



2026:CGHC:14926

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5791 of 2022

1 - Mrs. Sarita Singh Chandel W/o Mr. Pramod Singh Chandel Aged About 39 Years
Post Assistant Teacher (Local Body), Posted At Govt. Primary School
Babudabenba, Khaspara, District Uttar Baster Kanker, Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary Department Of School Education,
Mantralaya, Atal Nagar, District Raipur Chhattisgarh.

2 - Director, Public Instructions, Directorate, Indrawati Bhawan, Naya Raipur, District
Raipur Chhattisgarh.

3 - District Education Officer, District Uttar Baster Kanker Chhattisgarh.

4 - Ramji Thakur, Assistant Teacher (Lb), Govt, Primary School, Tultuli, Promoted To
The Post Of Head Master Primary School Jungada, Kolibeda, District U.B. Kanker
Chhattisgarh.

5 - Smt Minaxshi Soni, Assistant Teacher (L.B.), Govt, Balak Ashram Kulgaon,
Promoted To The Post Of Head Master Primary School Thekobod, District U.B.
Kanker Chhattisgarh.

6 - Vijay Kumar Gangwal, Assistant Teacher (L.B.), Govt. Higher Secondary School,
Lelijhar, Promoted To The Post Of Head Master Primary School Nadipara, Sarandi,
Antagarh, District U.B. Kanker Chhattisgarh.

... Respondent(s)

(Cause Title is taken from Case Information System)

For Petitioner/s	: Shri Parag Kotecha, Advocate.
For Respondent/ State	: Shri Siddharth Ojha, P.L.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

01.04.2026

1. The petitioner has filed this petition seeking the following reliefs:

I. the writ in the nature of Certiorari or any other writ, by quashing/setting aside the order date 8/2/22 and 22/6/2022 issued by respondent no. 3 promoting, junior to the petitioner to the Post of Head Master Primary School.

II the writ in the nature of Mandamus or any other writ, by directing the respondents and its authority to consider the case of the petitioner for promotion to the post of Head master primary School, over and above to juniors, with all consequential benefit with interest.

III. Any other relief which this Hon'ble Court deems fit and proper under the facts and circumstances of the case may also be passed in favour of the petitioner and the cost of the petition may be awarded in favour of the petitioner.”

2. Learned counsel for the petitioner would submit that the petitioner was eligible and entitled for promotion to the post of Head Master Primary School with effect from 8.2.2022; however, his name was not considered at that point of time and he was subsequently promoted to the said post vide order dated 16.12.2022. He would contend that as the petitioner was entitled for promotion to the said post from 8.2.2022, he is entitled to all consequential benefits attached to the said post from the said date. He would also contend that the State has admitted that there was a mistake on its part. He would pray to allow this petition.

3. On the other hand, learned counsel for the State would oppose the submissions made by counsel for the petitioner. He would refer to Fundamental Rules 17, which stated that a government servant would be entitled to receive pay and allowances approached to the post from the date he assumes charge. He would contend that the petition deserves to be dismissed.
4. I have heard learned counsel for parties and perused the documents available on record.
5. It is true that the juniors to the petitioner were promoted vide order dated 8.2.2022 (Annexure-P/3) whereas, the name of the petitioner was considered for promotion to the post of Head Master Primary School vide order dated 16.12.2022. In the return, the State has admitted its mistake. In para 3, it is stated that the name of the petitioner was erroneously left out while passing previous promotion orders vide Annexures P/3 & P/5 and upon noticing the said error, the petitioner subsequently promoted vide order dated 16.12.2022.
6. As there was mistake on the part of the State, the petitioner would be entitled to all consequential benefits attached to the post from the date when his juniors/ colleagues were promoted. The Hon'ble Supreme Court in the matter of ***Union of India vs. K.V. Jankiraman***, reported in ***1991 LawSuit (SC) 409***, while dealing with a similar issue held that where an employee is fully exonerated in disciplinary proceedings and is found to be not blameworthy at all, he is entitled to all consequential service benefits, including salary of the higher/promotional post, even if he did not actually assume charge of that post. It is further held that where the employee was wrongfully denied the promotion due to

pending proceedings and is later completely cleared he would be entitled for all benefits. The relevant para 2 is reproduced herein below:

“2. When an employee is completely exonerated meaning thereby that he is not found blameworthy in the least and is not visited with the penalty even of censure, he has to be given the benefit of the salary of the higher post along with the other benefits from the date on which he would have normally been promoted but for the disciplinary/criminal proceedings. This cannot be denied on principle of "no work no pay". The normal rule of “no work no pay” is not applicable to cases where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own' reasons, although the work is offered to him. Hence F.R. 17(1) will also not apply to such cases. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example, delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. In such circumstances, the concerned authorities must be vested with the power to decide whether the employee at all deserves any salary for the intervening period and if he does, the extent to which he deserves it. Life being complex, it is not possible to anticipate and enumerate exhaustively all the circumstances under which such consideration may become necessary. To ignore however, such circumstances when they exist and lay down' an inflexible rule that in every case when an employee is exonerated in disciplinary/ criminal proceedings he should be entitled to all salary for the intervening period is to undermine discipline in the administration and jeopardise

public interests. We are, therefore, unable to agree with the Tribunal that to deny the salary to an employee would in all circumstances be illegal. While, therefore, we do not approve of the said last sentence in the first sub-paragraph after clause (iii) of paragraph 3 of the said Memorandum, dated January 30, 1982 viz.. "but no arrears of pay shall be payable to him for the period of notional promotion preceding the date of actual promotion", the following sentence is directed to be read in place of the said sentence. "However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the concerned authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so."

7. In the present case, there was neither any fault on the part of the petitioner nor was any departmental enquiry pending against him. He was denied promotion on account of a bonafide mistake on the part of the State, therefore, the petitioner shall be entitled to all consequential benefits attached to the promotional post with effect from 8.2.2022.
8. The defects pointed out by the Registry are hereby overruled.
9. With the aforesaid observation(s), the present petition is disposed of.

Sd/-
(Rakesh Mohan Pandey)
Judge