

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10819 of 2019

Kanhaiya Lal Markam S/o Mr. Tijau Ram Markam Aged About 32 Years By Occupation Lecturer (Panchayat) Posted At Government Higher Secondary School Amabeda, Block Antagarh, District Uttar Bastar, Kanker, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, School Education Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Secretary Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Director Panchayat And Rural Development Department, Sanchanarya, Naya Raipur, District Raipur, Chhattisgarh
4. District Education Officer District Uttar Bastar Kanker, Chhattisgarh
5. Chief Executive Officer Zila Panchayat, District Uttar Bastar Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate
For Respondent/State	:	Ms. Beenu Sharma, PL

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03.01.2020

1. The grievance of the petitioners in this petition is non acceptance of the past service rendered by the petitioners in the past for the purpose of absorption in the Education Department.
2. The case of the petitioners are that, the petitioners have been working under the respondents on different posts and have subsequently been given fresh appointment on different posts and since then continues to discharge their duties on that post. Earlier the petitioners had filed separate writ petitions for counting their previous service for grant of revised pay scale. The said writ

petitions were disposed of and in compliance of the directions given by this Court, the respondents have passed an order on 05.12.2019 respectively granting the benefit of revised pay scale taking the previous service rendered by them.

3. The grievance of the petitioners now is that, though the department has accepted the past services of the petitioners for the purpose of grant of revised pay scale, but when the question of absorption came, the past services of the petitioners is not being considered for want of proper NOC from the previous place of service of the petitioners.
4. The contention of the petitioner is that, once when the department has considered the past service for the purpose of revised pay scale, there is no reason why past services could not be counted for the purpose of absorption. It was further the contention of the petitioners that so far as requirement of NOC for the purpose of revised pay scale is concerned, the same stood already quashed by this court in WPS No. 2530 of 2017, Mukesh Kumar Patel Vs. State of Chhattisgarh & Others and other connected writ petitions, decided by this court on 28.11.2017.
5. The State counsel opposing the petition submits that it is a case where the petitioners came into present service by way of participating as a fresh candidate in a fresh recruitment conducted, and therefore, the past services rendered cannot be counted unless the petitioners would have obtained an NOC from the department for appearing/selection in the subsequent recruitment process. He further submits that even the record does not show of the respondents taking a decision that the petitioners are not entitled for the relief that they have sought for and it is also not a case where there is any particular order which is under challenge in this writ petition.
6. Given the aforesaid contentions put forth on either side and on perusal of records, what is an admitted factual position is that the petitioner's past services has been counted by the department for the purpose of grant of revised pay

scale. Once when the department accepts the past services for the purpose of revised pay scale, this court does not find any strong reason why the said period would not be counted for the purpose of absorption as the department itself has accepted the said period as continuous service for the purpose of granting revised pay scale.

7. Under the circumstances, let the respondent No.1 take a fresh decision on the issue and pass an appropriate order at the earliest preferably within a period of 90 days from the date of receipt of copy of this order keeping in view the fact that the department itself has counted the past services of the petitioners for the purpose of revised pay scale.
8. It shall be the responsibility of the petitioners to apprise the respondent No.1 so far as the order passed by this court is concerned.
9. The petitioners would also be at liberty to file a fresh representation, if they so want.
10. The Writ Petition accordingly stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge