

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 432 of 2020

*(Arising out of order dated 27.08.2020 passed by the learned Single Judge
in WPS No.3409/2020)*

- Vijay Kumar Satapathy S/o Late Chakradhar Satapathy Aged About 40 Years R/o Village- Porath, Thana- Sariya, PO- Lukapara, Distt. Raigarh, Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department of Panchayat And Rural Development, Mantralay, Mahanadi Bhawan, Naya Raipur, Distt. Raipur, Chhattisgarh
2. Collector Raigarh, Distt. Raigarh, Chhattisgarh
3. Chief Executive Officer Janpad Panchayat, Baramkela, Distt. Raigarh, Chhattisgarh

---- Respondents

For Appellant	:	Mr. Abhishek Pandey, Advocate
For Respondents/State	:	Mr. Siddharth Dubey, Dy. Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, P. R. Ramachandra Menon, Chief Justice

09.12.2020

1. Interference declined by the learned Single Judge to accede to the prayer of the Petitioner to permit him to re-join duty as a Shikshakarmi Grade-III pursuant to the request made by him in this regard on 27.06.2020, after the admitted resignation from the service on 07.02.2011 and the subsequent joining in another post of Technical Assistant in Janpad Panchayat– Malkharouda, District Janjgir-Champa from 08.02.2011 to 03.09.2014 is put to challenge in this appeal.
2. Heard Mr. Abhishek Pandey, the learned counsel appearing for the Appellant and Mr. Siddharth Dubey, the learned Deputy Government Advocate for the Respondents-State.

3. The Appellant was appointed as a contract Teacher Grade-III on compassionate ground vide order dated 07.03.2005 and later, it was converted as Shikshakarmi Grade-III under the Sarva Shiksha Abhiyan, School Education Department on 30.04.2005. The service of the Appellant was regularized w.e.f. 30.04.2007 as per order dated 12.08.2008 issued by the Competent Authority.
4. It is admitted by the Petitioner that, for his own reasons he had tendered resignation before the 3rd Respondent on 07.02.2011 and as admitted in the Memorandum of Appeal, he joined the service in a different post of Technical Assistant in Janpad Panchayat – Malkharouda, District – Janjgir-Champa on the very next day i.e. on 08.02.2011. According to the Appellant, he was working in the said post for more than three years and the same came to be an end on 03.09.2014. About six years later, he submitted a representation before the 3rd Respondent on 27.06.2020, seeking permission to join service in the post of Shikshakarmi Grade-III, which was rejected by the said Respondent on 16.07.2020. This led to filing of the writ petition in the Month of August, 2020, challenging Annexure-P/9 order passed by the Chief Executive Officer and to cause re-consideration of the application.
5. As submitted already, interference was declined by the learned Single Judge, pointing out that as per Annexure-P/7 dated 07.02.2011 produced by the writ petitioner, it was very much discernible that he had submitted resignation in the year 2011,

whereas the instant writ petition was filed only after 'nine years' in August, 2020. It was accordingly, that the learned Judge found that there was no reasons to explore the reason as to disputed question of facts. In the said circumstance, the writ petition was dismissed declining interference, based on the discretionary jurisdiction under Article 226 of the Constitution of India.

6. From the undisputed pleadings brought on record, it is clear that the Appellant had resigned from the post of Shikshakarmi Grade-III by submitting Annexure-P/7 on 07.02.2011. There was no grievance for the Appellant till he submitted representation on 27.06.2020, seeking permission to re-join duty in the post of Shikshakarmi Grade-III. It is also to be noted, as admitted by the Appellant in the Memorandum of Appeal that, after resignation from the post of Shikshakarmi Grade-III, he joined some other post of Technical Assistant in Janpad Panchayat – Malkharouda, District – Janjgir-Champa and continued to render services till 03.09.2014. This clearly shows that the resignation given by the Appellant was given effect to by himself and he consciously joined in another post and was serving the said Authority for more than three years, drawing salary from the concerned Authority. Nothing else is required to hold that the resignation had already come into effect because of the course and conduct pursued by the Appellant and this being the position, the Petitioner cannot be permitted to take a 'u-turn' seeking to set the clock back to 'zero' for a fresh start from the post he

resigned in the year 2011. There is absolutely no merit in the Appeal. The verdict passed by the learned Single Judge is perfectly in order and not assailable under any circumstance. Interference is declined and the appeal stands dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Chandra