

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.6528 of 2010

Top Singh Verma, S/o Shri Kapil Singh Verma, Aged about 45 years,
Occupation Peon, Govt. Higher Secondary School Godhi, Distt. Durg
(C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Education Department,
D.K.S. Bhawan, Raipur (C.G.)
2. The Director, Public Instruction Department, D.K.S. Bhawan, Raipur
(C.G.)
3. District Education Officer, Durg, Distt. Durg (C.G.)
4. Deputy Director, Public Instruction Department, District Durg (C.G.)
5. Block Education Officer, Block Dhamdha, Distt. Durg (C.G.)

---- Respondents

For Petitioner: Mr. Vipin Tiwari, Advocate.

For Respondents/State: Mr. Sunil Otvani, Additional Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/08/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. Mr. Vipin Tiwari, learned counsel appearing for the petitioner, would submit that the petitioner was granted regular pay-scale on 20-8-1994, whereas he has been given seniority on the post of Peon on 27-9-2008 and therefore he has filed W.P.(S)No.2374/2009 which has been decided on 23-4-2010 in which this Court has directed him to make representation and his representation has been rejected on 14-7-2010 and 11-10-2010 vide orders Annexures P-10 and P-12, respectively, which are unsustainable and bad in law and liable to be set aside and

as such, the respondents be directed to give seniority to the petitioner with effect from 20-8-1994.

3. Mr. Sunil Otwani, learned Additional Advocate General appearing for the State/respondents, would submit that the respondents have only granted revised pay-scale to the petitioner as per circular dated 15-12-1992 (Annexure R-2) on completion of three years on the basis of Collector rate which the petitioner completed and thereafter, as per circular dated 5-3-2008 (Annexure R-1), he was granted regular pay scale by order dated 27-9-2008 passed by the District Education Officer, Durg, and accordingly, seniority was given on the post of Peon with effect from 27-9-2008, as such, grant of revised pay-scale and increment, if any, cannot be treated and substituted in place of regular pay-scale, therefore, the petitioner is not entitled for seniority from 20-8-1994.
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. The petitioner was appointed on the post of Peon as per Collector rate on 12-8-1991 and as per circular dated 15-12-1992 (Annexure R-2), on completion of three years on Collector rate, the petitioner was treated as employee working on contingency basis and he was granted the benefit of revised pay-scale (wrongly written in Annexure P-7 as regular pay-scale) and thereafter, as per order dated 5-9-2007, upon completion of 12 years, he was granted the benefit of Kramonnati and on the basis of circular dated 5-3-2008 (Annexure R-1), the District Education Officer regularised the services of the petitioner on 27-9-2008 and when the new setup was sanctioned on 26-8-2008, the petitioner was regularised on 27-9-2008 and was given

seniority on the post of Peon on that date and therefore both the authorities have held that he is entitled for seniority from 27-9-2008, not from 20-8-1994.

6. The petitioner's contention that he was regularised from 20-8-1994 is not based on record. Copy of the service record of the petitioner is at pages 17 & 18 of the writ petition which clearly show that on completion of three years, as per circular dated 15-12-1992 (Annexure R-2), the petitioner was given the benefit of revised pay-scale as duly entered in the service record of the petitioner and thereafter, he was granted Kramonnati and according to the policy decision of the State Government taken on 5-3-2008, he was regularised on 27-9-2008 and later-on, on sanction of post, he was granted seniority from 27-9-2008 itself and as such, grant of revised pay-scale cannot be treated as grant of regular pay-scale, as on 20-8-1994, the petitioner has only completed 3 years on the post of Peon on Collector rate basis, but being a contingency paid employee, he was granted the benefit of circular dated 15-12-1992 (Annexure R-2). As such, the petitioner's contention that he is entitled to get seniority from 20-8-1994 is not based on record. Consequently, the decision of the Supreme Court relied upon by the petitioner in the matter of Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra and others¹ would not be applicable to the facts of the present case.

7. As such, the learned District Education Officer and the learned Director, Public Instructions vide Annexures P-10 & P-12 have rightly held that the petitioner is not entitled for seniority from 20-8-1994 and is entitled for seniority from 27-9-2008 is strictly in accordance with law. I do not find any merit in this writ petition. The writ petition

¹ (1990) 2 SCC 715

deserves to be and is accordingly dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma