

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 126 of 2016**

1. Sheikh Imamuddin S/o Shri Sheikh Hameed, Aged About 33 Years R/o Village & Post Mainpur, P. S. Mainpur, Tahsil Mainpur, District Gariyaband (CG)

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat & Rural Development Mahanadi Bhawan, Capital Complex, Mantralaya, New Raipur District Raipur Chhattisgarh.
2. The Deputy Director, Panchayat & Social Welfare Department, Raipur, District Raipur Chhattisgarh.
3. The Collector Gariyaband, District Gariyaband, Chhattisgarh.
4. The Chief Executive Officer, Janpad Panchayat Mainpur, District Gariyaband Chhattisgarh.
5. The Block Education Officer, Mainpur, District Gariyaband, Chhattisgarh.
6. Rajkumar Gayakwad, S/o Shri Sukhelal Gayakwad Aged About 45 Years Earlier Working As Shiksha Karmi Grade III At Primary School Motipani, Gram Panchayat Bhutbeda, Janpad Panchayat Mainpur, District Gariyaband Chhattisgarh.
7. Yagyadeo Sahu S/o Shri Chinta Ram Sahu, Aged About 34 Years Earlier Working On The Post Of Shikshakarmi Grade III At Primary School Patiyalpara, Janpad Panchayat Mainpur, District Gariyaband Chhattisgarh.
8. Dilip Kumar Narang S/o Shri Sukharu Ram Narang, Aged About 39 Years Earlier Working On The Post Of Shikshakarmi Grade III At Primary School Bhathapaki, Janpad Panchayat Mainpur, District Gariyaband Chhattisgarh.
9. Lukeshwar Kumar Sahu S/o Atmaram, Aged About 27 Years Earlier Posted As Shikshakarmi Grade III At Primary School Koyaba, Block Mainpur, District Gariyaband (CG)

---- Respondents

For Appellant : Shri Mateen Siddique, Advocate

For Respondent No.1 to 3 & 5 : Shri Vaibhav Kartikeya Agarwal, PL.

Hon'ble Shri P. R. Ramchandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order on Board

Per Parth Prateem Sahu, J

05/07/2019

1. Appellant/petitioner preferred this appeal against the order dated 8.4.2015 passed by learned Single Judge in WPS No.1183/2015 dismissing writ petition filed against the order 28.2.2015 by which the Collector, Gariyaband cancelled appointment of appellant on the post of Shiksha Karmi.
2. Brief facts relevant for disposal of this appeal are that on 8.9.2007 petitioner/appellant herein was appointed as Shiksha Karmi Grade-III in Janpad Panchayat Mainpur by the competent authority. Several complaints were received alleging corruption in the recruitment process of Shiksha Karmi conducted by Janpad Panchayat Mainpur and therefore an enquiry was conducted and on the basis of enquiry report, appointment of petitioner/appellant herein was cancelled on the ground that he procured additional marks on the basis of false and fabricated teaching experience certificate. Feeling aggrieved by order of cancellation of appointment, appellant along with others preferred writ petition before the writ Court and the said writ petition came to be disposed off vide order dated 20.2.2012 with a direction to the concerned authority to enquire into matter and pass appropriate orders after affording opportunity of hearing to respective candidates/Shiksha karmis. In compliance of the order passed by writ Court, the Collector, Gariyabandh issued notice to the petitioner and after affording opportunity of hearing, vide order dated 28.2.2015

removed the appellant herein from the post of Shiksha Karmi Grade-III on the ground that teaching experience certificate submitted by him has been issued by a government school, therefore, he could not have been awarded additional marks. It has further been recorded that scout guide certificate submitted by appellant was also not genuine. Aggrieved by the order dated 28.2.2015, appellant preferred writ petition before the writ Court, which is subject matter of this writ appeal.

Taking into consideration the fact that documents submitted by petitioner/appellant herein were not found to be genuine, the learned Single Judge arrived at a conclusion that as additional marks were procured by petitioner/appellant on the basis of forged & fabricated certificate submitted along with application form, therefore, he is not entitled for benefit of additional marks.

3. Learned counsel for appellant submits that present is not a case where appellant has been denied additional marks towards experience on account of submission of forged and fabricated experience certificate. In fact, the additional marks have been denied to appellant by the Collector on the ground that experience certificate produced by him was issued by a government primary school. He refers to a document, which is letter dated 20.7.2007 issued by the Joint Secretary, Panchayat & Rural Development Department, Govt. of CG, Raipur issued in response to a specific query being made by a Member of Legislative Assembly as to whether marks are to be awarded on the basis of experience certificate issued by a government primary school or not and in this letter it has been

specifically mentioned by the Joint Secretary that if a candidate has done teaching work in any government primary school and he has procured teaching experience certificate from that school, then said candidate should be awarded additional marks towards experience. He also refers to order passed by this Court in WPS No.1778/2017 wherein the writ Court while considering issue with respect to award of additional marks to the candidates having experience certificate issued by the District Primary Educational Programme (DPEP), has observed thus:-

“4. Considering the entire facts situation of the case, instead of keeping these petitions pending, all the writ petitions are disposed of with a direction to the concerned Jila Panchayat to consider the contents of Rule 9 (1) (b) of the Rules, 1997 and the State Government's communication dated 20.07.2007 at the time of taking final decision in the matter. In case of any adverse order against the petitioners, the same shall not be acted upon for a period of one month from the date of order.”

4. On the basis of above facts and circumstances of case, learned counsel for the appellant submits that as the writ Court has already taken a view and directed the competent authority i.e. Chief Executive Officer, Jila Panchayat to consider Rule 9 (1) (b) of the Rules, 1997 & communication dated 20.2.2007 and to take final decision as to whether candidates who have acquired experience certificate from DPEP are entitled for additional marks towards experience or not, the appellant is also entitled for the same relief and therefore he prays that this appeal may also be disposed of in

aforesaid terms.

5. Learned counsel appearing on behalf of the State submits that as the matter is to be considered by competent authority with respect to award of additional marks towards experience in accordance with Rule 9 (1) (b) of the Rules, 1997, therefore, at this stage, he has no objection if the prayer made on behalf of appellant is allowed.
6. We have considered the facts and circumstances of case and also perused records of case.
7. Perusal of experience certificate, which is part of Annexure A-3 to writ appeal, reveals that the same has been issued under the seal & signature of Headmaster and also certified by the Block Education Officer concerned. As per this certificate, appellant has worked as 'teacher' in Government Primary School, Mainpur from 01.10.02 to 30.04.2005. As before the writ Court cases of number of petitioners having different grounds of challenge were taken together and from perusal of the order it appears that specific ground whether marks towards experience on the basis of experience certificate issued by a government primary school could not be considered, therefore, in the light of communication / letter dated 20.7.2007 issued by the State Government and subsequent orders passed by writ court in writ petitions including in WPS No.1778/2017, we are of considered view that the matter requires reconsideration at the end of competent authority i.e. Chief Executive Officer, Janpad Panchayat Mainpur.
8. In view of above, writ appeal is allowed, orders impugned are set aside and the matter is remanded back to Chief Executive Officer,

Janpad Panchayat Mainpur for taking decision afresh in respect of grant of additional marks against teaching experience certificate issued by a government primary school (DPEP) in the light of letter dated 20.7.2007 (part of Annexure P-17) issued by the State Government and contents of Rule 9 (1) (b) of the Rules, 1997 and also considering the genuineness of certificates enclosed with application. This exercise shall be done within two months from the date of receipt of a copy of this order.

9. Certified copy as per rules.

Sd/-
(P.R. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-