

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.5646 of 2010**

Manmohan Singh Pawar (dead) through LR's

Smt.Maya Pawar, widow of Late Manmohan Singh Pawar, aged about 56 years, R/o Jailpara, Tah. Dharamjaigarh, Distt.Raigarh (CG) presently resided at Qtr. No.A/121, Sagar Homes, Phase-II, Uslapur, Bilaspur (CG)

----- LR's of the Petitioner

Versus

- 1.State of Chhattisgarh, through – Secretary, Department of Tribal Welfare, Dau Kalyan Singh Bhawan, Raipur (CG)
- 2.State of Chhattisgarh through the Secretary, Department of General Administration, Dau Kalyan Singh Bhawan, Raipur (CG)
- 3.The Commissioner, Department of Tribal, Premises of Ravi Shankar University, Raipur (CG)
- 4.The Assistant Commissioner, Department of Tribal Welfare, Raigarh (CG)

----- Respondents

For LR's Petitioner : Mr.A.N.Bhakta, Advocate
For Respondents/State: Mr.Soumya Rai, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

10.8.2021

- 1.Proceedings of this matter has been taken-up through video conferencing.
- 2.The petitioner herein (died during the pendency of this writ petition and his legal representative has been brought on record) calls in question legality, validity and correctness of the impugned order dated 10.9.2010 (Annexure P-1) passed by respondent No.1 by

which his representation has been rejected finding no merit.

3. Mr. A. N. Bhakta, learned counsel for legal representative of the petitioner, would submit that in writ petition filed before this Court being WPS No. 415/2007 this Court has already held on 8.2.2010 that the petitioner is entitled for benefit of two advance increments having passed B.Ed. examination prior to entering into service, but only directed for correction in service book and other documents, for which he was allowed to make a representation and order of recovery was also set-aside, but surprisingly the State Government has held the petitioner is not entitled for two advance increments, which runs contrary to the decision passed by this Court on 8.2.2010.

4. On the other hand, Mr. Soumya Rai, learned Panel Lawyer for the respondents/State, would support the impugned order and submit that the petitioner's representation has rightly been rejected by respondent No. 1.

5. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

6. This Court in earlier round of litigation in WPS

No.415/2017 by order dated 8.2.2010 held as under:-

"5. I have heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto. The circular dated 24-12-1998 is very clear to the effect that all the teachers who have obtained B.Ed., M.Ed., B.T.I. etc. training certificate are entitled to two advance increments. In the present case, the petitioner who has obtained B.Ed. examination certificate in the year 1984 is squarely governed by the circular dated 24-12-1998.

6. For the reasons mentioned hereinabove, the order directing recovery of the amount, which was paid on account of acquisition of two increments, is quashed and the petitioner would be entitled to the payment of two advance increments from the date it was granted earlier on account of possession of B.Ed. decree. The respondents are accordingly directed to do the needful within a period of three months from the date of receipt of a copy of this order, subject to verification of facts."

7. A careful perusal of the order passed by this Court in WPS No.415/2007 on 8.2.2010 would show that this Court has already held that the petitioner is covered by the circular dated 24.12.1998 and proceeded to quash the order of recovery and clearly held that the petitioner will be entitled for two advance increments from the date it was granted earlier on account of possession of B.Ed. decree and also directed to do the needful within a period of three months from the date of receipt of a copy of that order, subject to verification of facts.

8. Since this Court has already held that the petitioner

would be entitled for two advance increments from the date it was granted earlier on account of possession of B.Ed. decree, the impugned order dated 10.9.2010 (Annexure P-1) passed by respondent No.1 is set-aside. Amount already recovered, if any, shall be refunded to legal representative of the petitioner within 30 days from the date of receipt of a copy of this order.

9. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-