

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCC No. 309 of 2018

Pitamber S/o Shri Paretan Sahu Aged About 38 Years R/o Village And Post Mahuabhata, Post Mohgaon, Tahsil Saja, District Bemetara, Chhattisgarh, District : Bemetara, Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. The Collector Durg District Durg, Chhattisgarh, District : Durg, Chhattisgarh
3. The Chief Executive Officer Janpad Panchayat Navagarh, District Durg, Chhattisgarh, District : Durg, Chhattisgarh
4. District Education Officer Bemetara, Chhattisgarh, District : Bemetara, Chhattisgarh

---Non-Applicants

For Applicant	:	Mr. Shantam Awasthi, Advocate
For Non-Applicants	:	Mr. Chandresh Shrivastava, Dy. A.G.

Hon'ble the Chief Justice

Hon'ble Mr. Justice P. Sam Koshy

Judgment on Board by Hon'ble the Chief Justice

01/07/2020

1. The present MCC has been preferred seeking clarification of the order dated 28.04.2017 passed in Writ Appeal No. 284 of 2016.
2. The applicant was appointed as a Shiksha Karmi Grade-III on 20.07.2007. Having worked for about 5-6 months, the services of the applicant were terminated by the Collector vide order dated 02.12.2008. Against the said order of Collector. The applicant thereafter preferred an appeal to the Commissioner who too rejected the appeal vide order dated 22.02.2011. The applicant thereafter preferred a Writ Petition i.e.

WP(S) No. 2206/2011, which was dismissed on 03.11.2015 against which the Writ Appeal No. 284/2016 was also preferred.

3. The Writ Appeal finally stood allowed on 28.04.2017. The Division Bench while allowing the appeal had quashed the order of the Collector dated 02.12.2008 and also the order dated 22.02.2011 passed by the Commissioner in the appeal. The order of the Division Bench was complied with by the respondent No. 3 vide Annexure A/2 dated 09.11.2017. However, while taking back the applicant in service, he was granted a fresh appointment on temporary basis. It is this order of a fresh appointment which compelled the applicant to move an application for clarification before this High Court, so far as consequence which the applicant would be entitled for on allowing of the Writ Appeal is concerned.
4. The counsel for the applicant very fairly submitted that the applicant does not claim for any monetary benefit as such, but he is more worried about the seniority that he would lose in case if the order dated 09.11.2017 is treated as a fresh appointment, thereby he would be put to loss of about 10 years of service.
5. The learned counsel for the State also during the course of argument accepted the fact that the consequence of an order getting set-aside by the High Court, the legal position would be that of the position rolling back to the stage as it stood prior to the original order of termination dated 02.12.2008 being passed.
6. Given the said submission by the counsel appearing on either side, we are of the firm view that the order (Annexure A/2) does require the clarification so far as the consequential relief that the applicant would

be entitled for, particularly in respect of protection of the seniority of the applicant for the period during which he was litigating the matter before different forum.

7. Since counsel for the applicant also confines the claim of the applicant for proper seniority, we intend to direct the State Government to issue necessary instructions to the respondents No.3 to ensure that the Annexure A/2 stands clarified to the extent of granting proper seniority to the applicant from the date of his initial appointment in the year 2007 and the intervening period i.e. the period from the date of termination till he was taken back in service in the year 2017 by giving notional fixation and the actual consequential benefits to the applicant be made prospectively i.e. from the date of his being reinstated in service in 2017 onwards.
8. The State Government is directed to ensure that the order of this Court is complied with within an outer limit of 90 days from today.
9. With the aforesaid observations and directions, the present MCC stands allowed and disposed of.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE