

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1592 of 2019

Yashwant Kumar Sahu S/o Late Shri Shobha Ram Sahu Aged About 37 Years Presently Posted As Assistant Teacher (Panchayat) For Science Subject At Government Primary School Dhaurabhata Khi, Magarlod, District Dhamtari R/o Village Khishora, Post Office Hazra No.1, Tahsil Magarlod District Dhamtari Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary Panchayat And Rural Development Department, Mantralaya Mahanadi, Bhawan, Naya Raipur, Raipur Chhattisgarh.
2. District Education Officer District Dhamtari Chhattisgarh.
3. Chief Executive Officer Janpad Panchayat District Dhamtari Chhattisgarh.
4. Collector, District Dhamtari Chhattisgarh.

---Respondents

For Petitioner	:	Ms. Sunaina Paryani, Advocate
For State	:	Mr. Sameer Behar, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/03/2019

1. The claim of the petitioner, through the present writ petition, is for the salary for the intervening period between November, 2015 to March, 2016.
2. The facts of the case is that the petitioner was appointed as a Shiksha Karmi Grade-III at district Dhamtari and vide order dated 18.11.2015, the services of the petitioner stood transferred from Dhamtari to Tilda, Raipur.
3. The said order of transfer was subjected to challenge in WPS No. 172/2016. There were other similarly placed persons, who were

transferred from one district to another and who had also challenged the said order of transfer before the High Court vide WPS No. 1273/2016 and a bunch of other connected writ petitions. These writ petitions were allowed on 23.12.2016, wherein it was categorically held that the order of transfer from one district to another was without competence and jurisdiction.

4. Subsequently, the order of transfer was cancelled vide order dated 01.06.2017 and thereafter the petitioner was sent back to his initial place of posting (i.e. district Dhamtari). The petitioner did not comply with the order of transfer for the period between November, 2015 to March, 2016 and thereafter the petitioner had joined at Tilda, Raipur.
5. The claim of the petitioner is that once when this Court has held that the order of transfer was ***per se***, illegal and ***void ab initio***, and the respondents accepting the same had cancelled the order of transfer, the effect would be that the petitioner for all the practical purposes have to be treated as in service at the original place of posting for that intervening period also.
6. This issue of the petitioner has already been considered by this Court in the case of “***Ku. Girija Patel v. State of Chhattisgarh & Ors.***” WPS No. 2791/2017, wherein this Court vide its order dated 03.07.2017 have held that the petitioner would be entitled for the entire salary and other benefits attached to the post for the intervening period that they were not paid the salary.
7. There were other connected writ petitions also, which were filed and allowed by this Court and the order of this Court has also been

affirmed by the Division Bench of this Court in the case of **“Chief Executive Officer, Jila Panchayat, Surguja v. State of Chhattisgarh & Ors.” WA No. 533/2017**, decided on 04.10.2018.

8. In view of the same, this Court is of the opinion that the case of the petitioner also, since being identical in nature, deserves to be and is accordingly allowed on the ground of parity. Subject to verification of the aforesaid facts, the respondents are directed to release the salary of the petitioner for the period between November, 2015 to March, 2016.
9. Let this exercise be completed within a period of 4 months from the date of receipt of the copy of this order.
10. With the aforesaid observations, the writ petitions stand allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge