



35

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Mr. Justice Pritinker Diwaker

Writ Petition (S) No.2562 of 2009

PETITIONER

Shiv Kumar Tiwari, S/o. Shri P.P. Tiwari, aged about 58 years, Occupation Teacher, Govt. Middle School Nondahara, Block Kartala, Distt. Korba (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through Secretary, Scheduled Caste and Scheduled Tribe, D.K.S. Bhawan, Raipur, Distt. Raipur (C.G.)
2. The Commissioner, Schedule Tribe and Schedule Caste Development, Chhattisgarh Raipur (C.G.)
3. The Assistant Commissioner, Tribal Welfare Korba, District Korba (C.G.)
4. Block Education Officer, Block Kartala, District Korba (C.G.)

Shri Ashwani Shukla, counsel for the petitioner.
Shri Vivek Sharma, Panel Lawyer for the State/ respondents.

**WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

ORDER
(15.05.2009)

With the consent of the parties, the matter is heard finally.

The petitioner is working as a Teacher in the school of Tribal Welfare Department of the State Government. He was initially appointed on probation for fixed period and on fixed salary by the State Government. Thereafter, his services were regularized and after completion of probation period he was granted regular pay scale from the date of his regularization.

Grievance of the petitioner is that he is entitled for regular pay scale from the date of his initial appointment.

Learned counsel for the petitioners submits that the above issue has been considered by the M.P. State Administrative Tribunal, Jabalpur in O.A. No.2745/1989 (Madhukant Yadu and



56 others v. State of M.P. and others), whereby it was held that similar situated teachers are entitled to regular pay scales with effect from the initial date of their appointments. The above matter was taken up upto the Hon'ble Supreme Court, however, the appeal was dismissed by the Hon'ble Supreme Court and the Hon'ble Supreme Court vide order dated 3.1.1994 passed in S.L.P. (C) No. (2) 6892/93 finally dismissed the appeal of the State Government. It was further argued that the State Government vide order dated 27.12.2008 passed by the Department of Scheduled Caste and Scheduled Tribes has granted approval to pay regular pay scale to all the Dy. Teachers/Assistant Teachers/Teachers who were appointed before 1982 and after 1995 from the date of initial appointment after their successful completion of probation period. The case of petitioners is squarely covered by the order dated 12.2.2007 passed by this Court in W.P.(S) No.813/2007 (**Ram Kumar Sahu v. State of Chhattisgarh and another**) where regular pay scale was granted with effect from the initial date of appointment.

On the other hand, counsel for the State appearing for the State submitted that only such teachers who were appointed between 1982-83 to 1994-95 are entitled to get the benefit of regular pay scale from their initial appointment after successful completion of two years probation period. However, when counsel for the State was confronted with the latest memo No. F-14-25/2007/25-1 dated 27.12.2008 issued by the State Government, he did not dispute that the teachers who were appointed even before 1982-83 and after 1994-95 are also entitled for regular pay scale from the initial date of their appointment.

Having heard learned counsel for the parties, having regard to the memo No. F-14-25/2007/25-1 dated 27.12.2008 issued by the scheduled castes and scheduled tribes department of the State Government and the decision of this Court dated 12.2.2007 passed in W.P. No. 813/2007 (**Ram Kumar Sahu v. State of Chhattisgarh and another**) (supra), the order dated 27.6.2007 passed in W.P.S. No. 3566/2007 (**Loknath Patel v.**

(37)

State of Chhattisgarh and others), the petition is allowed in terms of aforesaid judgments.

Sd/-
Pritinker Diwakar
Judge

9/