

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1213 of 2005

1. Sumit Patnaik, S/o. Roshan Patnaik, Aged about 25 years, R/o. Bazar Road, Tamnar, Police Station Tamnar, District Raigarh Chhattisgarh
2. Akash Kumar Patnaik, S/o. Mahendra Nasth Patnaik, Asstt. Teacher, Primary School Jhingol, District Raigarh, Chhattisgarh

---- Petitioners

Versus

1. State Of Madhya Pradesh, Through the Secretary, School Education Department, M.P. Bhopal.
2. Director of Public Instructions, Madhya Pradesh, Bhopal.
3. Deputy Director, Education, District Raigarh, Madhya Pradesh

---Respondents

For Petitioners	:	Mr. Roshan Dubey, Advocate
For State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25/06/2019

1. The present writ petition has been filed by the petitioners challenging the order Annexures A/1 & A/2 dated 30.08.1995 and 17.08.1995. The two impugned orders were in respect of seven similarly placed persons. The present writ petition has been filed by two of the persons, whose names are reflected in Annexure A/1 and the remaining five persons had filed a separate petition before the State Administrative Tribunal, which was later on transferred to this High Court on the abolition of the Tribunal and registered as WPS No. 1206/2005.
2. The petitioners herein have got an interim order in their favour to the extent of the suspension of the operation of the impugned order vide order of the Tribunal dated 29.09.1995 and by virtue of which it is said that the two petitioners were permitted to continue in employment.

3. Pending the petition, the petitioner No.1 is said to have expired on 28.03.2016. The legal heir of the petitioner No.1 i.e. the son of the petitioner No.1 has moved an application i.e. I.A. No.1/2019 seeking permission to bring him on record as legal heir to pursue the writ petition.
4. The said application is not opposed by the State counsel. Accordingly, the I.A. No.1/2019 stands allowed. Let necessary amendment be carried out during the course of the day itself.
5. At this juncture, it has been brought to the notice of the Court by the State counsel that the legal heir of the petitioner No.1 namely Sumit Patnaik has already been granted compassionate appointment on the death of the petitioner No.1 vide order dated 20.05.2016 and thereafter he continues to work with the respondents and likewise by virtue of the interim relief granted by the Tribunal on 29.09.2019, the petitioner No.2 is also still in employment.
6. Counsel for the petitioner as well as by the State do not dispute the fact that the WPS No. 1206/2005 was also challenging the same impugned order, and was challenged by the other five persons, whose names reflected in the said order. The said writ petition finally stood allowed vide order dated 08.02.2017, whereby this High Court had set-aside/quashed the orders of termination dated 30.08.1995 and 17.08.1995 passed in respect of the petitioner therein and it is the same impugned order, which is also under challenge in the present writ petition.
7. On a query being put to the counsel for the petitioners, he submits that the said order passed by this Court in WPS No. 1206/2005 has not been further questioned by the State in an appeal and as such the same has attained its finality.

8. Since this Court has already reached to a conclusion in a separate writ petition of identical nature, whereby the same impugned order was under challenge, and this Court has reached to the conclusion that the impugned orders were not sustainable and it does not have the legal protection and the two orders were set-aside/quashed, this Court is of the firm view that the present writ petition also deserves to be allowed on similar terms.
9. In view of the same the present writ petition also stands allowed in terms of the order dated 08.02.2017, passed in WPS No. 1206/2005. As a consequence, the orders dated 30.08.1995 and 17.08.1995 (Annexure A/1 & A/2) stand set-aside/quashed, so far as it pertains to the two petitioners who had filed the present writ petition with consequences to follow.
10. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge

Ved