

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1692 of 2014**

- G.L.Chandrakar S/o Late Shri Laxman Chandrakar Aged About 74 Years Retired Principal Govt. Higher School Pondi (Balod) P.S. Balod Civil And Revenue Distt. Durg C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Tribal Welfare Department, Mahanadi Mantralaya, New Raipur, Chhattisgarh
2. Joint Secretary, Tribal Welfare Chhattisgarh Governmet Mahanadi Mantralaya, New Raipur Distt. Raipur C.G.
3. Commissioner, Tribal Welfare And Development Raipur District : Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri A.S. Rajput, Advocate

For Respondents/ State : Shri Soumya Rai, P.L.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****21/01/2020**

1. Heard.
2. It is contended that the petitioner is a senior citizen and he has attained the age of 80 years, therefore, prayer is made to hear the case finally.
3. Considering the fact that the petitioner is senior citizen and having attained the age of 80 years, the case is heard today.
4. The petitioner is a retired Principal. The contention of the petitioner is that he was working as a Lecturer in the School and was promoted by order dated 25.01.1994 to the post of Principal. The post of promotion was shown

as Principal, High School, Balod, Raipur. Subsequently by order dated 25.02.1994 he was posted as Principal in Higher Secondary School, Nagari Raipur where-from he eventually retired.

5. It is contended that as per the M.P. Pay Revision Rule 1990 as a Principal of Higher Secondary School, the petitioner was entitled to the pay scale of Rs. 2375 - 4125/-. The reference is made to Annexure P-4 and would submit that the persons who were discharging the job of Principal of Higher secondary School are given the pay scale of Rs. 2375-4125/- but the petitioner was given the pay scale of RS. 2000-3500/-. It is stated that the petitioner has discharged the job of Principal Higher Secondary School for long period, therefore, he should be paid the similar pay scale as it was granted to others similarly placed persons. It is further contended that as per Annexure P-5, on the earlier round of litigation the petitioner was directed to file a representation before the State and the representation having been filed the same was eventually dismissed by order dated 21.02.2014. It is further contended that the petitioner is entitled for similar benefit as has been granted to similarly situated persons in case of R.M. Shukla and Ors Vs. State of C.G. (Annexure P-8) whereby this Court in WPS No. 6592 of 2008 has ordered to pay the pay scale of Rs. 2375-4125/- to like nature of petitioners.
6. Per contra, learned State counsel would submit that the petitioner was working as lecturer in the school by Tribal Department and he was promoted as Principal High School in the pay scale Rs. 2000-3500/- and at that time the similar pay scale was payable to the Principal of High School. It was further stated that the case of petitioner is different from that of others where the reference is made i.e. WPS No. 6592 of 2008 and the pay scale has been rightly paid to the petitioner.
7. Heard learned counsel for the parties and perused the documents.

8. Perusal of the documents would show that the petitioner was promoted by order dated 25.01.1994 (Annexure P-1) and was initially posted at the High School Balod and the pay scale payable was of Rs. 2000-3500/-. Subsequently after a month, the petitioner by order dated 25.02.1994 was posted as the Principal Higher Secondary School Nagari Raipur. Annexure P-3, which is a copy of the pay scale of M.P. Pay Revision Rule, 1990 shows that Principal of the Higher Secondary School carries the pay scale of Rs. 2375-4125/-. Annexure P-2 would reflect the fact that the petitioner has discharged the job of Principal higher Secondary School Nagari, Raipur till he retired which has not been rebutted. The document Annexure P-4 would show that the other persons who were appointed as Principal of Higher Secondary School were given the pay scale of Rs. 2375-4125/-. The contention of the respondents that the petitioner was employee of Tribal Department and therefore would be governed by M.P. Adim Jati Harijan Evam Pichda Varg Kalyan (Rajpath) Evam Bharti Niyam, 1969. The schedule of the Rules shows that for the Principal of Higher Secondary School the pay scale of Rs. 2375-4125/- was payable and for the Principal of High School the pay scale was shown as Rs. 2000-3500/-. If undisputed fact reflects that the petitioner had discharged the job of Principal Higher Secondary School from 1994 itself, which has not been rebutted by the State then in such case the petitioner having discharged the job of a Principal of Higher Secondary School, he cannot be discriminated from the other like employee.
9. The order on the representation (Annexure P-7) finds a reference to WPS No. 6592 of 2008, which is filed as Annexure P-8. The reading of the order along with the order of the High Court shows that those similarly placed persons were also promoted from the post of Lecturer to the post of Principal in the pay scale of Rs. 2375-4125/- in the year 1990. Subsequently such pay scale was reduced to Rs. 2000-3500/- by order dated 19.03.1991

which was subject of challenge in WPS No. 6592/2008 wherein by order dated 08.03.2013, the order of reduction of pay scale from Rs.2375-4125 to Rs. 2000-3500/- so far as it relates to likewise persons who were appointed in the Tribal Department was struck down. Therefore the submission of the State counsel that the petitioner was an employee of the Tribal Department and therefore he is not entitled for the pay scale of RS. 2375-4125/- cannot be allowed to sustain. On the contrary the case of the petitioner seems to be similar to that of persons who filed the WPS No. 6592 of 2008 wherein the order has been passed on 08.03.2013 and reference with respect to the pay scale would be applicable in favour of the petitioner.

10. In a result it is directed that since the petitioner had discharged the job of Principal, Higher Secondary School, Nagari, Raipur since February, 1994 and retired as such he would be entitled for the pay scale of Rs. 2375-4125/- as was payable to other Principles of like nature of the higher Secondary Schools. Therefore, necessary calculations shall be carried out and the arrears as per the revised pay scale with interest at the @ 6% shall be paid to the petitioner within a reasonable period of time.
11. With the aforesaid observation, the petition stands allowed.

Sd/-

Goutam Bhaduri
Judge