

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5433 of 2019**

Chandrajay Kumar Markam S/o Late Mr. Shivilal Markam, Aged About 33 Years, By Occupation Teacher (Nagriya Nikay), Govt. Middle School Narhardeo, Block Kanker, District U.B. Kanker Chhattisgarh

---- Petitioner**Versus**

1. The State Of Chhattisgarh Through Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. Secretary, Urban Administration And Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
4. Nagar Palika Parishad, Kanker, through Its Chief Executive Officer, Nagar Palika Parishad, Kanker, District U.B. Kanker, Chhattisgarh
5. District Education Officer, District Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate
For State	:	Mr. Arvind Dubey, P.L.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****29.07.2019**

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 for the purpose of absorption.
2. The case of the petitioner is that he was initially appointed as Shiksha Karmi Grade-III vide order dated 14.07.2005 with Janpad Panchayat Narharpur. Thereafter, he got selected as Shiksha Karmi Grade-III under respondent no.4 i.e. Nagar Palika Parishad, Kanker vide order dated 07.09.2006 and since then he continues to discharge his duties on that post. Earlier the petitioner had filed WPS No. 5153/2019 for counting his previous service for grant of revised pay scale. The said writ petition was disposed of on 15.07.2019 and in compliance of the directions given by this Court, the respondents passed an order on 05.02.2019 granting the benefit of revised pay scale taking the previous service rendered by him with Janpad Panchayat, Narharpur.
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 services of the petitioner are 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. 6147 of 2018 (Shabnum Khatun v. State of Chhattisgarh & Ors. decided on 27.10.2018.

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 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 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 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/-
(Goutam Bhaduri)
Judge**