

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3598 of 2020**

- Anul Aviden S/o Zainul Aviden Aged About 28 Years R/o Ward No. 11 Masjidpara, Police Station And Post Ramanujganj, District Balrampur Ramanujganj Chhattisgarh.---- **Petitioners**

Versus

1. State of Chhattisgarh Through Secretary, School Education Department , Mahanadi Bhawan, Mantralaya , Atal Nagar, Nawa Raipur , District Raipur Chhattisgarh.
2. Commissioner Tribal Welfare Chhattisgarh. Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur , District Raipur, Chhattisgarh.
3. Collector (Education Department) Balrampur, District Balrampur Ramanujganj Chhattisgarh. ---- **Respondents**

&**WPS No. 3604 of 2020**

- Avantika Singh D/o Rampravesh Singh Aged About 26 Years R/o Village Pachaval, Post Mahrajganj, District Balrampur-Ramanujganj, Chhattisgarh. ---- **Petitioner**

Versus

- State Of Chhattisgarh Through- Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur.
- Commissioner Tribal Welfare Chhattisgarh, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur.
- Collector (Education Department) Balrampur, District Balrampur-Ramanujganj, Chhattisgarh ---- **Respondents**

For Petitioners	:	Mr. Manoj Paranjpe, Advocate.
For State	:	Mr. Avinash Tiwari, Dy. A.G.

Hon'ble Shri Justice Goutam BhaduriOrder15-09-2020

1. Heard.
2. Since the cause of action and facts involved in these petitions are similar in nature, therefore, they are being heard together and decided by this common order.
3. The contention of the petitioners is that the petitioners were appointed on 02.07.2013 (Annexure P-1) to the post of Peon respectively, their services were terminated by the Collector on 05.10.2015 (Annexure P-2) which was subject of challenge before the High Court and the High Court while deciding the bunch of petitions on 04.04.2017 (Annexure P-3) set aside the termination order and gave a fresh liberty to the Collector to initiate enquiry by giving opportunity of hearing to the petitioners. Thereafter, the enquiry was held again and petitioners were terminated on 29.11.2017 by the order of the Collector (Annexure P-4). The said order was subject of challenge before the Commissioner and the Commissioner vide order dated 05.06.2018 (Annexure P-5) allowed the appeal filed by the petitioners and set aside the order of the Collector whereby services of the petitioners were terminated. It is contended that the petitioners had initially joined to the post after termination order was set aside by the High Court on 04.04.2017 and despite they were working they were not paid

the salary up-till 25.09.2018. It is further submitted that the order of the Collector was stayed by the order dated 20.12.2017 (Annexure P-6) whereby the petitioners continued their job and after the order of termination passed by the Collector was set aside, the salary was subsequently paid after 25.09.2018.

4. Learned counsel for the petitioners submits that though the petitioners were initially appointed on 02.07.2013, however their seniority is being counted from the order of the Commissioner dated 05.06.2018. He would submit since the termination was set aside, as such, the seniority should have been counted from the date of initial appointment i.e. from 02.07.2013 (Annexure P-1). He further submits that under the circumstances, at present the petitioners may be given liberty to make a representation to the respondent No.3 to revive the gradation list taking into fact their initial appointment was from 02.07.2013. He further submits that the respondents may also consider the payment of salary from 04.09.2017 when they subsequently joined to the post after the termination and continued though the salary was not paid uptill 25.09.2018.
5. Learned State counsel would submit that the petition is premature as before finalization of the gradation list, objections have been invited. He would further submit that the order of the Commissioner whereby eventually the second termination order was set aside, the petitioners were not granted the back

wages and the order is of 2018. Therefore, the petitioners cannot claim for any liberty to claim for the back wages.

6. Perusal of the order of Commissioner dated 05.06.2018 (Annexure P-5) would show that the reinstatement of the petitioners were effected in year 2018. If the petitioners were not paid the back wages, it is for the petitioners to take the legal course and as of now, as on today, no liberty can be separately given to give a fresh cause of action under the garb of the order of the High Court to claim for back wages. With respect to the seniority since the petitioners pray that their seniority may be considered, the petitioners shall be at liberty to make a representation before the respondent No.3 within a period of 3 weeks who in turn shall decide the same within a further period of 6 months.
7. With the aforesaid observations, the present writ petitions stand disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Raju