

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4027 of 2019**

Sanjay Kumar Jhariya S/o Late Shri Dakor Das Jhariya, Aged About 42 Years, Working As Teacher (LB) And Posted At Primary School, Devpura (Gandai), Block-Chhuikhadan, District Rajnandgaon Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Secretary, Panchayat And Rural Development Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. District Education Officer Rajnandgaon, District Rajnandgaon Chhattisgarh
4. Block Education Officer, Block Chhuikhadan, District Rajnandgaon Chhattisgarh
5. Chief Executive Officer, Zila Panchayat Rajnandgaon, District Rajnandgaon Chhattisgarh
6. Chief Executive Officer, Janpad Panchayat Chhuikhadan, District Rajnandgaon Chhattisgarh

---- Respondents

For Petitioner	:	Shri Anshul R. Shrivastava, Advocate
For State	:	Mr. Ishan Verma, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17.05.2019

1. The challenge in the present writ petition is to the order dated 30.06.2018.
2. The facts of the case are that the petitioner substantively is an employee of Panchayat Department governed by the rules framed under the Panchayat Raj Adhiniyam. The petitioner was initially appointed in the year 2006 on the post of Assistant Teacher (Panchayat). By now he has completed more than 7 years of service.
3. According to the petitioner, he has become eligible for promotion to the post of Teacher (Panchayat). At this juncture, the respondents have issued the impugned order dated 30.06.2018 whereby it has been held that since the services of the petitioner and the similarly placed persons are likely to be merged/absorbed with the Education Department on completion of 8 years of service, the Panchayat Department has ordered not to initiate any promotion process so far as the Assistant Teachers working in the Panchayat Department are concerned. That they would be considered for promotion after their services get merged/absorbed in the Education Department.
4. Counsel for the petitioner submits that vide impugned order dated 30.06.2018 a situation has arisen where the petitioner neither would be considered for promotion nor would he be considered for grant of Kramonnati which the petitioner was otherwise entitled for, if he is not

promoted on his having the minimum requisite length of service. It is the further contention of the petitioner that for Assistant Teachers and Teachers in Panchayat Department, the benefit of Kramonnati is provided on their completion of 7 years of service subject to the petitioners meeting the requirement for promotion to the next higher post. In the instant case, since the promotion has been withheld, the petitioner may at least be granted the benefit of Kramonnati or else he would be put to substantial loss and he would also be losing substantially at the time of absorption of his service with the Education Department.

5. Respondent no.3 has filed a reply wherein the stand of the Department is that as of now they have kept the promotions in abeyance in the light of the policy decision of the State govt. for absorbing the teachers of the Panchayat Department with the Education Department on their completion of 8 years of service.
6. State counsel submits that the impugned order has been taken to avoid further complications at the time of absorption of the services of the petitioner with the Education Department. He submits that as per the circular dated 02.11.2011, the minimum length of service period for grant of promotion was 10 years which vide circular dated 17.05.2013 has been modified to 8 years.
7. Be that as it may, once when it is found that the petitioner fulfills all requisite eligibility criteria for promotion and there are also vacancies available in the Department, there is no reason why the petitioner should not be considered for promotion. If as a policy decision the State

Govt. has taken a stand for differing the promotion process in the light of the absorption of the services of the petitioner to the Education Department, this Court is of the firm view that for the intervening period, the petitioner should not be deprived of at least his claim for Kramonnati for which provided he is entitled for in accordance with the rules, regulations and procedures as contended by the petitioner.

8. In view of the same and in the light of the submissions made by the counsel for the State in their reply, the present writ petition is disposed of with a direction to the respondents to consider the claim of the petitioner for grant of Kramonnati if he is otherwise entitled for the same, as the respondents have taken a policy decision not to grant promotion to the petitioner as of now. The respondents would consider the case of the petitioner subject to his fulfilling the eligibility criteria required for grant of Kramonnati.
9. Let this exercise be completed within a period of 4 months from the date of receipt of copy of this order.

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