



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 668 of 2022

- 1** - Dinesh Mishra S/o Shri Durga Prasad Mishra Aged About 44 Years
Occupation- Assistant Teacher L.B. Posted At Government Primary School,
Baloda, Block- Saraipali, District- Mahasamund, Chhattisgarh, District :
Mahasamund, Chhattisgarh
- 2** - Laxman Kumar Choudhary S/o Shri Prem Lal Choudhary Aged About 40
Years Occupation- Assistant Teacher L.B. Posted At Government Primary
School, Laxmipur, Awlachaka Block- Saraipali, District- Mahasamund,
Chhattisgarh, District : Mahasamund, Chhattisgarh
- 3** - Digri Lal Bhoi S/o Shri Hari Bhoi Aged About 41 Years Occupation-
Assistant Teacher L.B. Posted At Government Higher Secondary School,
Paikin, Block- Saraipali, District- Mahasamund, Chhattisgarh, District :
Mahasamund, Chhattisgarh
- 4** - Fagulal Sidar S/o Shri Laxman Sidar Aged About 36 Years Occupation-
Assistant Teacher L.B. Posted At Government Primary School, Potapara,
Block- Saraipali, District- Mahasamund, Chhattisgarh, District : Mahasamund,
Chhattisgarh
- 5** - Radhey Shyam Chouhan S/o Shri Vedram Chouhan Aged About 41 Years
Occupation- Assistant Teacher L.B. Posted At Government Primary School,
Kanwarpali, Block- Saraipali, District- Mahasamund, Chhattisgarh, District :
Mahasamund, Chhattisgarh
- 6** - Gunvant Bhoi S/o Shri Karan Das Bhoi Aged About 40 Years Occupation-
Assistant Teacher L.B. Posted At Government Primary School, Raksha, Block-
Saraipali, District- Mahasamund, Chhattisgarh, District : Mahasamund,
Chhattisgarh
- 7** - Rajkumar Bhoi S/o Shri Bansidhar Bhoi Aged About 43 Years Occupation-
Assistant Teacher L.B. Posted At Government Primary School, Lakhanpur,
Block- Saraipali, District- Mahasamund, Chhattisgarh, District : Mahasamund,
Chhattisgarh

... Petitioners

versus

- 1** - State Of Chhattisgarh Through- Secretary, Education Department, Atal
Nagar, Nava Raipur, District- Raipur, Chhattisgarh, District : Raipur,
Chhattisgarh
- 2** - Commissioner Lok Shikshan Sanchanaya, Atal Nagar, Nawa Raipur,
District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
- 3** - Divisional Joint Director, Education Division, Raipur, District- Raipur,

Chhattisgarh, District : Raipur, Chhattisgarh

--- Respondents

For petitioners	: Mr. Shikhar Agnihotri, Advocate holding the brief of Mr. Awadh Tripathi, Advocate
For State	: Mr. Rishabh Chandra Singh Deo, PL

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

23.03.2026

1. The petitioners have filed this petition seeking following relief (s) :

“10.1 That, the Hon'ble Court may kindly be pleased to direct the respondent to quash the impugned order dated 14.01.2022 & 22.01.2022 (Annexure P/1 & P/2) passed by respondent no.03 which relates to the providing seniority from the date of transfer from the date of joining of the transfer place one district to another district Inter-District.

10.2 That, the Respondent may also be directed to consider the name of the Petitioners as well as his seniority from the date of his appointment and accordingly consider his name for next promotion post.

10.3 Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favor of the petitioners. An Affidavit in support is filed here with.”

2. In the present petition, the petitioners have prayed for issuance of direction to the respondents to consider seniority of the petitioners from the date of initial date of appointment/joining on the post of Shiksha Karmi Grade- III, II & I and also prayed for issuance of direction to prepare gradation list from initial date of appointment as Shiksha Karmi Grade-III. The petitioners have further prayed for promotion after adding the seniority from initial date of appointment.

3. The State has filed their return in which they have stated that the Government of Chhattisgarh has taken a policy decision on 30.06.2018 absorbing all the Shiksha Karmi Grade-III, II & I. The relevant clause of the absorption order is extracted below:-

“संविलियन की सेवा शर्तें निम्नानुसार हैं –

1. संविलियन किये गये शिक्षक (पं./नं.नि.) संवर्ग स्कूल शिक्षा विभाग में शिक्षक (एल.बी.) संवर्ग के नाम से जाने जायेंगे।
2. स्कूल शिक्षा विभाग अंतर्गत पूर्व से संचालित शालाओं में जहाँ ई-संवर्ग के शिक्षक पदस्थ हैं, उन शालाओं में पदस्थ शिक्षक (पं./नं.नि.) संवर्ग, नवीन नाम शिक्षक ई (एल.बी.) संवर्ग के तथा जहाँ टी-संवर्ग के शिक्षक पदस्थ हैं, उन शालाओं में पदस्थ शिक्षक (पं./नं.नि.) संवर्ग, नवीन नाम शिक्षक टी (एल.बी.) संवर्ग के अंतर्गत होंगे एवं इनका कैडर पृथक-पृथक होगा।
3. शिक्षक (एल.बी.) संवर्ग को दिनांक 01 जुलाई 2018 से 7 वें वेतन आयोग की राज्य शासन द्वारा समय-समय पर स्वीकृत अनुशंसाओं के अनुरूप वेतन एवं अन्य सुविधाएं देय होगी।
4. शिक्षक (एल.बी.) संवर्ग को देय समस्त लाभ के लिये सेवा की गणना संविलियन दिनांक 01 जुलाई 2018 से की जायेगी।
5. दिनांक 01 जुलाई 2018 के पूर्व की अवधि के लिये किसी भी प्रकार के एरियर्स की पात्रता नहीं होगी।
6. शिक्षक (एल.बी.) संवर्ग को नवीन अंशदायी पेशन योजना की पात्रता होगी।
7. शिक्षक (एल.बी.) संवर्ग की भर्ती, पदोन्नति एवं सेवा नियम स्कूल शिक्षा विभाग द्वारा पृथक से बनाए जाकर अधिसूचित किये जायेंगे।
8. किसी भी अन्य विभाग के सेवा एवं भर्ती नियमों में यदि इस आदेश के अंतर्गत निर्मित नियमों से असंगत कोई नियम अथवा प्रावधान हो, तो वे नियम या प्रावधान इस आदेश के प्रावधानों की सीमा तक संशोधित माने जाएंगे। संबंधित विभाग इस आदेश के प्रावधानों से संगत अनुकूलन आदेश अपने सेवा भर्ती में यथास्थिति अविलंब शामिल कराएगा।
9. शिक्षक (पं./नं.नि.) संवर्ग के जारी नियुक्ति आदेश के विरुद्ध यदि किसी न्यायालय में प्रकरण विचाराधीन है, तो उनका संविलियन न्यायालयीन निर्णय के अध्याधीन रहेगा।

यह आदेश तत्काल प्रभावशील होगा।”

4. The State to implement the policy decision of absorption has further issued order on 06.07.2018 and also issued circular on 04.02.2022 fixing the seniority of Shiksha Karmis, who have been transferred from one Block to another Block or one District to another District. Clause 7 of the circular provides that the seniority

of the transferred Shiksha Karmis should be counted from their date of joining on place of transfer. As such, the petitioners are not entitled to get seniority from their first date of appointment. Clause 7 of the circular dated 04.02.2022 is as under:-

“7. वरिष्ठता :- शिक्षाकर्मि वर्ग-03/ सहायक शिक्षक पंचायत जो वर्तमान में सहायक शिक्षक एल.बी. के पद पर कार्यरत हैं का स्थानांतरण एक वि.खं से दूसरे वि.खं. या एक जिले से दूसरे जिले में हुआ हो तो स्थानांतरित विकास खंड/ जिले में कार्यभार ग्रहण तिथि से वरिष्ठता निर्धारित की जावे। ऐसी किसी सहायक शिक्षक एल.बी. के साथ जितने बार हुआ हो हर बार वरिष्ठता का निर्धारण इसी प्रकार किया जावे।”

5. The relevant clause of the order dated 06.07.2018 is extracted below:-

“1/ वे शिक्षक (पं./न.नि.) जो संविलियन नहीं चाहते हैं, उनके परिशिष्ट-एक अनुसार विकल्प पत्र प्राप्त करना होगा।

2/ जिला शिक्षा अधिकारी से ई-संवर्ग एव टी-संवर्ग की शालाओं की सूची प्राप्त करनी होगी।

3/ सहायक शिक्षक (पं./न.नि.) की वरिष्ठता सूची परिशिष्ट-दो अनुसार तैयार करनी होगी।

4/ शिक्षक (पं./न.नि.) की वरिष्ठता सूची परिशिष्ट-तीन अनुसार तैयार करनी होगी।

5/ व्याख्याता (पं./न.नि.) की वरिष्ठता सूची परिशिष्ट-चार अनुसार तैयार करनी होगी।

6/ परिशिष्ट दो, तीन एवं चार में वर्णित प्रारूप अनुसार जिला स्तर की एकीकृत वरिष्ठता सूची मुख्य कार्यपालन अधिकारी, जिला पंचायत द्वारा तैयार की जाएगी।

7/ सहायक शिक्षक (पं./न.नि.) एवं शिक्षक (पं./न.नि.) की एकीकृत वरिष्ठता सूची नोडल अधिकारी द्वारा जिला अधिकारी को प्रेषित की जाएगी।

8/ व्याख्याता (पं./न.नि.) की एकीकृत वरिष्ठता सूची नोडल अधिकारी द्वारा संचालक, लोक शिक्षण, छत्तीसगढ़ को प्रेषित की जाएगी।

9/ शिक्षक (पं./न.नि.) संवर्ग के व्यक्ति जो स्थानान्तरण के फलस्वरूप अपने पद के लिए निर्धारित क्षेत्र से पृथक अन्य क्षेत्र पर श्वैच्छिक पदांकित हैं, उनकी वरिष्ठता का निर्धारण स्थानांतरित निकाय में कार्यभार ग्रहण करने की दिनांक के आधार पर किया जाएगा।

10/ शिक्षक (पं./न.नि.) संवर्ग अंतर्गत जो शिक्षक संविदा से नियमित किये गए हैं, एवं उसी पद पर सतत् कार्यरत हैं उन्हें वरिष्ठता सूची में दिनांक 01 जुलाई 2005 से वरिष्ठता दी जाएगी।

11/ वरिष्ठता निर्धारण हेतु समय-सारिणी (परिशिष्ट-पाँच) अनुसार कार्यवाही की जाए।”

6. Learned Panel Lawyer for the State would submit that in pursuance of power conferred under Article 309 of the Constitution

of India, the State has framed Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and Promotion, Rules, 2019 (for short “the Rules, 2019”). According to the Rules, 2019, the procedure for recruitment and promotion has been provided. Some of Shiksha Karmis have assailed the validity of remarks No. 2 & 3 of Entry 18 under Schedule-II of the Rules, 2019. The Entry No. 18 & 19, remarks No. 2 & 3 in WPS No. 5911/2022 and other connected cases. He would further submit that the Hon’ble Divisional Bench of this Court while dismissing the petitions has held in paragraph 69, 71 to 74 as under:-

“69. In WPS No.1275/2022, the petitioners, who are the employees of the School Education Department since their initial date of appointment, are aggrieved with division of promotion between the Teachers of ‘E-Cadre’ and Teachers of ‘E(LB) Cadre’ and further their grievance is with regard to the direction issued by the Divisional Joint Director, Education Division Raipur mentioning that the seniority of absorbed Shiksha Karmis will not be counted from the date of their absorption in the School Education Department. The petitioners are placed in a separate cadre under the Rules of 2019 as Assistant Teacher and Teacher ‘E Cadre’. Absorbed Shiksha Karmis of Panchayat and Urban Administration Department were put in a separate cadre as Teacher (LB). Under Schedule-II of the Rules of 2019 separate quotas have been fixed for promotion of teacher ‘E-Cadre’ and teacher ‘E-LB Cadre’. Pleading of petitioners in this writ petition that seniority of Teachers (E-LB) be counted from the date of their contractual appointment, is misconstrued. Document dated 22.1.2022 (Annexure P-7) mentions that seniority of the teachers working on contract and the teachers working under Shiksha Guarantee Scheme is to be counted from the date of their absorption as Shiksha Karmis. It does not talk about fixing of seniority of absorbed Shiksha Karmis in the School Education Department. The order of absorption of Teachers working in Panchayat Department and Local Bodies clearly mentions that period of service for granting benefit to Teachers (LB) cadre is to be counted from the date of absorption,

1.7.2018. Absorption of Teachers with Panchayat Department and Local Bodies in the School Education Department is a policy decision by the State Government and to protect interest of the employees of all departments after their absorption in the School Education Department, separate cadres have been created providing separate promotional avenues. Petitioners have neither pleaded nor argued the grounds under which the Rules framed by the State Government in exercise of power conferred by proviso to Article 309 of the Constitution is ultra vires.

In view of the above facts and the decision of Hon'ble Supreme Court that chance of promotion is not the constitutional or legal right, we do not find any merit in WPS No.1275/2022, the same is liable to be and is accordingly dismissed.

71. In writ appeals, petitioners/appellants were appointed under the Panchayat and Rural Development Department as Shiksha Karmi Grade-I under the Madhya Pradesh Panchayat Shiksha Karmis (Recruitment and Condition of Service) Rules, 1997 and their services continued to be governed under the Rules framed in exercise of the powers conferred under Section 53 (2) read with Section 71 of the Panchayat Raj Adhiniyam. Lastly, they were governed under the Chhattisgarh Teachers (Panchayat) Cadre (Recruitment and Condition of service) Rules, 2012 and Shiksha Karmi Grade-I were nomenclatured as Lecturer (Panchayat). Their services were absorbed by the policy decision taken by the State Government in the School Education Department vide order dated 30.6.2018 w.e.f. 1.7.2018. The absorption was under the conditions mentioned in the order. One of the conditions in the order of absorption is that for all benefits to the Teachers (LB) cadre, the calculation of period of service will be from the date of absorption i.e. 1.7.2018. Grievance of petitioners/appellants that the respondent authorities have called list of Lecturers for their promotion to the post of Principal who have completed five years of their service on their post and due to requirement of service in feeder cadre of five years, they will not be considered for promotion and names would be processed only of the Lecturer E-Cadre. The Order of absorption was not put to challenge by the petitioners and they have accepted all the terms and conditions mentioned in the order of absorption. Promotion of an employee to a higher post is to be considered in accordance with the Rules of 2019, which is not challenged in writ petitions, but they have only sought quashment of letter issued by

the authorities calling names of the Lecturers and Head Masters who have completed five years of service on their post for considering their names for promotion. Learned Single Judge taking note of order of absorption, provisions under the Rules of 2019; relying *inter alia* on decisions of Hon'ble Supreme Court on the issue in **R. Prabha Devi & ors Vs. Government of India, through Secretary Ministry of Personnel & Training, Administrative Reforms & ors**, reported in (1988) 2 SCC 233; **R.S. Garg v. State of UP**, reported in (2006) 6 SCC 430; **Ram Saran V. State of Punjab**, reported in (1991) 2 SCC 253; as also considering submissions of learned counsel for petitioners therein relying on Rule 12 (2) (c) of the Chhattisgarh Civil Services (General Conditions of Services) Rules, 1961 had observed thus;-

“32. The rule-making authority is competent to frame rules laying down eligibility condition for promotion to a higher post. Similarly, the prescribing of an eligibility condition for entitlement for consideration for promotion is within the competence of the rule-making authority. This eligibility condition has to be fulfilled by the person seeking promotion in higher post in order to be eligible for being considered for promotion. When qualifications for appointment to a post in a particular cadre are prescribed, the same have to be satisfied before a person can be considered for appointment. Seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfills the eligibility condition prescribed by the relevant rules. A person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion. Seniority will be relevant only amongst persons eligible. Seniority cannot be substituted for eligibility nor it can override it in the matter of promotion to the next higher post. {See R. Prabha Devi (supra).}

33. Reverting to the facts of the case in the light of the aforesaid legal position, the argument based on Rule 12(2)(c) of the Rules of 1961 is of no advantage to the learned counsel for the petitioners as it relates W.P.(S)No.4341/2020 and other connected cases to seniority of a transferee as by virtue Rule 12(2)(c) relevant seniority of persons appointed by transfer from one department to another department of the State Government shall be determined in accordance with the order of their selection for transfer and Rule 12(2) (c) deals with one of the contingencies i.e. transfer on deputation to another department and absorption in that department. As such, seniority is

not an issue in this batch of writ petitions, therefore, the argument based on Rule 12(2)(c) is not relevant as held by their Lordships of the Supreme Court in *R. Prabha Devi (supra)* wherein it was held that a person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion, seniority will be relevant

only amongst persons eligible and seniority cannot be substituted for eligibility. It has already been held that the petitioners are ineligible as per S.No.9 of Schedule-IV enacted under Rules 14 and 15 of the Rules of 2019 according to which minimum five years teaching experience on the post of Lecturer (LB) is quite essential being the feeder post for claiming promotion on the post Principal. Admittedly, the petitioners did not have the said eligibility qualification in terms of five years experience on the post of Lecturer (LB), they are not entitled to be considered for promotion and Rule 12 (2)(c) of the Rules of 1961 would not confer any benefit to the petitioners. No other argument has been pressed into service.

34. In that view of the matter, the decisions of the M.P. High Court in *Hemchandra Pandey (Dr.) (supra)*, *Chhogalal (supra)*, *K.M. Mishra's case (supra)* and that of the Supreme Court in *Deepak Sood's case (supra)*, relied upon by learned counsel for the petitioners, are also clearly distinguishable and not applicable to the facts of the present W.P.(S) No.4341/2020 and other connected cases.

72. In the case of **R. Prabha Devi (supra)**, Hon'ble Supreme Court held as under:-

“15. The rule-making authority is competent to frame rules laying down eligibility condition for promotion to a higher post. When such an eligibility condition has been laid down by service rules, it cannot be said that a direct recruit who is senior to the promotees is not required to comply with the eligibility condition and he is entitled to be considered for promotion to the higher post merely on the basis of his seniority. The amended rule in question has specified a period of eight years' approved service in the grade of Section Officer as a condition of eligibility for being considered for promotion to Grade I post of CSS. This rule is equally applicable to both the direct recruit Section Officers as well as the promotee Section Officers. The submission that a senior Section Officer has a right to be considered for promotion to Grade I post when his juniors who have fulfilled the eligibility condition are being considered for promotion to the higher post, Grade I, is wholly unsustainable. The prescribing of an eligibility

condition for entitlement for consideration for promotion is within the competence of the rule-making authority. This eligibility condition has to be fulfilled by the Section Officers including senior direct recruits in order to be eligible for being considered for promotion. When qualifications for appointment to a post in a particular cadre are prescribed, the same have to be satisfied before a person can be considered for appointment. Seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfills the eligibility condition prescribed by the relevant rules. A person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion. Seniority will be relevant only amongst persons eligible. Seniority cannot be substituted for eligibility nor it can override it in the matter of promotion to the next higher post. The rule in question which prescribes an uniform period of qualified service cannot be said to be arbitrary or unjust violative of Article 14 or 16 of the Constitution. It has been rightly held by the Tribunal:

"When certain length of service in a particular cadre can validly be prescribed and is so prescribed, unless a person possesses that qualification, he cannot be considered eligible for appointment. There is no law which lays down that a senior in service would automatically be eligible for promotion. Seniority by itself does not outweigh experience."

73. In the case of **Ram Saran (supra)**, the Hon'ble Supreme Court has held thus:-

"21. If the government employee was on deputation or holding a post in another cadre, the lien shall revive as soon as he ceased to hold the post in another cadre. There is no revival of the lien during the period the employee continues to hold a post in another cadre. Therefore, during the period the suspension is operative, the employee cannot claim that he had been continuing in the post in the parent cadre and gaining experience. When the rule is clear and specific that for the purpose of promotion from the cadre of Superintendents, Assistant, Accountants, Senior Scale Stenographers to the post of Excise and Taxation Officers, the eligibility qualification is "experience of working 'as such' for five years", the employee is not entitled to claim the experience in the ex- cadre as experience of working in the ministerial cadre."

74. In view of the above, we are of the considered view that the finding arrived at by learned Single Judge is based on proper appreciation of facts

and the rules governing the field. There is no infirmity in the decision of learned Single Judge in respective writ petitions, which are subject matter of writ appeals. Writ appeals being devoid of substance are liable to be and are hereby dismissed.”

7. In the present petition, the validity of absorption order issued by Government of Chhattisgarh on 30.06.2018 has not been challenged, therefore, the prayer of the petitioners for grant of seniority from their initial appointment cannot be considered. It is well settled position of law, even the petitioners without any demur or objection with regard to the condition enumerated in the absorption order, have accepted the same with open eye, therefore, they are estopped from challenging the same. It is pertinent to mention here that petitioners were not selected, appointed under any process or procedure of hiring by the State Government and they can never be treated to be Government servants till they came to be absorbed by the State Government on 30.06.2018. It is also significant that the petitioners do not have any appointment letters issued by the State.
8. The issue with regard to grant of seniority on absorption has come up for consideration before the Hon'ble Supreme Court in case of **Mrigank Johri & others Vs. Union of India & others**¹, wherein it has been held at paragraph 31 to 35 as under:-

“31. It is no doubt true that the OM dated 29.5.1986 as modified by OM dated 27.3.2001 did provide for the benefit of the previous service rendered in the cadre. This is in effect also the ratio of the judgment in *SI Rooplal* case (supra). This would also be in conformity with the normal service jurisprudential view. However, it would be a different position if the absorbing department clearly stipulates a condition of giving

¹ (2017) 8 SCC 256

willingness to sacrifice the seniority while preserving all other benefits for the absorbee (which are accepted) failing which the option was available to the absorbee to get himself repatriated to the parent department. The terms and conditions are categorical in their wording that the absorbees would be “deemed to be new recruits” and the previous service would be counted for all purposes “except his/her seniority in the cadre”. The appellant accepted this with open eyes and never even challenged the same. Their representations to give them the benefit of their past seniority was also turned down and thereafter also they did not agitate the matter in any judicial forum. The controversy was thus not alive and it was not open for them to challenge the same after a long lapse of period of time. In fact on the day of filing of the OM, any prayer to set aside the terms and conditions of absorption would have been clearly barred by time under Section 21 of the Administrative Tribunals Act, 1985.

The appellants sought to rake up the issue only when the seniority list was finalized. This was preceded by the draft seniority list. Whatever may be the dispute of seniority qua other persons, insofar as the appellants were concerned, their seniority was based on the terms and conditions of their absorption. The position of the appellants in the seniority list was thus a sequitur to the terms and conditions of their absorption. We are of the view that it is precisely for this reason, anticipating that their claim would be time barred, that a challenge was laid only to the seniority list without challenging the terms and conditions of absorption though in the grounds, a plea was raised against the terms and conditions of absorption. Unless the terms and conditions of absorption were to be set aside, the seniority list prepared was in conformity with the same.

33. Even otherwise, as noted above, since the appellants accepted the terms and conditions of absorption, they could not plead otherwise.

9. 34. We are in agreement with the submission of the respondents that this issue has been squarely dealt with in Indu Shekhar Singh’s case (*supra*) where almost identical issues have been dealt with by holding that the State was within its right to impose conditions where the employees had the option to exercise their right of election. The entitlement was not under any rules but under what was called the residuary power.

35. The High Court, in our view, rightly interpreted the Rules extracted aforesaid. The method of recruitment

as per Rule 3, has to be specified in Column 5 to 15 of the Schedule, while Rule 5 provides for power of relaxation. Column 11 provides for the method of recruitment - whether by direct recruitment, or by promotion, or by deputation or transfer, and the percentage of the vacancies to be filled by various methods. This may vary from post to post. For the Junior Engineer (Electrical) post, the ratio is mentioned as 83.33 % by direct recruitment and 16.66% by promotion through a departmental competitive examination. The office note regarding the absorption dated 2.11.1998 also refers to the open competitive examination not being held and the consequences thereof, with absorption of persons like the appellants being envisaged to deal with the given situation, but subject to the terms and conditions which were then set out in OM dated 9.11.1999.”

10. In view of the above factual and legal submission, the prayer of the petitioners to count their seniority from initial appointment as Shiksha Karmi till they are absorbed with the School Education Department, cannot be considered and deserves to be rejected, accordingly, it is rejected.
11. Learned counsel for the petitioners would submit that they were transferred from one Panchayat to another Panchayat but their services with the earlier Panchayat have not been counted for *inter se* seniority of the Shiksha Karmi. He would further submit that the petitioners may be given liberty to prefer representation raising their grievances with regard to counting of their seniority on account of transfer from one Janpad Panchayat to another Janpad Panchayat before concerned Chief Executive Officer of the Panchayat. This submission is opposed by the State on the count of delay and laches and would also submit that the rule does not provide them to count their service.
12. Considering the submission made by the parties, the prayer of the

petitioners to count their seniority from their initial appointment till their absorption in pursuance of the policy decision dated 30.06.2018 is rejected. However, the petitioners are at liberty to prefer a representation before the concerned Chief Executive Officer of Panchayat, Janpad Panchayat, where they were transferred for counting their seniority from their initial appointment to their transferred place for determining *inter se* seniority between Shiksha Karmi. It is made clear that this Court has not expressed any opinion on merit of the case. The authorities are free to take a decision in accordance with law without being influenced from any of the observations made by this Court.

13. With the aforesaid observation, the writ petition so far as claim for seniority for initial appointment, is **dismissed**. However, liberty is granted to the petitioners to make a representation regarding their *inter se* seniority from initial appointment to their transferred place of posting as Shiksha Karmi.

Sd/-

(Rakesh Mohan Pandey)
Judge