

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 3359 OF 2020**

- Sunder Lal Kashyap S/o Late Shri Kapoor Chand Kashyap Aged About 75 Years Retired Assistant Teacher R/o Village And Post Makadi, Police Station And Tahsil Kondagaon, District Kondagaon (CG)

... Petitioner**versus**

1. State Of Chhattisgarh, through the Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, New Raipur (CG)
2. The Collector, Tribal Development Branch, District Bastar-Jagdalpur (CG)
3. The Collector, Tribal Development Branch, District Kondagaon (CG)
4. Assistant Commissioner, Tribal Welfare Development Department, Jagdalpur, District Bastar-Jagdalpur (CG)
5. Assistant Commissioner, Tribal Welfare Development Department, Kondagaon, District Kondagaon (CG)
6. Block Education Officer, Block Makadi, Tahsil and District Kondagaon (CG)

... Respondents

For Petitioner	:	Mr. R.S. Patel, Advocate.
For Respondents/State	:	Mr. Mateen Siddiqui, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01/12/2020**

1. Challenge in the present writ petition is to the order dated 13.10.2008 whereby the services of the Petitioner have been terminated by the Respondents.
2. The impugned order was dated 13.10.2008 and the present writ petition now has been filed on 6.8.2020 that is practically about 12 years after the impugned Order was passed.
3. The only justification which the learned Counsel for Petitioner raises is that in an earlier writ petition that the Petitioner had filed, i.e., WPS No. 2172/2012, decided on 26.3.2018, while dismissing the said writ petition the option to the Petitioner was left open to challenge the said order of termination. Thereafter, the present writ petition has now been filed.
4. From perusal of records and considering what has been contended by learned Counsel for Petitioner, it reflects that the Petitioner who was working on the post of Assistant Teacher abruptly went on unauthorized leave and continued to remain on unauthorized absence from duty for a period of 8 years, 10 months and 12 days, that is practically about 9 years in between 20.12.1993 to 31.2.2002. Further, from the pleadings made in the writ petition itself it clearly reflects from paragraph 8.2 that the authorities under the Respondents had vide their

correspondence dated 8.2.2002 sent a memo to the Collector in respect of the unauthorized absence of the Petitioner for a considerable long period of time and recommending for proceeding against him for removal from service. Immediately thereafter the Petitioner moved an application on 20.4.2002 seeking for voluntary retirement from services, which was again forwarded to the higher authorities of the department. However, the said application for voluntary retirement of services submitted by the Petitioner was not accepted by the authorities and they after an enquiry issued the order of termination vide the impugned order dated 13.10.2008.

Though in the earlier round of litigation this Court had granted an opportunity to the Petitioner to challenge the order of termination, however when we look into the proceedings where challenge is to the order of termination, it reflects that no material whatsoever was produced by the Petitioner for justifying the period of his unauthorized absence between 20.12.1993 to 31.2.2002 except for the bald oral averment of the Petitioner not being fit to discharge duties.

5. Another striking feature which reflects from the pleadings is that during the period of his absence the Petitioner did not intimate about his condition nor any request letter moved by the Petitioner seeking for grant of any leave in his credit for whatever reason he was absent for. Neither has there any strong supporting document enclosed along with the writ petition to justify his absence. However, from the perusal of the impugned order it also reflects that before passing of the order of termination on 13.10.2008, the Petitioner was duly served charge- with a sheet which the Petitioner in spite of having received did not respond to nor did he participate in the enquiry proceeding and the authorities finally had to pass the impugned order on 13.10.2008 terminating the services of the Petitioner.

6. As has been discussed earlier, neither during the departmental enquiry proceedings nor in reply to the charge-sheet nor has the Petitioner during the period of his absence or later on even along with present writ petition produced any document by which it could had been establish that the period of his absence was for a reason beyond the control of the Petitioner.

7. Thus, for all the aforesaid reasons, this Court does not find it to be a strong case made out by the Petitioner calling for an interference with the impugned order of termination.

8. Writ Petition stands dismissed accordingly.

/Sharad/

Sd/-
(P. Sam Koshy)
JUDGE