

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.6335 OF 2019**

1. Rajkumar Sahu S/o Late Bhukhi Ram Sahu Aged About 53 Years R/o Village - Hardi, Tahsil Janhgeet District Janjgir Champa Chhattisgarh Posted At Panchayat Secretary, Birkoni, Janpad Panchayat, Akaltara, District Janjgir Champa Chhattisgarh.

...Petitioner(s)**Versus**

1. State of Chhattisgarh Through The Secretary, Panchayat and Rural Development Department, Mantralya Naya Raipur, District Raipur Chhattisgarh.
2. Collector District Janjgir Champa Chhattisgarh.
3. The Chief Executive Officer Zila Panchayat Janjgir Champa District Janjgir Champa Chhattisgarh.
4. The Chief Executive Officer Janpad Panchayat, Akaltara, District Janjgir Champa Chhattisgarh.

... Respondent(s)

For Petitioner	:	Ms. Sharmila Singhai and Ms. GK Chawla, Advocates.
For Respondent-State	:	Shri Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****21.08.2019**

1. The petitioner, after the order of termination dated 31.01.2001 being set aside by the Single Bench of this Court on 15.11.2006 in Writ Petition No.1850 of 2001 was taken back in service on 24.06.2011. The order of Single Bench is also affirmed by the Division Bench in Writ Appeal No.30 of 2010 vide order dated 11.03.2011.
2. The grievance of the petitioner now is that, the petitioner has not been given the benefits that he is otherwise entitled for as per circular of the State Govt. dated 16.08.2013 (Annexure P/6) according to which the Panchayat Secretaries who have put in more than 15 years of service would be entitled for higher pay scale.
3. The contention of the petitioner is that since the writ petition was allowed on 15.11.2006 with 30 percent back wages and the order has also since been complied with, the intervening period i.e. the date of termination till

the date of reinstatement also has to be treated as continuous in service and thereby the entire period has to be taken note of for applying the circular dated 16.08.2013 (Annexure P/6).

4. The contention of the petitioner seems to be justified for the reason that the writ petition against the order of termination dated 31.01.2001 was already allowed by this court on 15.11.2006. The order of Single Bench was also affirmed by the Division Bench in Writ Appeal No.30 of 2010. The order of High Court stood complied with and the petitioner was reinstated in service and was granted back wages also.
5. Since there was an award of 30 percent back wages, for all practical purposes, the intervening period has to be treated as continuous in service. Once when the order of termination is held to be illegal and the same stands set aside, it would be a case where the petitioner has to be treated as if the order of termination never existed and his position stands restored to the stage from the date prior to the issuance of the termination order. Therefore, this court does not find any good reason why the said intervening period i.e. the date of termination and the date of reinstatement should not be treated as continuous in service.
6. Let the respondents No.3&4 consider the case of the petitioner and take appropriate steps so far as the claim of the petitioner for grant of benefits as per circular dated 16.08.2013 (Annexure P/6) is concerned within a period of four months from the date of receipt of copy of this order.
7. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge