

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (S) No. 719 of 2021

1. Sanat Kumar Sen, S/o- Late Patiram Sen, Aged About 41 Years, Posted as Assistant Teacher (L.B.), Government Primary School Katelpara (Kosmi) Block Chhura, District- Gariyaband (C.G.), R/o Village Chhura, Tahsil Chhura, District- Gariyaband (C.G.)
2. Balwant Kumar Baghel, S/o Dayaram Baghel, Aged About 45 Years, Posted as Assistant Teacher (L.B.), Government Primary School Dwartara, Block Chhura, District Gariyaband (C.G.) R/o Village Karkara, Tahsil Chhura, District- Gariyaband (C.G.)

--- Petitioners

Versus

1. State of Chhattisgarh, Through its Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District- Raipur (C.G.)
2. Director, Directorate of Panchayat, Block-II, 2nd Floor, Indrawati Bhawan, Naya Raipur, District- Raipur (C.G.)
3. District Education Officer Gariyaband, District- Gariyaband (C.G.)
4. Block Education Officer Chhura, District- Gariyaband (C.G.)

--- Respondents

For Petitioners : Ms. Diksha Gauraha, Advocate.

For State/ Respondents : Mr. Vivek Ranjan Tiwari, Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/02/2021

1. This writ petition has been filed seeking for issuance of a mandamus directing the respondent State to prescribe the different weightages / higher pay scale/ specific salaries for the Assistant Teachers (L.B.) counting their seniority and their categories taking into consideration the length of service put in by the employees.

2. According to the petitioners, the grievance of their's is that the petitioners who were initially appointed under the Panchayat Department way back in the year 1998-99, got regularized in the services in the year 2001-02. That subsequently to by way of a policy decision by the State Government, their services got absorbed with the Education Department in 2018.
3. At the time of their absorption, they were put in the pay scale to the basic of Rs 25,097/-. According to the petitioners, in the year 2018, the absorption was permitted only to those teachers, who have put total 8 years of service. However, now the State Government has diluted the said policy and have permitted teachers with two years and more service with the Panchayat Department, to be also absorbed in the Education Department.
4. According to the petitioners, now the persons who have put in two years of service in the Panchayat Department on their being absorbed in the Education Department, are getting the same pay scale, which the petitioners are drawing in spite of the fact that the petitioners have already put in around 18 years of service before being absorbed in the Education Department. Thus, according to the petitioners, due weightage should had been given to the length of service that the petitioners and similarly placed person from the Panchayat Department. According to the petitioner there should have been some policy by the State Government, with which, they should have got the advantage of the length of service by getting more salary than the people who

have recently entered the department by way of absorption and who have got considerable less length of services as compared to the petitioners.

5. At the outset, this Court is of the opinion that these areas are not within the writ jurisdiction of this Court under Article 226 of the Constitution of India. A mandamus in this regard cannot be issued, for the reason that the right of the petitioners do not flow from or arise out of any statute, rule or instructions of the State Government. It is a case where two sets of people, persons who have been absorbed in the year 2018 and the persons, who are getting absorbed in the year 2020, both placed in the same pay scale. This is a natural consequence on account of the absorption of the services of the petitioners and other similarly placed persons from the Panchayat Department to the Education Department.
6. Once an employee or an officer from a different department gets absorbed to a foreign department, he becomes entitled for the present pay scale and the related benefit attached to the post, which is applicable in the department where the services have been absorbed. That in the present case also on getting absorbed in the Education Department, the petitioners have been granted pay scale applicable to the teachers in the Education Department irrespective of the length of service that they have completed. Grievance of the petitioner could have been valid in case, if the petitioners would had been put to loss

in the pay scale that they were drawing in the Panchayat Department on their being absorbed to the Education Department, which is not the case of the petitioner herein. The grievance only seems to be the granting of similar pay scale of all those teachers, who have brought in the Education Department by way of absorption.

7. As regard of higher pay scale or higher salary considering on the total length of service etc., these are area which have to be considered by the State Government alone or by the Pay Commission constituted by the State Government from time to time. Such a direction cannot be given to the State Government by the High Court exercising writ jurisdiction of this Court.
8. The petitioners would be at liberty to approach the State authority apprising the State Authority in respect of their grievances and it would be for the State Authority to take into consideration these facts and take appropriate steps. The petitioners would also be at liberty to approach the State Authority for necessary compliance of the instructions issued by the State Authority dated 10.08.2009 vide Annexure P/6.
9. Reserving the rights of the petitioners for availing the said remedies, the writ petition at this juncture, stands disposed of.

Sd/-
(P. Sam Koshy)
Judge