

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4611 of 2019**

1. Ravi Lal Nishad S/o Shri Puranik Nishad, Aged About 36 Years, Working As Teacher (Panchayat) And Posted At Govt. Boys Middle School Sarsiwa, Block Bilaigarh, District Baloda Bazar Bhatapara, Chhattisgarh
2. Kung Bihari Sahu S/o Shri Dharam Lal Sahu, Aged About 46 Years Working As Teacher (Panchayat) And Posted At Govt. Middle School Chorbhatti, Block Bilaigarh, District Baloda Bazar Bhatapara Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mantralaya Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. District Education Officer, Balodabazar, District Balodabazar Bhatapara, Chhattisgarh
3. Chief Executive Officer, Zila Panchayat Baloda Bazar, District Baloda Bazar Bhatapara, Chhattisgarh
4. Block Education Officer, Block Bilaigarh, District Baloda Bazar Bhatapara, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Uday Pratap Singh Sahu, Advocate
For State	:	Ms. Shriya Mishra, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****26.06.2019**

1. The grievance of the petitioners in this petition is non acceptance of the past services rendered by the petitioners as Shiksha Karmi Grade-II in the past for the purpose of absorption in the Education Department.
2. The case of the petitioners is that, they were initially appointed as Shiksha Karmi Grade-II way-back on 14.06.2010 & 07.02.2011 and subsequently in a fresh recruitment they got selected as Shiksha Karmi Grade-II on 14.07.2011 & 10.07.2013 respectively. For the purpose of granting revised pay scale, the State has taken the past services rendered by the petitioners as Shiksha Karmi Grade-II 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 petitioners now is that, though the department has accepted the past services of the petitioners for the purpose of grant of revised pay scale, but when the question of absorption came, the past services of the petitioners are not being considered for want of proper NOC from the previous place of service of the petitioners.
4. The contention of the petitioners is that, once when the department has considered the past services 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 petitioners 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 petitioners 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 petitioners 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 petitioners are not entitled for the relief that they have 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 petitioners' past services have 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 respondents 1 & 2 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 petitioners for the purpose of revised

pay scale.

8. It shall be the responsibility of the petitioners to apprise the respondents 1 & 2 so far as the order passed by this court is concerned.
9. The petitioners would also be at liberty to file a fresh representation, if they so want.
10. The Writ Petition accordingly stands disposed off.

**Sd/-
P. Sam Koshy
Judge**