

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1009 of 2015**

R. P. Kesharwani So Late Shri D.P. Kesharwani Aged About 52 Years Presently Posted And Working As Assistant Grade Iii District Association Commissioner, Bharat Scout And Guide And District Education Officer, Janjgir, District Janjgir Champa Chhattisgarh R/o Lions Club Chowk, Champa, Civil And Revenue District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh And Ors. S/o Through Secretary, Department Of School Education, Mahanadi Bhawan, New Mantralaya, New Raipur Chhattisgarh
2. Director, Directorate Of Pubic Instructions Chhattisgarh, Mahanadi Bhawan, New Mantralaya, New Raipur Chhattisgarh
3. Bharat Scout And Guide, Through Its Present President, Sports Complex, Outdoor Stadium, Gate No. 3, E - Block Budha Talab, Budhapara Raipur Chhattisgarh
4. State Secretary Bharat Scout And Guide, Sports Complex, Outdoor Stadium, Gate No. 3, E - Block Budha Talab, Budhapara Raipur Chhattisgarh
5. District Education Officer Janjgir Champa, District Janjgir Champa Chhattisgarh

----Respondents

For Petitioner	:	Mr. Malay Shrivastava, Advocate
For State	:	Mr. Aditya Tiwari, Panel Lawyer
For Respondents No. 3 & 4	:	Mr. Pranjal Shukla, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****23/11/2021**

1. The whole dispute in the present writ petition revolves around the non-payment of the salary to the petitioner from April, 2014 till date. Though the petitioner has also claimed for some arrears of amount and other amount of a period prior to 2014, but the learned counsel for the petitioner submits that as of now he would not press upon

relief No.10.3 of the writ petition and he would confine his claim only for the salary for the period from April, 2014 onwards.

2. Present is a second round of litigation. The petitioner on an earlier occasion also was faced with a similar situation where he was not paid salary from July, 2009 till the WPS No. 61/2014 was filed, which was filed on 03.01.2014. The said writ petition was disposed of on 08.01.2014. Through the said judgment the petitioner was made to represent before the State Authorities as also to the respondents No.3 & 4 ventilating his grievances. Subsequent to the disposal of the said writ petition, the State Government vide order dated 31.03.2014 (Annexure R/3.1) released an amount of Rs.13,00,082/- towards the salary for the period between 01.07.2009 to 31.03.2014. The amount was released by the State Government to the respondents No.3 & 4, who in turn has released the same to the petitioner. However, after the release of the said Rs.13 lakh, thereafter the petitioner has not been paid his salaries thereafter i.e. from April, 2014 till date. There is no dispute as regards the fact that the petitioner has been discharging his duties under the respondents No.3 & 4 upon his being allocated to the said Department by the State Authorities. Though as per the counsel for the respondents No.3 & 4 he has not been assigned any specific duties to be discharged.
3. Learned counsel for the respondents No.3 & 4 also submits that the expenses of the respondents No.3 & 4-Department is met from the annual grant received by the State Government, which includes payment of already existing employees and with the said available grant, the Department could not meet the salary part of the petitioner

and for which they had been making periodical correspondences with the State Government either for recalling the services of the petitioner or to provide extra grant so far as meeting the salary part of the petitioner.

4. Learned counsel for the respondents No.3 & 4 further drew the attention of this Court to the order passed by the School Education Department, whereby the School Education Department had ordered for posting the petitioner in the Department of Bharat Scout and Guide and one of the correspondences made by the Additional Secretary, School Education Department, Government of Chhattisgarh dated 08.01.2010 also clearly reflects that the petitioner was to be paid the regular salary which in other word means that the State Government was bound to provide necessary funds to the respondents No.3 & 4 enabling them to ensure that the salary of the petitioner is paid uninterruptedly.
5. Another fact which needs to be considered is that once when the government themselves have vide their order dated 31.03.2014 provided the salary for the petitioner for the period between 01.07.2009 to 31.03.2014. There was no reason why the State Government should not have provided for funds to meet the salary part of the petitioner for the subsequent years as well. It cannot be comprehended that the petitioner would have survived without the salary inspite of the Department taking work from him.
6. The action on the part of the respondents inter se in not settling the dispute as to who has to pay the salary of the petitioner resulted to the denial of the petitioner the right for his salary, which he is

otherwise duly entitled for and without which he must be facing great difficulty in making both ends meet, not only of the petitioner himself, but also in respect of all his dependents.

7. Taking into consideration the previous arrangement that the State Government had made vide order dated 31.03.2014, this Court is inclined to allow the present writ petition also so far as the claim for the unpaid salary part is concerned i.e. the relief No. 10.2 of the writ petition. The respondents No.1 to 4 and the respondents No.1 & 2 in particular are directed to ensure that the entire unpaid salary payable to the petitioner for the period between 01.04.2014 up till date be released to the petitioner forthwith within a period of 90 days from today. In the event if the entire amount payable to the petitioner is not released within the period of 90 days provided by this Court, the entire amount payable shall carry interest @ 10% p.a. from the date of order passed by this Court till the date of actual payment.
8. Needless to mention that the respondents No.1 to 4 shall equally take care of taking sufficient steps to ensure that the further salary payable to the petitioner is also not stopped in any manner, particularly forcing the fact that he is to retire in a couple of years of time.

Sd/-
(P. Sam Koshy)
Judge