs. State*

of *Chhattisgarh & Others* and in the interest of consistency of justice, the said I.A. is allowed.

3. The matter is thereafter heard on merits. For the reasons assigned in the aforesaid batch of writ appeals and the decision of Division Bench dated 24.09.2018, the present appeal is also allowed with the same set of relief which was granted to the Appellants of those writ appeals. The operative part of the order is reproduced herein below:

“15. In the facts and circumstances, we therefore, hold the order of termination dated 16.06.2016 passed by the CMHO, Baloda Bazar as well as the order dated 27.09.2017 passed by the learned Single Judge upholding such decision of termination to be irrational and arbitrary and therefore, they deserve to be set aside and are set aside. It goes without saying that all these Appellants will be reinstated in their service forthwith.

16. The respondents, however, are given liberty that they will issue individual notices and hold enquiry in relation to the appointments on the post so made of all these terminated employees and this exercise cannot be a collective exercise because the authorities will have to identify as to which appointment was irregular and which appointment was illegal in the enquiry. In the departmental proceeding to be held and on the findings thereon, the law will take its course. The said enquiry will be concluded preferably within a period of six months.

17. Before disposing these appeals, the Court also directs all the appellants that on the notice so given to them by the Appointing Authority who is said to be CMHO, Baloda Bazar, they will co-operate in the enquiry and will not unnecessarily delay the same on one pretext or the other.”

4. Writ appeal is allowed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge