

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CONT No. 234 of 2019

1. Durga Shanker S/o Shri Ghansi Ram Aged About 58 Years Post Peon, Tribal Welfare Department, R/o Bailabazar, Thana City Kotwali ,post Jagdalpur, Jagdalpur, District Bastar, Chhattisgarh.PIN 494001.
2. Kunwar Singh S/o Lachhu Ram Aged About 56 Years Post Peon, Tribal Welfare Department, R/o Hikmipara, Thana City Kotwali ,post Jagdalpur, Jagdalpur, District Bastar, Chhattisgarh 494001

---- Petitioner

Versus

1. Dr. Ayyaj Tamboli (Ias) (Collector And District Magistrate) District Bastar, Jagdalpur , Thana City Kotwali, Tahsil And Post Jagdalpur, Chhattisgarh.494001
2. Mr. K.R. Paraste (Assistant Commissioner), Tribal Development, Jagdalpur, Thana City Kotwali, Post Jagdalpur, District Bastar Chhattisgarh.494001

---- Respondents

For Petitioner	:	Mr. Alok Kumar Dewangan, Advocate.
For Respondent	:	Mr. C.J.K. Rao, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/06/2019

1. The present contempt petition has been filed alleging non compliance of the order of this Court dated 28.09.2018 passed in WPS No. 2710 of 2009, while allowing the writ petition this Court had made the following observations:-

Given the aforesaid legal position as it stands and also considering the fact that there is judgment of acquittal in favour of the petitioners and the so called departmental enquiry which was conducted at the first instance was an exparte enquiry, this Court is of the view that the case of the petitioner in the light of the judgment of acquittal thus required reconsideration and the impugned order

dated 11.05.2009 (Annexure P/1) to the aforesaid extent would not be sustainable and the same stands set aside restoring the order of reinstatement dated 31.07.2008. However, applying the principle of “No Work No Pay” the petitioners would not be entitled for back wages, but would be entitled for notional fixation.

2. The respondents on notice have entered appearance and submitted their reply, along with the reply they have filed document showing that as per the direction given by this Court, the petitioner has been reinstated in service.
3. The Counsel for the petitioner submits that in addition to the relief of reinstatement, this Court had also directed the respondents to grant notional fixation to the petitioner for the intervening period, this part has not been complied with by the respondent.
4. The Counsel for the respondents submits that perhaps the officer could not properly understand the order passed by this Court and that counsel for the petitioner prays for 3 weeks time to ensure that the order passed by this Court on 28.09.2018 is complied with in letter and spirit by granting the notional benefits to the petitioner and revising his salary if necessary.
5. On the said undertaking / submission which the respondents have made, this Court is of the opinion that there would be no purpose in keeping this contempt petition pending and the same is accordingly disposed of .
6. It is expected that the authorities would honestly comply the directives given by this Court. So far as granting the benefits of

notional fixation to the petitioner which in other wordw means that the petitioner would be granted all benefits on paper as if he was never terminated from service. The only thing that the petitioner would not be entitled for is any actual monetary benefit but the same would be reflected on the records till date of reinstatement. He would be entitled for the monetary benefits from the date of reinstatement.

7. Accordingly, The present Contempt petition stands disposed off.
8. The right of the petitioner stands reserved to approach this Court in case if need so arises.

**Sd/-
(P. Sam Koshy)
Judge**

Jyotijha