

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4708 of 2019

1. Vikas Gupta S/o Shri Rajendra Gupta Aged About 35 Years Presently Working As Teacher (Panchayat) At Govt. Middle School Mudhpar (B), Block Pamgarh, District Janjgir Champa Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Chief Executive Officer Zila Panchayat, Janjgir, District Janjgir Champa Chhattisgarh.
3. District Education Officer Janjgir, District Janjgir- Champa Chhattisgarh.
4. Block Education Officer Pamgarh District Janjgir Champa Chhattisgarh.

---Respondents

For Petitioner	:	Shri CJK Rao, Advocate.
For State	:	Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/06/2019

1. The grievance of the petitioner in this petition is the inaction on the part of the respondents in not considering the petitioner for absorption.
2. The contention of the petitioner is that, the petitioner was initially appointed as Teacher (P) (Shiksha Karmi Grade-II) vide order dated 23.06.2010 and have joining immediately and since then the petitioner is working on the said post under the respondents.
3. According to the petitioner, now that the petitioner has completed 8 years of service, he is entitled to be absorbed in the Education Department in the light of the policy decision of the State Govt. dated 30.06.2018. He further submits that the department has not considered the petitioner or has deliberately left out the claim of the petitioner only on the ground that the petitioner was subjected to punishment during the intervening period on the ground of remaining unauthorized absence.

4. Perusal of record would show that the petitioner was inflicted with a minor punishment on 07.05.2019 for remaining unauthorized absence for a considerable period of time. However, what is to be seen is that, the petitioner for the period of unauthorized absence has already been punished by imposing punishment of stoppage of two annual increments without cumulative effect. The period of absence has not been treated as dies-non till date. Unless there is a specific order of dies-non passed, for all practical purposes the period has to be treated as continuous in service unless otherwise an order is passed by the State Govt. in this regard. Even if there is an order passed treating the entire intervening period as 'No Work No Pay' that would also lead to a situation that the period has to be treated as continuous.
5. Under the circumstances, this court is of the opinion that let the respondents No.2&3 consider the claim of the petitioner for absorption at the earliest in accordance with law taking into consideration the entire factual matrix of the case.
6. Accordingly, the writ petition stands disposed of.
7. Disposal of this writ petition would not come in the way of the respondents in taking an appropriate order so far as period of unauthorized absence from duty is concerned.

Sd/-
(P. Sam Koshy)
Judge