

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.2637 of 2013**

- Bholaram Yadav, S/o Raghunandan Prasad Yadav, Aged About 55 Years, R/o Tiwaripara, Kharod, Police Station-Sheorinarayan, Civil And Revenue Distt. Janjgir Champa, Chhattisgarh

----- Petitioner**Versus**

- 1.State Of Chhattisgarh Through The Secretary, School Education Deptt. Mantralaya Mahanadi Bhawan, Revenue Distt. Raipur, Chhattisgarh
- 2.The Director, Lok Shikshan, Pension Bada Raipur, Police Station-Civil Line, Civil And Revenue Distt. Raipur C.G., District : Raipur, Chhattisgarh
- 3.District Education Officer, Janjgir Champa, Police Station Janjgir, Civil And Revenue Distt. Janjgir Champa, Chhattisgarh

----- Respondents

For Petitioner	Mr. Prateek Sharma, Advocate
For Respondent-State	Mr. Animesh Tiwari, Dy. AG

Hon'ble Justice Shri Sanjay K. Agrawal**Order On Board****01/10/2021**

1. Mr. Prateek Sharma, learned counsel for the petitioner, would submit that the petitioner was promoted to the post of Teacher from Assistant Teacher vide order dated 21.03.2000

passed by the respondent No.3 vide Annexure-P/2 and thereafter to the post of Head Master vide order dated 26/31.07.2008 passed by the respondent No.3 vide Annexure-P/2 and subsequently the petitioner was promoted to the post of Lecturer vide order dated 27.09.2008 (Annexure-P/3) passed by the respondent No.2. But by order dated 26.06.2013 (Annexure-P/1) passed by the respondent No.2, all three promotions granted to the petitioner have been cancelled after 13 years and the original petitioner has been demoted to the post of Assistant Teacher without affording any opportunity of hearing and without giving any show cause notice to the original petitioner, which is in violation of principle of natural justice, therefore, the impugned order is liable to be set aside.

2. Mr. Animesh Tiwari, learned State counsel, would support the impugned order.
3. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

4. True it is that the petitioner was promoted to the post of Teacher from Assistant Teacher vide order dated 21.03.2000 passed by the respondent No.3 vide Annexure-P/2 and thereafter to the post of Head Master vide order dated 26/31.07.2008 passed by the respondent No.3 vide Annexure-P/2 and subsequently he was promoted to the post of Lecturer vide order dated 27.09.2008 (Annexure-P/3) passed by the respondent No.2 and by order dated 26.06.2013 (Annexure-P/1) passed by the respondent No.2, all three aforesaid promotions granted to the petitioner have been cancelled and the petitioner has been demoted to the post of Assistant Teacher, but the fact remains that while passing the order (Annexure-P/1), no opportunity of hearing has been afforded to the petitioner, which is in violation of principle of natural justice

5. The Supreme Court in the matter of **Rajnish Kumar Mishra & Others v. State of Uttar Pradesh and Others**¹ has held as under in para 17:-

“17. As such, apart from the Circular issued by the Registrar General of the

1 (2019) 17 SCC 648

High Court, dated 05.11.2009, the appellants' cases were also required to be taken into consideration in view of the exception carved out in the case of State of Karnataka v. Umadevi². We find that the Committee under the Chairmanship of the Additional District Judge had rightly submitted its report dated 12.07.2012 and the then District Judge had rightly passed the order of regularization on 09.11.2012 granting regularization from 01.06.2012. We find that while considering the representation of some of the employees for promotion, the successor in the office of the District Judge could not have annulled the order of the regularization of the appellants which was done after following the proper procedure. The least that was required to be done was to follow the principles of natural justice by giving an opportunity of being heard to the appellants. We find that the three orders passed by the District Judge dated 16.08.2014 also suffer from violation of the principles of natural justice."

6. Reverting to the facts of the case in light of the principle laid down by the Supreme Court in the matter of Rajnish Kumar (supra), it is quite vivid that the petitioner was promoted to the post of Teacher from Assistant Teacher vide order dated 21.03.2000 passed by the respondent No.3 vide Annexure-P/2 and thereafter to the post of Head Master vide order dated 26/31.07.2008 passed by the respondent No.3

² (2006) 4 SCC 1

vide Annexure-P/2 and subsequently to the post of Lecturer vide order dated 27.09.2008 (Annexure-P/3) passed by the respondent No.2, but by order dated 26.06.2013 (Annexure-P/1) passed by the respondent No.2, all three aforesaid promotions granted to the petitioner have been cancelled after 13 years and the petitioner has been demoted to the post of Assistant Teacher, which ought not to have been done without affording a minimum opportunity of hearing to the petitioner, therefore, the impugned order is in violation of principle of natural justice and in the teeth of the decision rendered by the Supreme Court in the matter of Rajnish Kumar (supra). Accordingly, the impugned order dated 26.06.2013 (Annexure-P/1) is hereby set aside. However, the respondents are at liberty to proceed in accordance with law.

7. The writ petition is allowed. No order as to cost (s).

Sd/-
Sanjay K. Agrawal
Judge

Nirala