

HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION (S) NO. 5453 OF 2020

- Kaushal Ram Sahu, S/o Mr. Bisauha Ram Sahu, aged about 34 years, by occupation Teacher (Local Body), posted at Govt. Upper Primary School Khursul, Block Durg, District Durg (CG)

... Petitioner

versus

1. State of Chhattisgarh, through Secretary, School Education Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
2. Secretary, Panchayat and Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
3. Director, Panchayat and Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
4. District Education Officer, District Durg (CG)
5. Chief Executive Officer, Janpad Panchayat Durg, District Durg (CG)

... Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate.
For Respondents/State	:	Mr. Rahul Jha, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/01/2021

1. Grievance of the petitioner in the present writ petition is the non-acceptance of the past service rendered by him as Shiksha Karmi Grade-III for the purpose of absorption.
2. Case of the petitioner is that he was initially appointed as Shiksha Karmi Grade-III vide order dated 25.06.2010 at Janpad Panchayat, Khairagarh. Thereafter, the petitioner got selected as Shiksha Karmi Grade-II under the Zila Panchayat, Durg vide order dated 06.07.2013 and since then he continues to discharge his duties on that post. Earlier the petitioner had filed WPS No. 1898/2019 for counting his previous service for grant of revised pay scale. The said writ petition was disposed of on 18.3.2019 and in compliance of the directions given by this Court, the respondents passed an order on 13.05.2019 granting the benefit of revised pay scale taking the previous service rendered by him with Janpad Panchayat, Khairagarh.
3. Grievance of the petitioner now is that, though the department has accepted the past services of the petitioner for the purpose of grant of revised pay scale, but when the question of absorption came, his past services are not being considered for want of proper NOC from the previous place of his service.

4. Contention of learned counsel for 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 further contented that so far as the requirement of NOC for the purpose of revised pay scale is concerned, the same stood already quashed by this Court in WPS No. 2530/2017, Mukesh Kumar Patel Vs. State of Chhattisgarh & Others and other connected writ petitions, decided on 28.11.2017.

5. Learned 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 he 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 services have 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 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 the petitioner for the purpose of revised pay scale.

8. It shall be the responsibility of the petitioner to apprise respondent no.1 regarding the order passed by this Court today.

9. The petitioner would also be at liberty to file a fresh representation, if he so wants.

10. Writ Petition accordingly stands disposed of.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE