

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.1248 OF 2011**

Tomeshwar Patel, aged about 50 years, S/o Shri Bhagwan Singh Patel, Assistant Teacher (Removed From Service), Govt. Primary School Bijni, Vikas Khand Dabhra, Distt. Janjgir Champa, R/o Vill Kirari, Tahsil Dabhra, Distt. Janjgir Champa (CG).

...Petitioner(s)**Versus**

1. State of Chhattisgarh through the Secretary, Department of School Education, Daul Kalyan Singh Bhawna, Raipur (CG).
2. Director Lok Shikshan Sanchalnalaya, Raipur (CG).
3. District Education Officer Distt. Janjgir Champa (CG).
4. Block Education Officer Block Dabhra, Distt. Janjgir Champa (CG).

... Respondent(s)

For Petitioner	:	None.
For Respondent-State	:	Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16.08.2019**

1. The grievance in the present writ petition seems to be the order of termination dated 06.06.2006 (Annexure P/2) and the rejection of representation dated 23.10.2010 (Annexure P/1). Annexure P/2 is the order by which the petitioner's services have been terminated.
2. A plain perusal of Annexure P/2 would show that the order of termination was passed on the basis of the judgment of conviction passed against the petitioner in Criminal Case No.413/1998, decided by the Additional Sessions Judge, Sakti on 16.11.1999. Pending the petition before this court, the Criminal Appeal filed by the petitioner against his conviction stood allowed vide judgment dated 26.07.2007 in Criminal Appeal No.3111 of 1999. Now, since the judgment of conviction is no longer in existence in the light of the Criminal Appeal being allowed, the very basis on which the petitioner's services stood terminated also does not exist. In the light of the judgment of acquittal in Criminal Appeal No.3111 of 1999,

the respondent authorities are supposed to reconsider the order of termination of the petitioner.

3. Given the undisputed facts as is revealed from the records that are placed in the writ petition, this court is of the opinion that the impugned order dated 06.06.2006 (Annexure P/2) is worth reconsideration as the reason for termination, as is reflected in Annexure P/2, does not survive any further and the order of termination was solely based on the conviction order against the petitioner.
4. Given the facts, let the respondent No.3 pass a fresh order in respect of the petitioner keeping in view the judgment of this court passed in Criminal Appeal No.3111 of 1999, decided on 26.07.2007 wherein the judgment of conviction has been set aside by the High Court and the petitioner thereafter stands acquitted from the charges levelled against him for the offence under Section 306 IPC. Let an appropriate decision be taken which should also be inclusive of how the intervening period from the date of judgment of acquittal passed on 27.06.2006 in Criminal Appeal No.3111 of 1999 till the fresh order is passed, has to be treated. Let this exercise be completed within a period of three months from the date of receipt of copy of this order.
5. With the aforesaid observations, the writ petition stands allowed and disposed of.
6. The Registry is directed to sent a copy of this order to the respondent No.3 forthwith for necessary compliance.

Sd/-

(P. Sam Koshy)
Judge