



2026:CGHC:3448



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6068 of 2023

Harprasad Nirmalkar S/o Prahlad Nirmalkar, Aged About 36 Years, R/o House No. 774, Ward No. 19, Awaspara-1, Jairam Nagar, Bilaspur (C.G.)

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through the Secretary, Department Of School Education, Mahanadi Bhawan, New Mantralaya, Nawa Raipur, Atal Nagar, District Raipur (C.G.)

2 – Secretary, Department Of Panchayat and Rural Development, Mahanadi Bhawan, New Mantralaya, Nawa Raipur Atal Nagar, District Raipur (C.G.)

3 – Director, Directorate Public Instructions, Vivekanand Nagar, Janta Colony, Raipur, Chhattisgarh (C.G.)

4 - District Education Officer Gariaband, District Gariaband (C.G.)

5 - Zila Panchayat Gariaband Through Its Chief Executive Officer, Dongaripara, Gariaband, District Gariaband (C.G.)

6 - Block Education Officer Block Chhura, District Gariaband (C.G.)

... **Respondent(s)**

(Cause Title downloaded from CIS Periphery)

For Petitioner(s) : Mr. Varun Sharma, Advocate

For Respondent(s) : Mr. Arpit Agarwal, Panel Lawyer

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board



20/01/2026

1. The petitioner has filed this petition seeking correction of the date of his absorption in the School Education Department in accordance with the relevant rules/circulars. By way of the impugned order dated 11.8.2020, the petitioner was granted benefit of absorption w.e.f. 1.1.2020, however, he is entitled for absorption w.e.f 1.7.2018, based on his initial date of appointment i.e. 24.6.2010.
2. The petitioner has filed this petition praying for the following reliefs :
 - i. To kindly call for the records of the case from the Respondents.
 - ii. To kindly direct the Respondents to consider the case of the Petitioner for absorption w.e.f. 01/07/2018 and pass suitable orders as passed in the case of similarly situated employees.
 - iii. To kindly make any other order that may be deemed fit and just in the facts and circumstances of the case including awarding of the costs to the petitioner from the respondents.
3. Necessary facts of the case are that the petitioner was initially appointed to the post of Shikshakarmi Grade III vide order dated 24.6.2010 and was posted at the Government Primary School Dongaripara by the Chief Executive Officer, Janpad Panchayat Kuakonda, South Bastar, Dantewada. In the year 2013, the Zila Panchayat, Raipur issued an advertisement for recruitment to the post of Shikshakarmi Grade-II. The petitioner applied for a NOC and thereafter, participated in the selection process pursuant to an application dated 17.4.2023. Subsequently, he was selected for the post of Teacher (Panchayat) vide order dated 10.9.2013. In the year 2018, the State Government issued the directives/executive instructions for absorption of the Teachers of the Panchayat Department into the School Education Department. Having been in service since 2010, the petitioner completed 8 years of service and therefore, was entitled for absorption to the post of



Teacher (Local Body). However, instead of being absorbed, the petitioner was only granted benefit of 6th Pay Commission vide order dated 30.8.2018.

The petitioner has also filed a representation in this regard, but no order has been passed. Hence, this Petition.

4. Learned counsel for the petitioner would submit that earlier, the petitioner was appointed on the post of Shikshakarmi Grade-III on 24.6.2010. Subsequently, upon issuance of an advertisement for appointment to the post of Shiksha Karmi Grade-II, the petitioner applied for a No Objection Certificate (NOC) before the concerned authority by filing an application. While the said application was pending before the concerned authorities, the petitioner, on the strength of his pending NOC application, appeared for and cleared the said examination. Accordingly, he was selected for the post of Shikshakarmi Grade-II (Shikshak Panchayat) on 10.9.2013. Learned counsel for the petitioner submits that pursuant to the Circular dated 30.6.2018 issued by the State Government, which was further clarified on 13.7.2018, the services of the petitioner were to be absorbed into the School Education Department. He also submits that the petitioner was entitled to such absorption after completion of 8 years of his service, calculated from the date of his initial appointment i.e. 24.6.2010 as Shiksha Grade III. However, instead of taking into account his prior service, the authorities calculated his tenure only from his subsequent date of appointment i.e. 10.9.2013. Ultimately, the petitioner's services were absorbed vide order dated 11.8.2022, effective only from 1.1.2020, thereby depriving him of the benefit of his initial period of service. He further submits that for the purpose of absorption, the petitioner's prior service as Shiksha Karmi Grade III, effective from 24.6.2010, must be taken into account. This is for the reason that the petitioner had duly applied for a NOC before participating in the subsequent recruitment process for Shikshakarmi Grade-II. He further submits that although the said application remained undecided by the authorities, the clarificatory Circular dated 13.7.2018 expressly provides that where an



application for NOC has been filed and is pending consideration, the employees' services shall be counted from the date of initial appointment in the lower grade by deeming the NOC to have been granted. Hence, learned counsel for the petitioner submits that the petitioner is entitled for absorption upon completion of 8 years of service w.e.f. 24.6.2010.

5. Per contra, learned counsel for the State would submit that since the NOC was not formally granted to the petitioner, the prior period of service cannot be included in the calculation for absorption. Hence, the petitioner has rightly been absorbed w.e.f. 1.1.2020. Learned counsel for the State further submits that there is no anomaly in the impugned order and therefore, it warrants no interference by this Court.
6. I have heard learned counsel for the parties and also perused the documents annexed with the petition carefully.
7. A bare perusal of the record as well as the clarificatory Circular dated 13.7.2018, makes it amply clear that where an application for grant of NOC is pending before the authorities, it shall be deemed to have been granted. Accordingly, the services of the petitioner must be calculated from the date of his initial appointment to the lower grade service (Shikshakarmi Grade-III) i.e. 24.6.2010.
8. Evidently, the petitioner was appointed as Shiksha Karmi Grade III on 24.6.2010; subsequently, upon applying for the higher post i.e. Shiksha Karmi Grade II, he submitted an application for NOC. Since the said application remained pending and undecided before the concerned authorities, it attracts the deeming provision under the relevant circular.
9. Moreover, a similar issue came up for hearing before the Coordinate Bench of this Court vide WPS 2628 of 2019, wherein the following was observed in para 4 of the order dated 9.8.2019:

4. Counsel for the petitioner refers to the circular of the State Government, dated 13.7.2018, which is the clarificatory circular to the original circular dated 30.6.2018, wherein it has been specifically held by the State Government that the persons who were working on the



lower post after obtaining NOC have appeared and got selected on the higher post, their earlier service rendered on the lower post shall be counted for the purpose of absorption. According to the petitioner, invoking the said circular, as clarified on 13.7.2018, the petitioner's case is liable to be considered for absorption.

10. Considering the facts and circumstances of the case and in view of the order passed by the Coordinate Bench and particularly in light of the clarificatory Circular dated 13.7.2018 issued by the Secretary, School Education Department, I am of the opinion that the grievance of the petitioner warrants redressal and the petitioner is entitled to be considered for absorption w.e.f. 24.6.2010.
11. Consequently, the Petition is allowed. The Respondent authorities are directed to consider the case of the petitioner with regard to absorption by taking into account the date of his initial appointment i.e. 24.6.2010, for the purpose of calculating the requisite eight year service period. The respondent authorities are further directed to consider the case of the petitioner and pass an appropriate order within a period of 45 days from the date of receipt of a copy of this order.
12. With the aforesaid observations/directions, the Petition is allowed.

Sd/-
(Amitendra Kishore Prasad)
Judge

Shyna Ajay