NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4281 of 2019

Pusan Kumar Sahu S/o Dayaram Sahu Aged About 43 Years Working As Lecturer (Nagriya Nikay) And Posted At Government Higher Secondary School Chikhlakasa, Block Daundi, District Balod Chhattisgarh., District : Balod, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Secretary, Department Of Urban Administration, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Chief Municipal Officer, Nagar Panchayat Chikhlakasa, District Balod Chhattisgarh., District : Balod, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ajay Shrivastava, Advocate
For State	:	Ms. Astha Shukla, PL

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/06/2019

1. The grievance of the petitioner in this petition is non acceptance of the past service rendered by the petitioner as Shiksha Karmi Grade-III in the past for the purpose of absorption in the Education Department.
2. The case of the petitioner is that, he was initially appointed as Shiksha Karmi Grade-III way-back on 11.09.2008 and subsequently in a fresh recruitment he got selected as Lecturer (NN) on 07.08.2012. For the purpose of granting revised pay scale, the State

has taken the past services rendered by the petitioner as Shiksha Karmi Grade-III and has granted benefit of revised pay scale counting the past service also for the purpose of determining 8 years continuous service enabling revised pay scale.

3. The grievance of the petitioner now is that, though the department has accepted the past services of the petitioner for the purpose of grant of revised pay scale, but when the question of absorption came, the past 2 services of the petitioner is not being considered for want of proper NOC from the previous place of service of the petitioner.

4. The contention of the petitioner is that, once when the department has considered the past service for the purpose of revised pay scale, there is no reason why past services could not be counted for the purpose of absorption. It was further the contention of the petitioner that so far as requirement of NOC for the purpose of revised pay scale is concerned, the same stood already quashed by this court in WPS No. 2530 of 2017, Mukesh Kumar Patel Vs. State of Chhattisgarh & Others and other connected writ petitions, decided by this court on 28.11.2017.

5. The State counsel opposing the petition submits that it is a case where the petitioner came into present service by way of participating as a fresh candidate in a fresh recruitment conducted, and therefore, the past services rendered cannot be counted unless the petitioner would have obtained an NOC from the department for appearing/selection in the subsequent recruitment process. He further submits that even the record does not show of the respondents taking a decision that the petitioner is not entitled for the

relief that he has sought for and it is also not a case where there is any particular order which is under challenge in this writ petition.

6. Given the aforesaid contentions put forth on either side and on perusal of records, what is an admitted factual position is that the petitioner's past services has been counted by the department for the purpose of grant of revised pay scale. Once when the department accepts the past services for the purpose of revised pay scale, this court does not find any strong reason why the said period would not be counted for the purpose of absorption as the department itself has accepted the said period as continuous service for the purpose of granting revised pay scale.
7. Under the circumstances, let the respondent No.1 take a fresh decision on the issue and pass an appropriate order at the earliest preferably within a period of 90 days from the date of receipt of copy of this order keeping in view the fact that the department itself has counted the past services of the petitioner for the purpose of revised pay scale.
8. It shall be the responsibility of the petitioner to apprise the respondent No.1 so far as the order passed by this court is concerned.
9. The petitioner would also be at liberty to file a fresh representation, if he so wants.
10. The Writ Petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rohit