

HIGH COURT of CHHATTISGARH, BILASPUR

Judgment reserved on 23.10.2019

Judgment pronounced on 02.12.2019

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 348 of 2019

(Arising out of Order dated 02.11.2018 read with 22.01.2019 passed by Hon'ble Division Bench in WA-191 of 2017)

- Ved Prakash Pandey S/o Shri Bhukhan Lal Pandey Aged About 46 Years
R/o Village Vindeshvaripuram Pancham Colony Police Station Pendra,
Post And Teshil Pendra District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Ritesh Kumar Agrawal, Chief Executive Officer, (C. E.O.) Zila Panchayat Office, Opposite District Court Bilaspur, Police Station Civil Line Bilaspur District Bilaspur Chhattisgarh
2. Dr. Sanjay Alang, Collector Bilaspur Civil Line Bilaspur, District Bilaspur, Chhattisgarh
3. Dr. Rita Shandilya Secretary Department Of Panchayat And Rural Development Department, State Of Chhattisgarh Mantralaya Mahanadi, Bhawan, Police Station Rakhi New Raipur Chhattisgarh

-----Respondents

For Petitioner	: Shri Ved Prakash Pandey, Petitioner in person
For Respondents	: Shri Shivang Dubey, Advocate

**Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
CAV Judgment**

Per Parth Prateem Sahu, J.

1. Petitioner has filed this Contempt Petition alleging non-compliance of the order dated 02.11.2018 passed in Writ Appeal-191 of 2017 affirming the orders passed in WPS-1234 of 2015 as well the order dated 06.01.2014 passed by the Commissioner, Bilaspur Division, Bilaspur.

2. Case of the petitioner is that he was appointed as Assistant Project Officer on contract basis in the Office of Zila Panchayat, Bilaspur vide order dated 06.07.2011 for a period of one year. By order dated 02.08.2013, petitioner services came to an end as the contract was not extended and the said order was challenged before the Commissioner, Bilaspur Division, Bilaspur, who in turn set aside the order of discontinuation of service vide Order dated 06.01.2014.

3. When the order of Commissioner was not complied with, petitioner approached this Court by filing WPS-1234 of 2015 and in that Writ Petition, learned Single Judge, after considering the sequence of events projected before him, directed for giving joining to the petitioner within a period of three weeks and for the salary period from 06.01.2014 ie date of the order passed by the Commissioner for reinstatement of the petitioner, directed the petitioner to submit representation before respondent authorities and the same shall be decided by the concerned authorities at the earliest, preferably within a period of three months. The order of learned Single Judge was made to challenge in Writ Appeal -191 of 2017 by the CEO, Zila Panchayat.. This Court dismissed the appeal filed by the CEO, Zila Panchayat with cost of Rs.10,000/- and thereafter, review filed by the department was partly allowed and observation made in para-7 in the judgment of Writ Appeal has been modified to the extent that payment of salary will be subject to filing of representation by the private respondent before competent authority.

4. Petitioner made a representation on 04.02.2019 claiming salary from 06.01.2014 till 17.11.2018. Zila Panchayat initially gave joining and

engaged the petitioner in an election duty on 13.03.2019 but vide order dated 29.03.2019, he has been disengaged. The representation filed by the petitioner was decided on 30.03.2019 wherein the petitioner is held to be entitled for salary from January, 2014 to 31.03.2015, till the date of end of BRGF (Backward Regions Grant Fund) Programme/scheme.

5. Petitioner was paid arrears of salary of 13 months to the tune of Rs.2,93,930/- through cheque bearing No.924576, after deducting the salary of two months ie Rs.45,220/-, already been paid to the petitioner.

6. The contention of petitioner is that as per the direction of Court, after his joining, services should have been continued till date. He submits that even if the BRGF Programme came to an end, then he should have been accommodated in some other office or work. The respondents have not continued him in service and not permitted him to work. He also submits that as the order passed by this Court in Writ Appeal only on 02.11.2019 and therefore, he is entitled for salary, at least up to this period ie 02.11.2019. But respondents have paid salary only up to 31.03.2015 and submits that thereby respondents committed contempt of orders of this Court.

7. Per contra, at the outset learned counsel for the respondents submits that the order passed by the Hon'ble High Court has been honoured in its letter and spirit and it is further submitted that the respondents are having utmost regard and respect to the orders passed by the Hon'ble High Court. It was stated that appointment of the petitioner was only for a period of one year as per order dated 06.07.2011, which

was extended for further period of one year. But the petitioner was discontinued from service for his unsatisfactory performance. He also submits that in pursuance of the order passed by this Court he was permitted to join and the representation submitted by the petitioner, salary from January 2014 till 31.03.2015 has been paid to the petitioner through a cheque bearing No.924576. The BRGF Scheme itself came to an end in March, 2015 and therefore, the petitioner could not have been continued in service which is on contract basis for a particular period and for a particular post. He also submits that order of learned Single Judge in Writ Petition, so far it relates to the salary has been left open for consideration by the employer to be decided after filing of representation by the petitioner and the same was confirmed by the Court. He submits that order of Hon'ble High Court has already been complied with as the representation of the petitioner has been decided, he has been paid salary from the date of discontinuation was set aside by the Commissioner and the petitioner accrued his right from the same till the scheme was in existence. He also submits that claim of the petitioner for salary till October, 2019 is not directed by this Court and therefore, the claim as submitted by him is not sustainable.

8. We have heard learned counsel for the parties and perused the records. Undisputedly, the petitioner was initially engaged vide order dated 06.07.2011 on the post of Assistant Project Officer, for a period of one year with certain conditions. The conditions of order of the appellant also bears that further engagement /continuation for further period will be subject to his Confidential Report prepared by the competent authority

with a clause that the service can be terminated by giving one month's prior notice by any of the party. Discontinuation of service of the petitioner vide order dated 02.08.2013 was on account of unsatisfactory performance but the Commissioner set aside the said order and directed for reinstatement of his contract employment. Order of learned Single Judge specifically mentions that the petitioner should be allowed to join on the post and the payment of salary has been taken into consideration from 06.01.2014 but it has been left subject to decision of the competent authority, on representation to be filed by the petitioner. The competent authority after receiving the representation, decided the same and calculated part of salary to which petitioner was entitled. It was calculated from the date of order passed by the Commissioner ie January 2014 till 31st March, 2015 the date on which scheme came to an end. It was not disputed by the petitioner that the BRGF Programme came to an end in March, 2015. But his claim is that he should have been engaged in some other service. The submission made by the petitioner is not sustainable because the petitioner has been engaged on contractual basis for a particular period and on a particular post/work under a specific scheme. Therefore, as soon as the scheme comes to an end, petitioner's services will automatically come to an end and he cannot have any right to claim employment on any other post or for extension of the period.

9. The respondents have already complied with the order passed by this Court by way of payment of cost of Rs.10,000/-. An amount of Rs.2,93,930/- through cheque bearing No.924576, deducting the payment of two months salary which the petitioner has already received was paid.

There is no order or direction of this Court for payment of salary of a particular period but it has been left to be decided by the competent authority and the same has been finally decided which, in our view, respondents have complied with the orders passed by this Hon'ble Court and respondents have not violated any part of the order or committed any contempt of orders passed by this Court.

10. Petition being devoid of substance, liable to be dismissed and is hereby dismissed. The notices issued against the respondents are discharged and contempt proceedings against the respondents are hereby dropped.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge