

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 3216 of 2021**

1. Dr. Smt. Madhulika Lal W/o Shri C.B. Lal Aged About 62 Years R/o Jarhabhata, Mandir Chowk, Bilaspur District Bilaspur Chhattisgarh.

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

1. State Of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Capital Complex Atal Nagar, New Raipur, District Raipur Chhattisgarh
2. Commissioner Higher Education Directorate, Indravati Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.

---- **Respondents**


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| For Petitioner | : | Mr. Manoj Paranjpe, along with Mr. Anshul Tiwari, Advocates. |
| For State      | : | Mr. Ishan Verma, P.L.                                        |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****30.09.2021**

1. Aggrieved by the impugned order Annexure P/1 dated 25.05.2021, whereby the representation of the petitioner so far as salary as per the recommendation of 7<sup>th</sup> pay commission and the arrears of difference of 7<sup>th</sup> pay commission be paid to the petitioner, has been rejected.
2. The claim of the petitioner in the present writ petition is that the petitioner substantively is working on the post of Principal in the Higher Education Department under the respondents. There seems to be a dispute in-respect-of caste status of the petitioner and the High Power Caste Scrutiny Committee of the State has passed an order against the

petitioner which is already under challenge before this High Court in WP(S) No. 6538 of 2018. This Court admitting the petition has already ordered for maintaining status quo in-respect-of her service conditions are concerned vide interim order dated 03.10.2018. Meanwhile, it appears that the services of the petitioner got terminated on 30.07.2018 and the said termination order was subjected to challenge in WP(S) No. 5164 of 2018 and the said writ petition was allowed on 05.02.2019 and the order of termination dated 30.07.2018 was set aside with consequential benefits. The respondents complied with the order and took the petitioner back in service w.e.f. 30.10.2019, since then the petitioner has been discharging her duty uninterruptedly under the respondents.

3. The grievance of the petitioner is that once when the order of termination is set aside and she has been taken back in service, she is entitled for all consequential benefits from the date of termination till the date of rejoining in service i.e. from 30.07.2018 to 30.10.2019. In addition, the claim of the petitioner is that the petitioner should also be granted the benefit of 7<sup>th</sup> pay commission i.e. the salary payable to the petitioner should be as per the recommendation of the 7<sup>th</sup> pay commission, which is otherwise being paid to all the other similarly placed persons in the Department w.e.f. 26.09.2018. It is this claim of the petitioner what has been rejected by the respondents vide Annexure P/1 only on ground of pendency of WP(S) No. 6538 of 2018 which is specifically in-respect-of cancellation of the caste certificate which the petitioner was having and where there is an order of status quo by this Court vide its order dated 03.10.2018. Undisputedly, the

petitioner is discharging the duty from 30.10.2019 till date. It is also not in dispute that the recommendation of the 7<sup>th</sup> pay commission has been implemented for all other similarly placed persons in the department and they are getting the salary in-terms-of the recommendation of 7<sup>th</sup> pay commission.

4. Given the said facts that there is no reason, justification or logic behind denying the petitioner from the benefits of 7<sup>th</sup> pay commission which is otherwise being paid to the other similarly placed persons in the department. Moreover, the earlier order of termination dated 30.07.2018 does not exist any further in the light of the order passed by this Court in WP(S) No. 5164 of 2018 on 05.02.2019. On the setting aside of an order of termination, for all practical purposes, it has to be presumed that the petitioner is in regular service of the respondents and any decision further that can be taken, is only after the conclusion of the proceedings in WP(S) No. 6538 of 2018 which would decide the further consequential remedial steps, if any, that the State could take. Till then the petitioner would be entitled for whatever the current wage or salary structure which is in force in the department, which in the instant case is as per the recommendation of the 7<sup>th</sup> pay commission. This Court therefore is of the opinion that from the date of reinstatement in service i.e. on 30.10.2019 till date and henceforth also until further order or subject to the outcome of WP(S) No. 6538 of 2018, the petitioner is entitled for the salary as per the recommendation of 7<sup>th</sup> pay commission. The respondent-authorities are directed to ensure that for the said period including the arrears from 30.10.2019 till date and henceforth, the petitioner be paid the salary as per

recommendation of the 7<sup>th</sup> pay commission. Let this compliance be done within a period of 60 days from the date of receipt of copy of this order.

5. As regards the consequential benefits, which the petitioner would be entitled for, for the period from the date of termination i.e. 30.07.2018 till the date she has been reinstated in service on 30.10.2019, this Court is of the view that since the dispute in-respect-of the social status of the petitioner is already subjudice before this High Court in WP(S) No. 6538 of 2018, the decision in-respect-of the consequential relief for the intervening period between 30.07.2018 to 30.10.2019 shall be subject to outcome of the said writ petition, to be taken at the appropriate time thereafter.
6. With the aforesaid directions, the present writ petition stands partly allowed and disposed of.

Sd/-

**P. Sam Koshy**  
**Judge**