

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3839 of 2020**

Ram Bagas Netam S/o Shri Pusau Ram Netam Aged About 47 Years Working As- Head Master, At- Primary School, Jogidipa, Block- Bilaigarh, District- Baloda Bazar-Bhatapara, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of School Education, Mantralay, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
2. The Director, Public Instructions, Chhattisgarh, Indrawati Bhawan, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
3. District Education Officer, Education District Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh.
4. Block Education Officer, Block Bilaigarh, District Baloda Bazar - Bhatapara, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Rajesh Kumar Kesharwani, Advocate
For Respondent/ State	:	Mr. Sudeep Agrawal, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri**ORDER****01.10.2020**

Heard.

1. Learned counsel for the petitioner contends that the petitioner is appointed as Head Master in the year 2010 and as per the government circular dated 25.03.2017 & 27.09.2017 (Annexure P-3) and 05.01.2011 (Annexure P-4), since the petitioner has completed his B.Ed/D.Ed/B.T.I. degree before joining at his own expenses, therefore he was given two advance increment. Subsequently, by a general order dated 12.06.2020 (Annexure P-2) without examining the entitlement of the petitioner to receive the advance increment, an omnibus order have been passed for recovery by order dated 01.07.2020.

2. Learned counsel further submits that the petitioner is entitled for two advance increments as he has completed his B.Ed./D.Ed/B.T.I. degree before joining his service at his own expenses. Learned counsel further submits that before such recovery orders have been passed no show cause notice has been given to the petitioner. He further submits that the issue has been already decided by this High Court and the entitlement of petitioner is no more an issue to be adjudicated.
3. Learned State counsel opposes the argument.
4. Perusal of the order dated 01.07.2020 (Annexure P-2) would show that recovery orders have been issued and the list of teachers have been named. Prima facie it shows that no notice was given to justify the entitlement of the petitioner. Since no opportunity of hearing was given to the petitioner and the order of recovery has already been made, it do not satisfy the doctrine of *audi alteram partem* and necessarily the recovery would have a civil consequence. In a result, the order dated 01.07.2020 as against the petitioner is quashed. However, the State shall be at liberty to serve the petitioner a show cause and after giving him proper opportunity of hearing, appropriate orders may be passed.
5. In view of the above, the petition stands finally disposed off.

Sd/-
Goutam Bhaduri
Judge

Aks