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2025:CGHC:38773

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1099 of 2023

1 - Aarti Keshewani D/o Mr. Dwarika Keshewani Aged About 33 Years
Post Assistant Teacher (Local Body,) Posted At Govt. Primary School
Bhilayi Khurd 01, Korba Block Korba District Korba, Chhattisgarh.

... Petitioner(s)

versus

1 - The State Of Chhattisgarh Through Secretary, School Education
Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District
Raipur, Chhattisgarh.

2 - Secretary Panchayat And Rural Development Department,
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 - Korba , Chhattisgarh.

... Respondent(s)

For Petitioner(s)	:	Mr. Parag Kotecha, Advocate.
For Respondent(s)/State	:	Mr. Ajay Kumar Pandey, G.A.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

05/08/2025

1. By way of this petition, the petitioner has prayed for following reliefs:-

“i. The Hon'ble Court may kindly be please to set aside the order dated 12/11/2021 passed by the respondent no. 4.

ii. The Hon'ble Court may kindly be pleased to direct the respondents to reconsider and absorb the petitioner to Education Department, with effect from 1/7/2018 on completion of 8 years of services, by counting pervious service with all consequential benefit,

iii. Any other relief which the Hon'ble court deems just and proper in the interest of justice.”

2. Brief facts of the case, is that, the petitioner was appointed as Shiksha Karmi Grade-III by the Chief Executive Officer, Janpad Panchayat, Korba, vide its order dated 03.07.2010. Thereafter, the petitioner has obtained a No Objection Certificate from the Janpad Panchayat on 07.12.2011. Thereafter, upon fresh recruitment, the petitioner was appointed as Assistant Teacher (Science) by the Municipal Corporation, Korba, vide order dated 25–27.02.2012. The petitioner then filed writ petition bearing WPS No. 3029/2019 before the Hon'ble Court, and vide order dated 25.04.2019, this Court directed the respondents to

consider the petitioner's case in light of the decision in W.P.S. No. 6147/2018 (*Shabnam Khatun v. State of Chhattisgarh*). As the respondents have failed to count the petitioner's previous service for the purpose of absorption into the Education Department, the petitioner, along with others, filed W.P.S. No. 5536/2019, wherein the Hon'ble Court, vide order dated 30.07.2019, again directed the respondents to consider the representation. In compliance with the Court's direction and the State Government's policy, respondent No. 4 has passed an order dated 30.09.2021, while absorbing the services of the petitioner into the Education Department with effect from 01.07.2018 instead of 01.11.2020. However, without issuing any notice, affording any opportunity of hearing, or assigning any reason, respondent No. 4 illegally cancelled the said order on 12.11.2021, despite lacking authority to do so, and in contravention of the 2019 Rules and the State policy. Furthermore, on 03.07.2018, an order was issued under the name and authority of the Hon'ble Governor of Chhattisgarh stating that absorption orders would be passed annually. Subsequently, the Additional Secretary issued another order dated 23.07.2020, clarifying that teachers eligible for absorption as of 01.07.2020 would be absorbed on 01.11.2020. However, the petitioner's services were not absorbed by counting previous service from the date of initial appointment, causing loss of

seniority and financial detriment, despite the fact that previous service was considered for granting revised pay scale. The petitioner had completed 8 years of service and was thus entitled to absorption from the date of completion of said period, yet the absorption was not granted accordingly. The petitioner has submitted a detailed representation requesting reconsideration and absorption by counting previous service, but the respondents have failed to take any action. Hence, this petition.

3. Learned counsel for the petitioner respectfully submits that the petitioner was initially appointed as Shiksha Karmi Grade-3 on 03.07.2010. Thereafter, she applied for the post of Shiksha Karmi Grade-2 and, upon being duly selected, she was appointed as Assistant Teacher on 27.02.2012. Subsequently, she was absorbed into the regular establishment with effect from 01.07.2018. However, while granting her absorption, the benefit of her past service rendered from 03.07.2010 as Shiksha Karmi Grade-3 was not taken into consideration. Aggrieved by the denial of her legitimate claim for counting the past service, the petitioner earlier approached this Hon'ble Court by filing WPS No. 5536/2019, wherein the issue raised was the non-consideration of her previous service for the purpose of absorption. Despite the petitioner having continuously served under the same employer without any break in service, the

benefit of her initial appointment and past experience has been unjustly overlooked. He further submits that this Court vide order dated 30.07.2019 passed in WPS No. 5536/2019 has observed as under:-

“5. This Court does not find any strong reason or ground on the part of the Department for not accepting the past service of the petitioners for the purpose of absorption particularly when the department has counted the past service for the purpose of grant of revised pay scale.

6. Given the aforesaid fact, let the case of the petitioners be scrutinized by respondents 1 & 2 and an appropriate order be passed as to why the past service of the petitioners cannot be counted for the purpose of absorption when the Department itself has counted the said period for the purpose of revised pay scale. Let an order be passed by respondents 1 & 2 within a period of 90 days from the date of receipt of copy of this order. It shall be the responsibility of the petitioners to apprise respondents 1 & 2 so far as the order passed by this Court is concerned. The petitioners would be at liberty to file a suitable representation, if they so want, supported with all relevant documents.”

4. He further submits that, despite there being a specific and unequivocal direction by this Hon'ble Court to the respondent authorities to consider the past service of the petitioner for the purpose of absorption especially in light of the fact that the department itself had already taken such past service into account for granting the benefit of a revised pay scale it was incumbent upon the respondents to also consider such past service while issuing orders of absorption. It is submitted that, in compliance with the said direction, an order was initially passed in favour of the petitioner, whereby she was absorbed with effect from 01.07.2018. However, to the utter surprise and detriment of the petitioner, the said absorption order was subsequently cancelled vide order dated 12.11.2021, and a fresh order was issued absorbing the petitioner only from 01.11.2020. The petitioner contends that this subsequent action of the respondent authorities is per se illegal, arbitrary and in direct contravention of the binding order passed by this Hon'ble Court.
5. On the other hand, learned counsel for the State submits that the order impugned has been rightly passed by the respondent authorities, as the petitioner's earlier service was not taken into consideration for the purpose of absorption. It is contended that only the fresh service rendered by the petitioner following her subsequent appointment has been counted for all service-related

benefits, and therefore, there is no infirmity or illegality in the action of the authorities

6. I have heard learned counsel for the parties and perused the material available on record.

7. Upon a bare perusal of the order dated 30.07.2019, particularly paragraphs 5 and 6, it is evident that there was a specific direction issued by this Court to consider the petitioner's past service and to pass appropriate orders accordingly. In compliance with the said direction, an order was initially passed in favour of the petitioner. However, by the subsequent order, the earlier order has been cancelled which does not disclose any reasons justifying such cancellation. No explanation has been provided as to why the earlier order passed in accordance with the directions of this Court has been annulled. It appears that the authorities have acted in colourable exercise of power and have failed to honour the directions issued by this Court. It is pertinent to note that the petitioner's previous service, which was counted for the purpose of granting the revised pay scale, ought also to have been considered for the purpose of absorption also the petitioner has admittedly served as a Shiksha Karmi Grade-3 for more than two years, which fact is not in dispute. Moreover, the petitioner had duly obtained permission from the competent

authorities to participate in the subsequent selection process for the post of Shiksha Karmi Grade-2 and was got selected.

8. In view of the above facts and circumstances, this Court is of the considered opinion that the impugned order dated 12.11.2021 passed by respondent No. 4 is arbitrary in nature and contrary to the directions of this Court, which is not in accordance with law. Accordingly, the said impugned order dated 12.11.2021 is hereby quashed.
9. The competent authorities are hereby directed to revive and give effect to the earlier order dated 30.09.2021, specifically for the purpose of facilitating the absorption of the petitioner in accordance with law within a period of 45 days from the receipt of copy of this order.
10. Accordingly, the writ petition filed by the petitioner is **allowed** with the aforesaid directions.

Sd/-

(Amitendra Kishore Prasad)
Judge