

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 724 of 2018**

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Mantralaya, New Raipur Police Station Rakhi, District Raipur Chhattisgarh
2. The Commissioner Directorate Public Instructions, Pension Bada, Raipur Chhattisgarh.
3. The District Education Officer, Raipur District Raipur Chhattisgarh.

---- Appellants**Versus**

1. B.D. Dwivedi S/o Late Shri G.P. Dwivedi Aged About 75 Years Retired Principal Shri Woman Rao Lakhe Higher Secondary School, Raipur R/o Saryudham Byron Bazar, Raipur P.S. Kotwali, Raipur Civil And Revenue District Raipur Chhattisgarh.
2. President Shikshak Pracharak Samiti, Raipur, C/o Shri Waman Rao Lakhe Higher Secondary School, Gandhi Chwok, Chhotapara Raipur Chhattisgarh.
3. Principal Shri Woman Rao Lakhe Higher Secondary School, Gandhi Chowk, Chhotapara, Raipur Chhattisgarh.

---- Respondents

For Appellants/State	Shri R.S. Baghel, Dy. Adv. General
For Respondent No.2 & 3	Dr. Shiv Kumar Shrivastava, Adv.

Hon'ble Shri Prashant Kumar Mishra, Ag.CJ**Hon'ble Shri Parth Prateem Sahu, J.****Judgment on Board****By****Prashant Kumar Mishra, Ag. CJ**

15/04/2019

1. Writ Court has allowed the writ petition preferred by the retired teacher (respondent No.1 herein - henceforth 'the writ petitioner') of a Government aided educational institution allowing him to obtain the benefit of leave encashment on the strength of the State Government's circular dated 25-8-1986 (Annexure – P/3 to the writ petition).
2. In this writ appeal the State would place reliance on a circular issued by the erstwhile State of Madhya Pradesh on 22-8-1984 whereby the benefit of leave encashment was specifically denied to the teachers of private aided educational institutions. Even if a previous circular was issued on 22-8-1984, the fact remains that by another circular dated 25-8-1986 made effective from 1-7-1986 the State Government has decided to confer the benefits of House Rent Allowance (HRA), leave encashment and ex gratia to teachers of private aided educational institutions.
3. Merely because some other circular was issued at the previous point of time, the applicability of the subsequent circular cannot be withhold. Nothing has been brought to our notice that any circular has been issued after 25-8-1986 to the effect that the benefit of leave encashment shall not be available to such teachers.

4. In view of the above, we do not find any ground to interfere with the order impugned passed by the learned Single Judge. Accordingly, the writ appeal deserves to be and is hereby dismissed.
5. However, it goes without saying that if the writ petitioner has been granted the benefit of circular dated 25-8-1986 he would be entitled to receive payment from the concerned educational institution, who, in turn, shall seek grant from the State Government. Thus, the writ petitioner shall move an application before the educational institution where he had served, who, in turn, shall obtain grant from the State Government for making payment to the writ petitioner.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Gowri