

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 9050 of 2019**

- Smt. Abha Dubey W/o. Late Naresh Dubey Aged About 48 Years Working As Teacher (Panchayat), Government Middle School, Chicholi, Block Nawagarh, District : Bemetara, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya Mahanadi Bhawan, Naya Raipur, Atal Nagar, District : Raipur, Chhattisgarh
2. Commissioner-Cum-Director Department Of Panchayat And Rural Development, Directorate, Indravati Bhawan, Naya Raipur, Atal Nagar, District : Raipur, Chhattisgarh
3. Chief Executive Officer Zila Panchayat, Bemetara, District : Bemetara, Chhattisgarh
4. District Education Officer Bemetara, District : Bemetara, Chhattisgarh
5. Block Education Officer Nawagarh, District : Bemetara, Chhattisgarh

---- Respondents

For Petitioner : Mr. C. Jayant K. Rao, Advocate

For Respondents/ State : Ms. Akanksha Jain, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****07/11/2019**

1. The grievance of the petitioner is that she has been working as a Shikshakarmi Grade-02 and she remains absent for the reasons that her husband was suffering from cancer. Consequently, she remains absent from 01.09.2016 to 16.10.2017. Subsequently, when she joined it was treated that from 01.09.2016 to 16.10.2017 would be treated as "No work no pay".

2. It is further contended that after the petitioner joined her service the revised pay scale was granted to the petitioner considering the petitioner to be continuation in service and it was not considered as dies-non or break in service. However, the petitioner has not been regularized for the reasons for counting the continuity, the absence has been taken as a breach of continuity in the service. It is stated that the similar issue has been decided in WPS No.5348/2019 by this Court on 23.07.2019, in the like manner it was held that "No work no pay" can never be treated as dies non and break of service. It is also stated from Annexure-P/9 dated 16.07.2019, a communication is made for regularizing of service of the petitioner by considering the absence period of "No work no pay" and as not break in the service at Panchayat.
3. The record shows the similar issue has been decided in WPS No.5348/2019 the ratio laid down in the aforesaid in Paras 6 and 7 with respect to evaluating "No work no pay" as under :-

"6. The only effect of the order of "No work no pay" is that the petitioner would not be entitled for the monetary benefits attached to the post during the said period of absence and except for the said benefit, for all other practical purposes the period has to be treated as continuous service."

*7. It is a settled position of law that unless there is a specific order of **dies non** being passed for a specific period, for all practical purposes the entire period has to be treated as continuous. "No work no pay" can never be treated as **dies non** and "No work no pay" also cannot be treated as a break in service."*

4. Considering the issue that has already been settled that the "No work no pay" cannot be treated as dies non or break in the service, the non-consideration of the petitioner for absorption in spite of having put in more than 8 years in service is bad in law. Accordingly, the respondents are

directed to take a fresh decision on the claim of the petitioner for absorption in the Education Department in accordance with the circular of the State Government dated 30.06.2018 at the earliest preferably within a period of three months from the date of receipt of the copy of this order.

5. Accordingly, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)
Judge

Yasmin