

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4101 of 2020**

Devendra Choudhary S/o Vikhary Choudhary Aged About 28 Years R/o Village Shivpur, Post Dhandhapur, Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.

---- **Petitioner**

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**

For Petitioner : Mr. Manoj Paranjpe, Advocate

For Respondents/State : Ms. Akansha Jain, Dy.G.A.

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

14/10/2020

Heard

1. The contention of the petitioner is that the petitioner was appointed on 02.07.2013 (Annexure P-1) to the post of Peon, his 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 petitioner. Thereafter, the enquiry was

held again and petitioner was 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 petitioner and set aside the order of the Collector whereby services of the petitioner was terminated. It is contended that the petitioner had initially joined to the post after termination order was set aside by the High Court on 04.04.2017 and despite he was working he was 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 petitioner continued his job and after the order of termination passed by the Collector was set aside, the salary was subsequently paid after 25.09.2018.

2. Learned counsel for the petitioner submits that though the petitioner was initially appointed on 02.07.2013, however his 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 petitioner may be given liberty to make a representation to the respondent No.3 to revive the gradation list taking into fact his 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 he subsequently joined to the post after the termination and continued though the salary was not paid uptill 25.09.2018.
3. 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 petitioner was not granted the back wages and the order is of 2018. Therefore, the petitioner cannot claim for any liberty to claim for the back wages.

4. Perusal of the order of Commissioner dated 05.06.2018 (Annexure P-5) would show that the reinstatement of the petitioner was effected in year 2018. If the petitioner was not paid the back wages, it is for the petitioner 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 petitioner pray that his seniority may be considered, the petitioner 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.
5. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-

(Goutam Bhaduri)
Judge