



2026:CGHC:38198



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4998 of 2021**

- Mahendra Singh Thakur, S/o Shri Arjun Singh Thakur, Aged About 59 Years
Occupation - Service, Presently Working As Principal, Government High
School - Bhalumar, Vikas Khand - Gharghoda, District - Raigarh
Chhattisgarh

... Petitioner**versus**

1. The State Of Chhattisgarh, Through The Secretary, Department Of School
Education, Government Of Chhattisgarh, Naya Raipur, Tahsil And District -
Raipur Chhattisgarh
2. The Secretary, Department Of Tribal Welfare, Government Of Chhattisgarh,
Naya Raipur, Tahsil And District - Raipur Chhattisgarh
3. The Commissioner, Department Of Tribal Development, Police Station -
City Kotwali, Tahsil And District Raipur Chhattisgarh
4. The Collector, District Raigarh Chhattisgarh
5. The Assistant Commissioner, Department Of Tribal Development, District
Raigarh Chhattisgarh
6. The Joint Director (Treasury, Pension And Account), Bilaspur, District
Bilaspur Chhattisgarh
7. The District Education Officer Raigarh Chhattisgarh
8. The Block Education Officer, Block - Gharghoda, District - Raigarh
Chhattisgarh
9. The Principal, Government High School, Shiv Prasad Nagar, District Surguja
(Now District Surajpur) Chhattisgarh

... Respondent(s)

For Petitioner	: Mr. Vivek Bhakta, Advocate
For State	: Mr. T.L. Bareth, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey**Order on Board****25.08.2026**



1. By way of this petition, the petitioner has sought the following relief(s):-

“10.1 That the Hon'ble Court may kindly be pleased to call for the entire records of the case from the authorities concerned for its kind perusal.

10.2 That the Hon'ble High Court may kindly be pleased to set-aside the order of dies-non dated 10.03.2014 (ANNEXURE P-1), issued by the Respondent No.2, for the period from 01.04.1995 to 02.04.1996 (Total 368 days), in the interest of justice.

10.3 That the Hon'ble High Court may kindly be pleased to direct the Respondent authorities to release the salary for the period from 01.04.1995 to 02.04.1996 (Total 368 days) to petitioner with all consequential benefit & interest within stipulated period, in the interest of justice.

10.4 Any other relief, which this Hon'ble High Court deems fit and proper be also awarded.”

2. Facts of the present case are that the petitioner was appointed on the post of Lecturer (Chemistry) on 28.12.1991 at Higher Secondary School Chaitma, District Bilaspur. He was placed under suspension vide order dated 04.11.1993, and subsequently, his suspension was revoked vide order dated 02.11.1994. Services of the petitioner were transferred vide order dated 02.11.1994 to Government High School, Shivprasad Nagar, District Surguja (Now Surajpur), but in absence of vacant post his joining letter was not accepted. The petitioner made various representations and finally he was permitted to join in the same school vide order dated 02.02.1996 and on 03.04.1996 he joined his services. The respondent No. 2 has declared the period of absence from 01.04.1995 to 02.04.1996 (total 368 days) as “*dies non*” vide order dated 10.03.2014. Against said order this petition has been preferred.



3. Learned counsel for the petitioner would submit that no inquiry was conducted and no opportunity of hearing was afforded to the petitioner. He would submit that the order of “*dies non*” is a major penalty, and therefore, respondent No. 1 was under obligation to conduct an inquiry. He would pray to allow this petition.
4. On the other hand, learned counsel appearing for the State would oppose. Mr. T.L. Bareth, Panel Lawyer would submit that in earlier round of litigation the petitioner was permitted to make a representation and his representation was rejected by the Collector vide order dated 22.05.2023 and said order has not been challenged by the petitioner, therefore, this petition deserves to be dismissed.
5. I have heard learned counsel for the parties and perused the documents placed on record.
6. Admittedly, the petitioner remained absent from service as he could not join the services in absence of vacant post of Lecturer (Chemistry) at Government High School, Shivprasad Nagar, District Surguja (Now Surajpur), subsequently the petitioner was permitted to join in same school vide order dated 02.02.1996 and he resumed his duties on 03.04.1996. The respondent No. 2 declared the period of absence from 01.04.1995 to 02.04.1996 (total 368 days) as “*dies non*”. It is well settled principle of law that the order of “*dies non*” is a major penalty as it effects pension of the Government servant.
7. The High Court of M.P., in the matter of ***Battilal vs. Union of India and others*** reported in **2005 (3) MPHT 32 (DB)**, held that when the authority directs that the period would be treated as “*dies non*”, such a period would not count for leave, salary, increment and pension. It is further held that the



period which has been declared as “dies non” amounts to infliction of a major penalty and it could not be inflicted without holding the departmental inquiry. 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. Thus from a perusal of the law laid down by the Madhya Pradesh High Court in **Battilal's case** (supra), it would appear that to declare the period of absence from duty of a public servant as ‘dies non’ is punitive in nature and cannot be passed without proceeding departmentally in view of the procedure laid down under the provisions of the CCA Rules, 1966. In the case at hand, the authority concerned straightway passed the order and declared the period of absence as ‘dies non’ without affording the opportunity of hearing.
9. Taking into consideration the law laid down by the High Court of M.P. in the matter of **Battilal** (supra), and the facts of the present case, the order dated



10.03.2014 (Annexure P/1) is not sustainable in the eyes of the law and is hereby quashed.

10. Consequently, the instant petition is hereby **allowed**. Consequences to follow.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Siddhant