



2026:CGHC:27029



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2479 of 2022

1 - Smt. Jacinta Toppo W/o Norbet Lakra Aged About 63 Years Resident Of Naya Patrapara, Ward No. 8, Santosh Nagar, Dharamjaigarh, Tahsil-Dharamjaigarh, District - Raigarh Chhattisgarh

... **Petitioner**

versus

1 - State Of Chhattisgarh Through - The Secretary, Women And Child Development Department, Mantralaya, Atal Nagar, Nawa Raipur Chhattisgarh.

2 - The Director, Directorate Of Women And Child Development, Atal Nagar, Nawa Raipur, District - Raipur Chhattisgarh.

3 - The Collector, District Raipur Chhattisgarh.

4 - The District Programme Officer, Women And Child Development Department, Raigarh, District - Raigarh Chhattisgarh. ---- **Respondents**

For Petitioner : Mr. Harish Khuntiya, Advocate

For State : Mr. T.L. Bareth, PL

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

02.07.2026

1. The petitioner has filed this petition seeking the following relief(s):-

“10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, thereby setting-aside/quashing the impugned order dated 02.03.2022 (Annexure P/1).

10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, thereby directing the respondent authorities to release the unpaid salary in favour of petitioner for the period from Nov. 2019 to January, 2021, with interest @ 12% per annum from the date of entitlement to its actual payment.



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10.3 That, any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the petition may be given.

10.4 That, the Hon'ble Court may kindly be pleased to set-aside/quash the impugned order dated 07.04.2022 (Annexure P/9).”

2. Learned counsel appearing for the petitioner would submit that the petitioner was working on the post of Project Officer under the respondent authorities. He would further submit that services of the petitioner were transferred from Lailunga, District Raigarh to Mainpat, District Surguja vide order dated 08.11.2019. Against said transfer order, WPS No.9352 of 2019 was filed and said writ petition was disposed of vide order dated 18.11.2019 and matter was referred to the Grievance Redressal Committee to decide representation within a period of 60 days. He would contend that said representation was rejected by the respondent authorities. He would further contend that the petitioner did not join her services at the transferred place and she got retired from services upon attaining age of superannuation on 31.01.2021. He would submit that after retirement, without holding any inquiry, the Collector Raigarh issued an order dated 02.03.2022 and held that the petitioner would not be entitled for payment of salary for the period of absence applying principle of ‘no work no pay’. He would further submit that on 07.04.2022, the State Government declared the period of absence from 11.11.2019 to 31.01.2021 as ‘dies-non’. He would argue that the said penalty is major in nature and no inquiry was included therefore, order dated 02.03.2022 (Annexure P/1) as well as order dated 07.04.2022 (Annexure P/9) are bad in law. He



has placed reliance on the judgment passed by the High Court of Madhya Pradesh in the matter of ***Battilal vs. Union of India and others*** reported in ***2005 (3) MPHT 32 (DB)***.

3. On the other hand, learned Panel Lawyer appearing for the respondents/State would oppose the submissions made by Mr. Khuntiya. He would submit that the petitioner remained unauthorized absent from services from 11.11.2019 to 31.01.2021. He would further submit that though services of the petitioner were transferred from Lailunga, District Raigarh to Mainpat, District Surguja but she failed to resume her duties there and remained absent from services till date of her retirement, therefore, respondent authorities have rightly inflicted penalty of dies-non. He would contend that this petition is misconceived and deserves to be dismissed.
4. Heard the learned counsel appearing for the parties and perused the documents placed on record.
5. Perusal of the documents would show that services of the petitioner were transferred from Lailunga, District Raigarh to Mainpat, District Surguja vide order dated 08.11.2019. The petitioner failed to comply with the said order and remained absent from services till date of retirement i.e. 31.01.2021.
6. It is also apparent that no show-cause notice was issued; no opportunity of hearing was afforded and initially, an order was passed by the Collector Raigarh, wherein, it is held that the petitioner would not be entitled for payment of salary for the period of absence applying principle of 'no work no pay'. Subsequently,



the State Government vide impugned order dated 07.04.2022 declared said period as dies-non.

7. It is well-settled principle of law that the penalty of dies-non is a major penalty and it cannot be inflicted without holding due inquiry as held by the High Court of Madhya Pradesh in the matter of **Battilal (supra)**. The relevant para 3 is reproduced herein-below:-

“3.....When the Authority directs that the period will be treated 'dies-non', it means that continuity of service is maintained, but the period treated as 'dies-non' will not count for leave, salary, increment and pension. In fact, F.R. 54 (1) casts such a duty on the authority. It provides that when a Government servant who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review, the authority competent, to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the government servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.”

8. Having considered the facts of the present case, orders impugned and the law laid down by the High Court of Madhya Pradesh in the matter of **Battilal (supra)**, order dated 02.03.2022 (Annexure P/1) and order dated 07.04.2022 (Annexure P/9) are not sustainable in eyes of law and hereby quashed. The respondent authorities would be at liberty to initiate a fresh inquiry strictly in accordance with law, if so advised.
9. With the aforesaid observation(s)/direction(s), the present petition is **disposed of**.

Sd/-
(Rakesh Mohan Pandey)
Judge