

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.4998 of 2011

Mohd. Firoz Khan, S/o late Mohd. Safdar Khan, Aged about 48 years,
Presently posted as 'Coach', Kanya Krida Parisar, Ambikapur, Distt.
Surguja (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Scheduled Tribe & Scheduled Caste Development, Mantralaya, D.K.S. Bhavan, Raipur, Distt. Raipur (C.G.)
2. Commissioner, Department of Scheduled Tribe & Scheduled Caste Development, Raipur, Distt. Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Kashif Shakeel, Advocate.
For Respondents/State: Mr. Soumya Rai, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/08/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. Mr. Kashif Shakeel, learned counsel appearing for the petitioner, would submit that though the petitioner has been given retrospective promotion on the post of Coach with effect from 14-5-1997 by order dated 6-7-2006, but he has not been given monetary benefit from that date i.e. 14-5-1997 and he has made representation, but that has been rejected by the impugned order dated 4-4-2011 on the principle of "no work no pay", whereas on the basis of decision rendered by the Supreme Court in the matter of Ramesh Kumar v. Union of India and others¹, the petitioner is entitled for the said monetary benefit.

1 (2015) 14 SCC 335

3. Mr. Soumya Rai, learned State counsel, would support the impugned orders and would submit that monetary benefit has rightly been rejected to the petitioner.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
5. In Ramesh Kumar (supra), the Supreme Court has considered grant of monetary benefits in the case of retrospective promotion and held as under: -

“14. In normal circumstances when retrospective promotions are effected, all benefits flowing therefrom, including monetary benefits, must be extended to an employee who has been denied promotion earlier. So far as the monetary benefits with regard to retrospective promotion are concerned that depends upon case to case. In *State of Kerala v. E.K. Bhaskaran Pillai*², this Court held that the principle of “no work no pay” cannot be accepted as a rule of thumb and the matter will have to be considered on a case-to-case basis and in para 4, it was held as under: (SCC p. 527)

“4. ... We have considered the decisions cited on behalf of both the sides. So far as the situation with regard to monetary benefits with retrospective promotion is concerned, that depends upon case to case. There are various facets which have to be considered. Sometimes in a case of departmental enquiry or in criminal case it depends on the authorities to grant full back wages or 50 per cent of back wages looking to the nature of delinquency involved in the matter or in criminal cases where the incumbent has been acquitted by giving benefit of doubt or full acquittal. Sometimes in the matter when the person is superseded and he has challenged the same before court or tribunal and he succeeds in that and direction is given for reconsideration of his case from the date persons junior to him were appointed, in that case the court may grant sometimes full benefits with retrospective effect and sometimes it may not. Particularly when the administration has wrongly

denied his due then in that case he should be given full benefits including monetary benefit subject to there being any change in law or some other supervening factors. However, it is very difficult to set down any hard-and-fast rule. The principle “no work no pay” cannot be accepted as a rule of thumb. There are exceptions where courts have granted monetary benefits also.”

15. We are conscious that even in the absence of statutory provision, normal rule is “no work no pay”. In appropriate cases, a court of law may take into account all the facts in their entirety and pass an appropriate order in consonance with law. The principle of “no work no pay” would not be attracted where the respondents were in fault in not considering the case of the appellant for promotion and not allowing the appellant to work on a post of Naib Subedar carrying higher pay scale. In the facts of the present case when the appellant was granted promotion w.e.f. 01.01.2000 with the ante-dated seniority from 01.08.1997 and maintaining his seniority along with his batchmates, it would be unjust to deny him higher pay and allowances in the promotional position of Naib Subedar.”

6. It appears that the State has simply not considered the facts and circumstances of the case to hold that the petitioner is not entitled for monetary benefits merely applying the principle of “no work no pay” which has been rejected, whereas the facts have to be considered, as the Supreme Court in Ramesh Kumar (supra) has held that it cannot be applied as a rule of thumb and the matter has to be considered on a case-to-case basis.
7. In that view of the matter, the impugned order dated 4-4-2011 (Annexure P-11) is hereby set aside and the matter is remitted again to respondent No.2 who shall consider the case of the petitioner strictly in accordance with law for grant of monetary benefits with effect from 14-5-1997 within two months from the date for receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the matter and respondent No.2 is free to

decide the issue in accordance with law.

8. With the aforesaid observation and direction, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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