

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5322 of 2019

Nadeem Khan S/o Marhum Shahid Khan Aged About 34 Years Presently Posted As Assistant Teacher (P) At Government Primary School Motimpur, Block Saharpur Lohara District Kabirdham Chhattisgarh, R/o Ward No.8, Gandai, Tahsil Gandal District- Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary Panchayat And Rural Development Department, Mantralaya, Mahanadi, Bhawan, Naya Raipur, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Chief Executive Officer Zila Panchayat Kabirdham, District- Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh
3. Chief Executive Officer Janpad Panchayat Sahaspur Lohara, District- Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Diksha Gouraha, Advocate
For State	:	Mr. P. Acharya, PL

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/07/2019

1. The challenge in the writ petition is to the order dated 30.06.2018.
2. The facts of the case are that the petitioner substantively is the employee of Panchayat Department governed by the rules framed under the Panchayat Raj Adhinium. The petitioner was initially appointed in the year 2011 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 petitioner meeting the requirement for promotion to the next higher post. In the instant case, since the promotions have been withheld, the petitioner may at least be granted the benefit of Kramonnati or else he would be put to substantial loss and they would also be losing substantially at the time of absorption of their 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 petitioners 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 fulfill 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 their 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 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 they have taken as 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. 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