

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5814 of 2021

1. Jayant Kumar Tandan S/o Mr. Poon Das Tandan Aged About 40 Years By Occupation, Lecturer (Local Body), Posted At Govt. Higher Secondary School Tamaseoni, Block Abhanpur, District Raipur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, School Education Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. Secretary Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
3. Director Panchayat And Rural Development, Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
4. District Education Officer District Raipur Chhattisgarh.
5. Chief Executive Officer Jila Panchayat, District Raipur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate.
For State	:	Shri Lalit Jangde, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25.10.2021

1. The grievance of petitioner in this petition is the non-acceptance of the past service rendered by the petitioner for the purpose of absorption in the Education Department.
2. The case of petitioner is that, she has been working under the respondents and has subsequently been given fresh appointment and since then she continues to discharge her duties on that post. Earlier the petitioner had filed separate writ petition for counting her previous service for grant of revised pay scale. The said writ petition was disposed of and in compliance of the directions given by this Court, the respondents passed an order on 03.09.2019 granting the benefit of revised pay scale taking the previous service rendered.

3. The grievance of petitioner now is that, though the department has accepted the past services of petitioner for the purpose of grant of revised pay scale, but when the question of absorption came, the past services of petitioner is not being considered for want of proper NOC from the previous place of service of the petitioner.
4. The contention of petitioner is that, once when the department has considered the past service for the purpose of revised pay scale, there is no reason why past services could not be counted for the purpose of absorption. It was the further contention of the petitioner that so far as requirement of NOC for the purpose of revised pay scale is concerned, the same stood already quashed by this Court in WPS No. 2530 of 2017, Mukesh Kumar Patel Vs. State of Chhattisgarh & Others and other connected writ petitions, decided on 28.11.2017.
5. The State counsel opposing the petition submits that it is a case where the petitioner came into present service by way of participating as a fresh candidate in a fresh recruitment conducted, and therefore, the past services rendered cannot be counted unless the petitioner would have obtained an NOC from the department for appearing/selection in the subsequent recruitment process. He further submits that even the record does not show of the respondents taking a decision that the petitioner is not entitled for the relief that she has sought for and it is also not a case where there is any particular order which is under challenge in this writ petition.
6. Given the aforesaid contentions put forth on either side and on perusal of records, what is an admitted factual position is that the petitioner's past service has been counted by the department for the purpose of grant of revised pay scale. Once when the department accepts the past services

for the purpose of revised pay scale, this Court does not find any strong reason why the said period would not be counted for the purpose of absorption as the department itself has accepted the said period as continuous service for the purpose of granting revised pay scale.

7. Under the circumstances, let the respondent No.1 take a fresh decision on the issue and pass an appropriate order at the earliest preferably within a period of 90 days from the date of receipt of copy of this order keeping in view the fact that the department itself has counted the past services of petitioner for the purpose of revised pay scale.
8. It shall be the responsibility of the petitioner to apprise the respondent No.1 so far as the order passed by this Court is concerned.
9. The petitioner would also be at liberty to file a fresh representation, if she so wants.
10. The Writ Petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge