NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 5535 OF 2019

1. Hem Kumar Baghel S/o Mr. Vinayak Baghel Aged About 32 Years By Occupation Teacher (Panchayat), Govt. Middle School Alanar, Block Antagarh, Distt. Uttar Bastar Kanker (C.G.)
2. Mrs. Namrata Sahu W/o Mr. Rupendra Sahu Aged About 29 Years By Occupation Teacher (Panchayat), Govt. Middle School Kanechur, Block Bhanupratappur, Distt. U.B. Kanker (C.G.)
3. Dushyant Kumar Watti S/o Mr. Sudar Ram Watti Aged About 29 Years By Occupation Teacher (Panchayat), Govt. Middle School Kesekodikhas, Block Koylibeda, Distt. U.B. Kanker (C.G.)
4. Suresh Kumar Kemro S/o Mr. Radheshyam Kemro Aged About 31 Years By Occupation Teacher (Panchayat), Govt. Middle School P.V. 113, Block Koylibeda, Distt. U.B. Kanker (C.G.)

… Petitioner

Versus

1. The State of Chhattisgarh Through Secretary, School Education Department Mantralaya, Mahanadi Bhawan Naya Raipur, Distt. Raipur (C.G.)
2. Secretary, Panchayat And Rural Development Department Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur (C.G.)
3. Director, Panchayat And Rural Development Department Sanchanalya, Naya Raipur, Distt. Raipur (C.G.)
4. District Education Officer, Raipur (C.G.)
5. Chief Executive Officer Zila Panchayat, Distt. Uttar Bastar Kanker C.G.

… Respondents

For Petitioners	:	Mr. Parag Kotecha, Advocate.
For Respondents	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/08/2019

1. The grievance of the petitioners in this petition is the non-acceptance of the past service rendered by them as Shiksha Karmi Grade-III for the purpose of absorption.

2. The case of the petitioners is that they were initially appointed as Shiksha Karmi Grade-III vide order dated 16.6.2010 with the Municipal Corporation, Raipur. Thereafter, the petitioners got selected as Shiksha Karmi Grade-I under the Zila Panchayat, Kanker vide order dated 4.2.2013 and since then they continue to discharge their duties on that post. Earlier the petitioners had filed WPS No. 1247/2019 for counting their previous service for grant of revised pay

scale. The said writ petition was disposed of on 16.6.2018 and in compliance of the directions given by this Court, the respondents passed an order on 29.5.2019 granting the benefit of revised pay scale taking the previous service rendered as Shiksha Karmi Grade-III under Zila Panchayat, Kanker.

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 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 petitioners that so far as the 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 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 petitioners for the purpose of revised pay scale.

8. It shall be the responsibility of the petitioners to apprise respondent No.1 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 of.

Sd/-
(P. Sam Koshy)
JUDGE

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