

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1585 of 2021**

Ajay Kumar Verma S/o Late Shri Gaiind Singh Verma, Aged About 48 Years, Working As Teacher (LB), And Posted At Govt. Middle School Perpar, Block Gurur, District Balod, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Atal Nagar, Mantralaya, Nawa Raipur, District Raipur, Chhattisgarh
2. Chief Executive Officer, Zila Panchayat Balod, District Balod Chhattisgarh
3. Block Education Officer, Block Gurur, District Balod, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Ajay Shrivastava, Advocate
For State	:	Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22.03.2021**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 24.06.2019 whereby the claim of the petitioner for grant of revised pay scale was not considered treating the services of the petitioner to have started from 21.07.2018.
2. The brief facts relevant for disposal of the present writ petition in brief are that the petitioner in the instant case was initially appointed vide order dated 21.08.1998 as Shiksha Karmi Grade-2 and the petitioner joined his services on 28.08.1998 and thereafter the petitioner

continued his services. Meanwhile, in between, on 12.08.2011 the services of the petitioner were terminated. The order of termination was subjected to challenge in WPS No. 7284/2011 and the High Court vide order dated 12.04.2018 allowed the writ petition setting aside the order of termination dated 12.08.2011. After the High Court having set aside the order of termination the respondents reinstated the petitioner in service vide order dated 17.07.2018 and the petitioner joined his service on 21.07.2018. Now, that the dispute is revolving around the claim of the petitioner in respect of the revised pay scale.

3. As per the circular of the State Govt. a person completing 8 years of continuous service would be entitled for the revised pay scale. In the instant case, before the benefit could be extended to the petitioner, he stood terminated on 12.08.2011 and the order of termination has been set aside recently on 12.04.2018. When the petitioner after having been reinstated in service claimed for revised pay scale, the respondents should have counted the services of the petitioner from the date of reinstatement i.e. 21.07.2018, thereby according to the respondents, since the petitioner has thereafter put in only around 2 - 2 ½ years of service, he would not be entitled for the same. It is this action of the respondents which is under challenge in the present writ petition.
4. According to the petitioner, the action on the part of the respondents is totally bad in law and arbitrary for the reason that by virtue of the decision of the respondents, the service of the petitioner rendered prior to 2018 is getting totally wiped up which is otherwise not permissible. According to the petitioner, it is not a case of reappointment of the petitioner in 2018. It is a case of reinstatement in the service after the

order of termination getting set aside by the High Court.

5. The State counsel, on the other hand, submits that it is a case where admittedly the petitioner had not discharged his duty while he was terminated from service between August, 2011 to July, 2018 and therefore, the services of the petitioner have been counted only from the date of reinstatement and the earlier period has not been counted since there was a gap and therefore, the petitioner would not be entitled for the revised pay scale.
6. Having heard the contentions put forth on either side and on perusal of the record what needs to be considered at this juncture is that admittedly the petitioner had been appointed in 1998 and continued in service till August 2011 i.e. the petitioner had put in around 13 years of service before his termination on 12.08.2011. The order of termination also was held to be bad in law and was set aside by the judgment of the High Court dated 12.04.2018 in WPS No. 7284/2011. The petitioner seems to have been taken back in employment after the order of the High Court and thereafter he continued in employment.
7. The issue now to be considered is how that intervening period has to be treated.
8. Once when the order of termination has been set aside and the department without further challenging the order of reinstatement having accepted and implemented the same also, for all practical purposes it has to be construed as if the petitioner stands reinstated in service with continuity in employment which stood terminated by an illegal order dated 12.08.2011. As a consequence, it has to be treated as if the order of termination never existed since it has been set aside by the High Court. As a consequence of the implementation of the

order of reinstatement, it has to be presumed that the petitioner never stood terminated and the entire period from 12.08.2011 till the date of rejoining on 21.07.2018 has to be treated as continuous service and the entire period right from the date of appointment till date has to be reckoned continuous service for the purpose of deciding the qualifying service required for the purpose of grant of revised pay scale.

9. The decision of the respondents treating the petitioner to be in service only w.e.f. 21.07.2018 therefore does not seem to be in any manner justifiable and the same deserves to be and is accordingly set aside particularly for the reason that the order of the State Govt. dated 17.07.2018 was only an order of reinstatement and it was not an order of reappointment particularly in the light of the judgment dated 12.04.2018 passed in WPS No. 7284/2011.
10. Given the said facts and circumstances of the case, the impugned order Annexure P-1 dated 24.06.2019 deserves to be and is accordingly set aside. The respondents are directed to treat the entire services of the petitioner as continuous in employment and the petitioner's claim be immediately reconsidered for the purpose of grant of revised pay scale. Let this exercise be completed at the earliest preferably within a period of 60 days from the date of receipt of copy of this order.
11. The writ petition accordingly stands allowed and disposed of.

Sd/-

**P. Sam Koshy
Judge**