

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1498 of 2019

1. Shri Nath Singh S/o Shri Ganesh Singh Aged About 42 Years Presently Working As Head Constable B.No. 637 In Police Station- Balrampur, District- Balrampur, Ramanujganj, Chhattisgarh.
2. Ram Kumar Bhagat S/o Late Shri Putu Ram Bhagat Aged About 39 Years Presently Working As Constable B.No. 676 In Police Station- Ramanujganj, District- Balrampur, Ramanujganj, Chhattisgarh
3. Pradeep Kumar Sana S/o Late Shri Dharendra Sana Aged About 42 Years Presently Working As Constable B.No. 718 In Cyber Cell Balrampur, District- Balrampur- Ramanujganj, Chhattisgarh.
4. Brij Mohan Singh S/o Emer Sai Singh, Presently Working As Constable No. 353 In Police Station- Police Lines, Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh.
5. Sanjay Tiwari S/o Balkrishna Tiwari Aged About 41 Years Presently Working As Constable B.No. 940, Special Investigation Branch (SIB) In Chowki- Ganeshmod, Police Station- Balrampur, District- Balrampur, Ramanujganj, Chhattisgarh.

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Versus

1. State Of Chhattisgarh Through Secretary Department Of Home (Police) Mahanadi Bhawan Raipur, Chhattisgarh.
2. Director General Of Police Police Head Quarter- Raipur, District- Raipur, Chhattisgarh.
3. Inspector General Of Police Surguja Range, Ambikapur, District- Surguja, Chhattisgarh.
4. Superintendent Of Police Office Of S.P. Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh.
5. Superintendent Of Police Office Of S.P. Surajpur, District- Surajpur, Chhattisgarh.
6. The Commandant 10th Battalion, Chhattisgarh Armed Force C.A.F., Kanakpur, Silphili, District- Surajpur, Chhattisgarh.
7. The Commandant 2nd Battalion, Chhattisgarh Armed Force C.A.F., Sakri, District- Bilaspur, Chhattisgarh.

---Respondents

For Petitioners	:	Mr. Sushil Dubey, Advocate
For State	:	Mr. Arvind Dubey, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/03/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 03.12.2018. Vide the said order, the respondents have cancelled the benefit of the Time Bond Pay Scale, which was given to the petitioners on their completing 10 years of service.
2. The facts of the case is that the petitioners were initially appointed as Tradesman in their respective Battalion under the Chhattisgarh Armed Force. Later on, after having put in about 2-3 years of service as Tradesman, on the request made by the petitioners, they applied for the post of Constable and also they were granted appointment on the post of Constable (GD).
3. The petitioners were granted the benefit of the Time Bond Pay Scale taking their initial date of appointment on the post of Tradesman as per the order passed by the then Superintendent of Police dated 04.04.2008 and the Director General of Police dated 21.10.2008. The petitioners were enjoying the said benefit till the impugned order Annexure P/1 was passed on 03.12.2018. It appears that one Suresh Kumar Tiwari similarly placed person had filed a writ petition before this Court claiming the Time Bond Pay Scale vide WPS No. 2462/2017 and which was disposed of vide order dated 03.10.2018 directing the respondents to consider the representation of the said petitioner and to pass an order. It appears that while deciding the representation of the said Suresh Kumar Tiwari, the impugned order has been passed and the benefit which was extended to the petitioner from 2008 onwards has since been ordered to be withdrawn.

4. Counsel for the petitioners submits that the impugned order has been passed in total violation of the principles of natural justice, in as much as the petitioners were not given any opportunity of hearing before the impugned order was passed. He further submits that it is a case where the benefit was earlier extended by the then Superintendent of Police and in one of the cases, the same was extended by an order of the Director General of Police and the respondent No.4 now could not have passed such an order.
5. State counsel on the other hand opposing the petition submits that it is a case where the authorities have found that the previous service of the petitioners as Tradesman has been erroneously counted for grant of the benefit of the Time Bond Pay Scale and therefore the impugned order has been passed.
6. From the aforesaid submissions made by the counsel appearing for either side, what clearly reflects is that before passing of the impugned order, no opportunity of hearing was granted to the petitioners. It is by now a well settled position of law that any order which has an adverse civil consequence, particularly monetary in nature, the same has to be passed after due compliance of the basic principles of natural justice. The respondents ought to have at least issued a notice to the petitioners and sought for their explanations before passing the impugned order.
7. The said impugned order dated 03.12.2018 Annexure P/1 is therefore not sustainable being in violation of the principles of natural justice and the same therefore stands set-aside/quashed only on the said ground.

8. Reserving the right of the respondents, if they feel so, to pass a fresh order after granting an opportunity of hearing to the petitioners, the present writ petition stands allowed and the impugned order Annexure P/1 dated 03.12.2018 stands set-aside/quashed and it is ordered that as a consequence, the petitioners would be entitled for the benefit that they were getting/receiving prior to the impugned order was passed.
9. With the aforesaid observations, the writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved