

**HIGH COURT OF CHHATTISGARH AT BILASPUR****W.P.(S) No. 1171 of 2014**

Dev Kumar Yadav, S/o. Shri Krishna Lal Yadav, Aged About 34 Years, R/o. Old Police Line, House No.2, P.S. & Tahsil Kawardha Distt. Kabirdham, Chhattisgarh. Presently Posted As Teacher Panchayat (Shiksha Karmi Grade II), Government Middle School Sarangpurkala, Distt. Kabirdham, Chhattisgarh.

**---- Petitioner****Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, Naya Raipur Distt. Raipur, Chhattisgarh
2. Joint Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur, Chhattisgarh
3. Chief Executive Officer, Zila Panchayat, Kabhidham, Chhattisgarh
4. Chief Executive Officer, Janpad Panchayat, Dongargarh, Distt. Rajnandgaon, Chhattisgarh.

**---- Respondents**


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| For Petitioner | : | Mr. Anadi Sharma, Advocate on behalf of<br>Mr. Sandeep Singh, Advocate |
| For State      | : | Mr. Kunal Das, Panel Lawyer                                            |

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**Hon'ble Shri Justice Goutam Bhaduri****Order on Board****15.01.2020**

1. Grievance of the petitioner is that the petitioner was appointed as Shiksha Karmi Grade-III on 03.06.2005 at Kothatola. Subsequently, the petitioner appeared in the examination for the post of Shiksha Karmi Grade-II pursuant to the permission granted by the Chief Executive Officer and eventually he was succeeded to the post of Shiksha Karmi Grade-II and was allowed by order dated 31.05.2006 (Annexure P-3) to discharge his job of Shiksha Karmi Grade-II.
2. It is stated that the petitioner since has rendered 8 years of service, therefore, on completion of 8 years of service he is entitled to get the

revised pay scale as per the circular of the State. Since the petitioner has not been given the benefit of revised pay scale by counting the past service rendered as Shiksha Karmi Grade-III, the issue is being decided by this Court in case of *Mukesh Kumar Patel v. State of Chhattisgarh* in **WPS No.2530 of 2017** wherein the similar ratio was considered and it was held that the past service of the petitioner to get the benefit of revised pay scale on completion of 8 years of service on a lower post shall be considered.

3. State counsel opposes the argument.
4. Heard learned counsel appearing for the parties and perused the documents.
5. This Court in case of ***Mukesh Kumar Patel v. State of Chhattisgarh*** in **WPS No.2530 of 2017** and other connected matters vide order dated 28.11.2017 has passed the following orders :

*“13. Once it is found that there is no provision under the Rules or the advertisement providing that past services would not be counted in such situation, it is not open for the respondent to create a class of such Shiksha Karmis who have not obtained NOC before being recruited to the higher post of Teacher (Panchayat) cadre. Such norm of eligibility for counting 8 years service is not provided in the order dated 17.05.2013 also.*

*14. As earlier quoted, the Division Bench has observed, in no uncertain terms, that if the appellants were drawing the higher pay-scale after direct recruitment on the higher post and pay anomaly has been created by a subsequent decision of the respondents prejudicially affecting the appellants, the respondents are required to address the issue with regard to pay protection by removal of the anomaly. The Division Bench, thus, wanted the State Government to consider the issue, on remand, for removal of*

*the anomaly and not to create a separate class of Teacher (Panchayat) cadre to retain the anomaly.*

15. *It appears, the authority considering the issue has not properly construed the order passed by the Division Bench and treated as if the entire issue has been left open for decision on the merits ignoring the observation made by the Division Bench. There is enough guidance in form of observation or finding in the order passed by the Division Bench, which should have been considered by the State Government in its true perspective, while passing the order.*

16. *It is also worthwhile to notice that in **Smt. Reeta Singh v. State of Chhattisgarh & Others** [WA No.475 of 2015 decided on 29.10.2015] and other connected matters, the Division Bench of this Court while considering the issue of grant of seniority on voluntary transfer from one Janpad Panchayat to another, it has been held that such previous service prior to transfer shall be counted for eligibility for promotion, but not for seniority, therefore, as a necessary corollary, for counting the period of 8 years service for being eligible to obtain benefit of revised pay-scale also the previous service in the lower post of Teacher (Panchayat) cadre is to be counted.*

17. *For the forgoing, this Court is of the considered opinion that the impugned order dated 23.04.2016 runs contrary to the order passed by the Division Bench of this Court in **Dinesh Kumar Dewangan & Others v. State of Chhattisgarh & Others** [WA No.32 of 2015, decided on 09.12.2015], therefore, it deserves to be and is hereby quashed.*

18. *As a sequel, all the writ petitions are allowed. The petitioners shall be entitled to obtain the benefit of revised pay-scale on completion of 8 years service by including the services rendered by them on a lower post or on the same post.*

19. *There shall be no order as to costs.*

6. Considering the fact that the petitioner was permitted to appear in the examination and pursuant thereto he appeared and succeeded and

further following the ratio laid down as above, it is observed that the service rendered by the petitioner in the lower post of Shiksha Karmi Grade-III from 03.06.2005 shall be considered to obtain the benefit of revised pay scale on completion of 8 years of service.

7. In a result, the writ petition is allowed. No order as to cost.

Sd/-  
**(Goutam Bhaduri)**  
**Judge**

Ashok