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IN THE HON'BLE HIGH COURT OF CHHATTISGARH  
AT BILASPUR

W.P. (S) NO. 4607 / 2014

Single Bench

PETITIONERS

- :1. Smt. Santoshi Namdev W/o Shri Satish Namdev, aged about 39 years, working as Teacher (Panchayat), Govt. Middle School, Hadaband, Police Station Bhimkhoj, Tahsil Bagbahara, District - Mahsamund (C.G.).
2. Ude Ram Sahu S/o Shri Hagruram Sahu, aged about 47 years, working as Teacher (Panchayat), Govt. Middle School, Kamraud, Police Station and Tahsil Bagbahara, District - Mahsamund (C.G.).
3. Devcharan Sahu S/o Jeevan Lal Sahu, aged about 42 years, working as Assistant Teacher (Panchayat), Govt. Girls Primary School, Birkoni, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
4. Smt. Chandrika Chandrakar W/o Haldhar Chandrakar, aged about 37 years, working as Assistant Teacher (Panchayat), Govt. Primary School, Tumadabari, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
5. Roman Chandrakar S/o Radhe Lal Chandrakar, aged about 39 years, working as Assistant Teacher (Panchayat), Govt. Naveen Primary School, Gadaghat Tumgaon, Police Station Tumgaon, Tahsil and District - Mahsamund (C.G.).

P.R.No. .... 4607/14  
Presented by Shri ...  
dated ... 01.9.14



6. Tarun Kahar S/o Raman Singh Kahar, aged about 42 years, working as Teacher (Panchayat), Govt. Middle School, Khatta, Police Station Patewa, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
7. Bharat Singh Sahu S/o Shri Tularam, aged about 43 years, working as Lecturer (Panchayat), (BRP deputation) (RGSM) BRC Bhavan Mahasamund, Tahsil and District - Mahasamund (C.G.).
8. Thalesh Kumar Chandrakar S/o Khuman Chandrakar, aged about 36 years, working as Assistant Teacher (Panchayat), Govt. Primary School, Labhara Kala, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
9. Smt. Leena Sarit W/o Shri Vivek Sarit, aged about 36 years, working as Teacher (Panchayat), Govt. Middle School, Dhansuli, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
10. Smt. Sunita Dubey W/o Sushil, aged about 38 years, working as Teacher Assistant (Panchayat), Govt. Primary School, Dhansuli, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
11. Ramadhar Jalchhatari S/o Makhan Lal, aged about 44 years, working as Teacher (Panchayat), Govt. Middle School, Sukulbay, Police Station



Tumgaon, Tahsil and District -  
Mahsamund (C.G.).

12. Smt. Gayatri Chandrakar W/o Pokhan Lal Chandrakar, aged about 38 years, working as Assistant Teacher (Panchayat), Govt. Primary School, Kharora, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
13. Smt. Vasna Sahu W/o Atma Ram Sahu, aged about 37 years, working as Assistant Teacher (Panchayat), Govt. Boys Primary School, Tumgaon, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
14. Santosh Kumar Sahu S/o Shri Ram Lal Sahu, aged about 47 years, working as teacher (panchayat), Govt. Middle School, Pirda, Police Station Tumgaon, Tahsil Mahasamund, District - Mahsamund (C.G.).
15. Smt. Usha Shrivastava S/o Bhaya Lal, aged about 40 years, working as Teacher (Panchayat), Govt. Girls Middle School, Tumgaon, Police Station and Tahsil Mahasamund, District - Mahsamund (C.G.).
16. Parmanand Nirmalkar S/o Shri Madan Lal, aged about 40 years, working as Teacher (Panchayat), Govt. Middle School, Narra, Police Station Koma Khan, Tahsil Bagbahara, District - Mahsamund (C.G.).
17. Jagannath Sahu S/o Shri Goverdhan Ram Sahu, aged about 39 years, working as



Teacher (Panchayat), Govt. Middle School, Teka, Police Station and Tahsil Bagbahara, District - Mahsamund (C.G.).

18. Dinesh Kumar Nirmalkar S/o Shri Makhan Lal Nirmalkar, aged about 40 years, working as Teacher (Panchayat), Govt. Middle School, Khursipar, Police Station Komakhan, Tahsil Bagbahara, District - Mahsamund (C.G.).
19. Bedram Gilhare S/o Ram Lal Gilhare, aged about 38 years, working as Teacher (Panchayat), Govt. Middle School, Boirgaon, Police Station Komakhan, Tahsil Bagbahara, District - Mahsamund (C.G.).
20. Rakesh Kumar Chandrakar S/o Goverdhan Lal Chandrakar, aged about 37 years, working as Teacher (Panchayat), Govt. Middle School, Bodaidadar, Police Station Komakhan, Tahsil Bagbahara, District - Mahsamund (C.G.).
21. Rekh Ram Nishad S/o Johan Ram Nishad, aged about 42 years, working as Teacher (Panchayat), Govt. Middle School, Khemda, Police Station Komakhan, Tahsil Bagbahara, District - Mahsamund (C.G.).
22. Smt. Sangita Sawade W/o Rajesh Sawade, aged about 39 years, working as Teacher (Panchayat), Govt. Middle School, Sindhupali, Police Station Pithora, Tahsil and District - Mahsamund (C.G.).
23. Rajkumari Diwan W/o Hariram



Diwan, aged about 38 years, working as Teacher (Panchayat), Govt. Middle School, Tumsa, Police Station Patewa, Tahsil Mahasamund, District - Mahasamund (C.G.).

24. Nandkumar Sahu S/o Tiju Ram, aged about 43 years, working as Assistant Teacher (Panchayat), Govt. Primary School, Barbaspur, Police Station and Tahsil Mahasamund, District - Mahasamund (C.G.).
25. Smt. Prabha Diwan W/o Ramkumar Diwan, aged about 44 years, working as teacher (Panchayat) Govt. Middle School, Patewa, P.S. Patewa, District - Mahasamund (C.G.).
26. Somnath Sahu S/o Shri Shobharam Sahu, aged about 46 years, working as teacher (Panchayat) Govt. Middle School, Dharampur, P.S. & Tahsil Bagbahra, District - Mahasamund (C.G.).

### VERSUS

### RESPONDENTS

- : 1. State of Chhattisgarh, Through, The Secretary, Department of Panchayat and Rural Development, Department, Mahanadi Bhavan, Mantralaya, New Raipur, District- Raipur (C.G.).
2. The Chief Executive Officer, Zila Panchayat, Mahasamund, District - Mahasamund (C.G.)
3. Chief Executive Officer, Janpad Panchayat, Mahasamund, District - Raipur (C.G.).
4. Block Education Officer, Mahasamund, District - Mahasamund (C.G.).
5. Block Education Officer, Bagbahara, District - Mahasamund (C.G.)
6. District Mission Director, Rajeev Gandhi Shiksha Mission, Mahasamund (C.G.)



WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION (S) NO.106 OF 2014

PETITIONER

Marisha Shrivastava

Versus

RESPONDENTS

State of Chhattisgarh & Another

And

other connected matters

Post for pronouncement of orders on the 26<sup>th</sup> day of September, 2014

Sd/-  
**Prashant Kumar Mishra**  
Judge



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HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION (S) NO.106 OF 2014

PETITIONER

Marisha Shrivastava

Versus

RESPONDENTS

State of Chhattisgarh & Another

WRIT PETITION (S) NO. 149 OF 2014

PETITIONER

Ramesh Kumar Yagik

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 110 OF 2014

PETITIONER

Mani Prasad Yadav

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO.148 OF 2014

PETITIONER

Smt. Sushma Gupta

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 152 OF 2014

PETITIONER

Jawahar Prasad Xalxo

Versus

RESPONDENTS

State of Chhattisgarh & Another

WRIT PETITION (S) NO. 153 OF 2014

PETITIONER

Vikas Dubey

Versus

RESPONDENTS

State of Chhattisgarh & Another

WRIT PETITION (S) NO. 155 OF 2014



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PETITIONER

Sachin Tripathi

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 108 OF 2014

PETITIONER

Shalini Singh Chauhan

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 107 OF 2014

PETITIONER

Smt. Shashi Shrivastava

Versus

RESPONDENTS

State of Chhattisgarh & Another

WRIT PETITION (S) NO. 109 OF 2014

PETITIONER

Rakesh Kumar Singh

Versus

RESPONDENTS

State of Chhattisgarh & Another

WRIT PETITION (S) NO. 150 OF 2014

PETITIONER

Sukhendra Singh Chouhan

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 703 OF 2014

PETITIONERS

Khijan Lal Sahu & Others

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 742 OF 2014

PETITIONERS

Shantanu Sahu & Others

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RESPONDENTS Versus  
State of Chhattisgarh & Others

WRIT PETITION (S) NO.3428 OF 2014

PETITIONER Yashpal Singh Sahu

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO. 3518 OF 2014

PETITIONER Smt. Veena Pradhan

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO.3676 OF 2014

PETITIONER Ghanshyam Varen

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO. 3677 OF 2014

PETITIONER Shobha Singh Rathia

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO. 3679 OF 2014

PETITIONER Gend Prasad Rathia

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO. 3680 OF 2014

PETITIONER Shivrindan Jaiswal



Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 3681 OF 2014PETITIONER

Murlidhar Sidar

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 3682 OF 2014PETITIONER

Pradeep Kumar Sahu

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 3683 OF 2014PETITIONER

Kamta Prasad Patel

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 3684 OF 2014PETITIONER

Anita Xalxo

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 3685 OF 2014PETITIONER

Smt. Tarendu Singh Chandra

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 3687 OF 2014PETITIONER

Ram Niwas Nagwanshi

RESPONDENTS

Versus

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 4038 OF 2014

PETITIONER

Santosh Kumar Sharma

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 3656 OF 2014

PETITIONERS

Rajesh Kumar Sahu & Others

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 3620 OF 2014

PETITIONERS

Ishwari Prasad Sahu & Others

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 60 OF 2014

PETITIONERS

Raj Kumar Rathore & Others

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 4274 OF 2014

PETITIONER

Smt. Geeta Rani Mandal & Another

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 4291 OF 2014

PETITIONER

Roshan Lal Masih

Versus

RESPONDENTS

The State of Chhattisgarh & Others

WRIT PETITION (S) NO.4293 OF 2014

PETITIONER

Smt. Frida Pannalal

Versus

RESPONDENTS

The State of Chhattisgarh & Others

WRIT PETITION (S) NO.4362 OF 2014

PETITIONERS

K.S. Sunil Pillay & Others

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO. 4363 OF 2014

PETITIONERS

Bhawan Diwan & Others

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO.4372 OF 2014

PETITIONER

Smt. Gaytri Maitri

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO.4374 OF 2014

PETITIONER

Tukaram Patel

Versus

RESPONDENTS

State of Chhattisgarh & Others

WRIT PETITION (S) NO.4300 OF 2014

PETITIONER

Ravindra Nath Tiwari & Others

RESPONDENTS Versus  
State of Chhattisgarh & Others

WRIT PETITION (S) NO. 4382 OF 2014

PETITIONERS Dharmendra Kumar Patel & Others

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO.4385 OF 2014

PETITIONERS Shambhunarayan Banjare & Others

Versus

RESPONDENTS The State of Chhattisgarh & Others

WRIT PETITION (S) NO.4431 OF 2014

PETITIONER Chakradhar Prasad Behra &  
Another

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO.4518 OF 2014

PETITIONERS Tamradhwaj Chouhan & Others

Versus

RESPONDENTS The State of Chhattisgarh & Others

WRIT PETITION (S) NO. 3077 OF 2014

PETITIONER Smt. Chitrakala Ramteke & Others

Versus

RESPONDENTS State of Chhattisgarh & Others

WRIT PETITION (S) NO.3087 OF 2014

PETITIONERS Smt. Meena Baghel & Others

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Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4432 OF 2014PETITIONERS

Arin Kumar Tirkey &amp; Another

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 3852 OF 2014PETITIONERS

Smt. Rita Mishra &amp; Another

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4228 OF 2014PETITIONERS

Rakesh Dewangan &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4424 OF 2014PETITIONERS

Virendra Kumar Tiwari &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4454 OF 2014PETITIONER

Manoj Kumar Damle &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4570 OF 2014PETITIONERS

Niresh Semual &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4571 OF 2014PETITIONERS

Atmaram Kunjam &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO.4493 OF 2014PETITIONERS

Anil Kumar Patel &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4607 OF 2014PETITIONERS

Smt. Santoshi Namdev &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4642 OF 2014PETITIONERS

Smt. Teras Madhukar &amp; Another

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO.4644 OF 2014PETITIONERS

Bodhiram Sahu &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO.4655 OF 2014PETITIONERS

Bhuwan Lal Yadu &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others



WRIT PETITION (S) NO. 4567 OF 2014PETITIONERS

Hemant Kumar Sahu &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO.4692 OF 2014PETITIONERS

Babulal Sethiya &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4660 OF 2014PETITIONER

Bharat Lal Sahu

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO.4794 OF 2014PETITIONER

Smt. Shailja Shukla

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 734 OF 2014PETITIONER

Sanjay Singh Rajput

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 1388 OF 2014PETITIONER

Kaushal Kumar Shrivastava

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4895 OF 2014PETITIONERS

Smt. Sushila Kanwar &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO.4896 OF 2014PETITIONERS

Raju Singh Thakur &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO.4897 OF 2014PETITIONERS

Arjun Lal Verma &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4898 OF 2014PETITIONERS

Smt. Prachi Pathak &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

WRIT PETITION (S) NO. 4899 OF 2014PETITIONERS

Sukalu Das Verma &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

ANDWRIT PETITION (S) NO. 3903 OF 2014PETITIONERS

Ram Kripal Mishra &amp; Others

Versus

RESPONDENTS

State of Chhattisgarh &amp; Others

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**Single Bench : Hon'ble Shri Prashant Kumar Mishra, J.**

Present :- Shri H.B. Agrawal, Sr. Advocate, Shri Rajeev Shrivastava, Shri Mateen Siddiqui, Shri Vivek Ranjan Tiwari, Shri Abdul Wahab Khan, Shri K.S. Pawar, Shri Sushobhit Singh, Shri C.R. Sahu, Shri Amrito Das, Shri Ajay Shrivastava, Shri Shivendu Bhardwaj, Shri Anis Tiwari, Shri Malay Shrivastava, Shri K.K. Pandey, Shri G.V.K. Rao, Shri Avinash K. Mishra, Shri A.N. Pandey, Shri Ashwani Shukla, Shri Basant Kaiwartya, Shri Goutam Khetrapal, Shri Rahul Mishra, Shri Shailendra Dubey, Shri A.K. Shukla, Ms. Deepali Pandey, Shri Rajendra Kumar Patel, Shri P.P. Sahu, Shri Dinesh R.K. Tiwari, Shri Shrawan Agrawal, Shri J.A. Lohani, Shri G.R. Miri, Shri U.P.S. Sahu and Ms. Meera Jaiswal, Advocates for the respective petitioners.

Shri Y.S. Thakur, Dy. Advocate General, Shri Shashank Thakur, Govt. Advocate, Shri Sangharsh Pandey, Dy. Govt. Advocate, Ms. Sunita Jain, Shri Ashutosh Pandey, Shri Syed Majid Ali, Shri Bhaskar Payasi and Shri Ajit Singh, Panel Lawyer for the State.

**ORDER**

(Delivered on this 26<sup>th</sup> day of September, 2014)

1. These writ petitions have been heard on different dates, however, since all the writ petitions involve common facts and common question of law, therefore, they are being considered and decided by this common order.
2. Petitioners have called in question the legality and validity of the orders/clarifications issued by the Government of Chhattisgarh, Department of Panchayat, Rural Development and Labour on 4-12-2013 & 22-1-2014 and have raised the following issues in this batch of writ petitions :

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- i. The clarification issued in the orders dated 4-12-2013 & 22-1-2014 to the effect that such Teacher (Panchayat) {for short 'T (P)'} cadre who have been freshly appointed on a higher post by competing after seeking permission from the concerned Zila Panchayat (for short 'ZP')/Janpad Panchayat (for short 'JP') while working on the lower post, shall not be entitled for counting their period of service spent in the lower post for the purpose of grant of higher pay scale/revised pay scale equivalent to Government Teachers on completion of 8 years service.
- ii. There are procedural illegalities while issuing the orders dated 4-12-2013 & 22-1-2014 inasmuch as the same have not been issued in the same manner and by following the same procedure by which the earlier order dated 17-5-2013 was issued.
- iii. While denying counting of service on the lower post the respondents have discriminated between the promoted T (P) and the freshly recruited T (P).
- iv. Denial of benefit of revised scale on the basis of Kramonnati Vetanman (for short 'KV') or Samayman Vetanman (for short 'SV') already received by the Assistant Teacher (Panchayat) {for short 'AT (P)'} or T (P) is illegal.
- v. Withdrawal of benefit of allowances like HRA, Medical, Stagnation, etc., which were admissible to the T (P) in

some of the blocks/districts is illegal, therefore, the recovery of amount already paid to the petitioners deserves to be quashed.

**A) Counting of Service on lower post when the AT (P) has joined as T (P) on fresh selection (paragraph 8 of the orders dated 4-12-2013 & 22-1-2014) :-**

3. All the petitioners were earlier working in the lower post and while working as such they competed in the recruitment for higher post and having been selected, they joined the higher post. According to the petitioners, since in the earlier order dated 17-5-2013 there was no mention that the service period spent on the lower post shall not be counted and the petitioners having completed more than 8 years service by counting together their service in the lower post as well as the present post, they are entitled for higher/revised pay scale and the clarification issued to the contrary deserves to be quashed.
4. The issue fallen for consideration is whether T (P) cadre are entitled to count the period of 8 years satisfactory service, from the date of initial appointment on a lower post or the said 8 years continuous service should be rendered in the same post in which they are presently working, for grant of benefit of pay scale equal to Government Teachers as also for grant of annual increment for each completed block of two years, as decided by the State Government vide order dated 17-5-2013.
5. The State Government vide its order dated 17-5-2013 decided to grant benefit of pay scale equal to Government Teachers as also for grant of one annual increment for each completed block of two

years and thereafter, yearly increment after 17-5-2013. Order dated 17-5-2013 reads as under :

छत्तीसगढ़ शासन  
पंचायत एवं ग्रामीण विकास विभाग,  
:: मंत्रालय ::  
महानदी भवन, नया रायपुर

// आदेश //

रायपुर, दिनांक 17/05/2013

क्रमांक, एफ 6-36/पंचाविवि/22-2/2013 :: राज्य शासन एतद् द्वारा मंत्रिपरिषद् के आदेश (आयटम क्रमांक-78.2) दिनांक 11 मई, 2013 के परिपालन में प्रदेश के ग्रामीण क्षेत्र की शालाओं में 8 (आठ) वर्ष सेवा पूर्ण कर चुके शिक्षक (पंचायत), संवर्ग के कर्मचारियों को दिनांक 01.05.2013 से शासकीय शिक्षकों के समतुल्य निम्नानुसार वेतनमान स्वीकृत करता है :-

क्र.	शिक्षक (पंचायत) संवर्ग	वर्तमान वेतनमान	पुनरीक्षित वेतनमान
1.	व्याख्याता (पंचायत)	रु. 5300-150-8300	रु. 9300-34,800+ 4300
2.	शिक्षक (पंचायत)	रु. 4500-125-7000	रु. 9300-34,800+ 4200
3.	सहायक शिक्षक (पंचायत)	रु. 3800-100-5800	रु. 5200-20,200+ 2400

उपरोक्त वेतनमान पर शासकीय शिक्षकों के समतुल्य भत्ते की पात्रता होगी ।

2/- शिक्षक (पंचायत) संवर्ग की सेवाकाल की गणना उनकी प्रथम नियुक्ति पर कार्यभार ग्रहण करने की तिथि से की जायेगी । पुनरीक्षित वेतन निर्धारण के लिये दिनांक 01.05.2013 की स्थिति में 8 (आठ) वर्ष की संतोषजनक सेवा पूर्ण करने के उपरांत प्रत्येक 2 (दो) वर्ष की पूर्ण सेवा के लिये एक वार्षिक वेतन वृद्धि का बेटेज दिया जायेगा । दिनांक 01.05.2013 के पश्चात् प्रत्येक वर्ष वार्षिक वेतन वृद्धि देय होगी ।

3/- उक्त स्वीकृति वित्त विभाग के यू.ओ.क्रमांक 2343 दिनांक 06.05.2013 द्वारा प्रदान की गई है ।

छत्तीसगढ़ के राज्यपाल के नाम से  
तथा आदेशानुसार

सही  
(देवाशीष दास)



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छत्तीसगढ़ शासन  
पंचायत एवं ग्रामीण विकास विभाग

6. After issuance of order dated 17-5-2013 several Panchayat bodies started granting revised pay scale and increments by counting the services rendered on the lower post and at the same time many of the ZPs sought guidance from the State Government as to whether the period spent in the lower post is also to be counted or the revised scale is admissible after calculating the period spent on the same post in which a particular T (P) is presently working.
7. In response to the queries raised by the ZPs an order was issued on 4-12-2013 under the signature of the Under Secretary, Government of Chhattisgarh, Department of Panchayat, Rural Development and Labour, approved by the Additional Chief Secretary and thereafter, an exactly similar order was issued on 22-1-2014 by the Secretary, Department of Panchayat and Rural Development by order and in the name of Governor of Chhattisgarh.
8. With respect to issue falling for consideration in this batch of writ petitions, the clarification was issued in paras 1 & 8 of the orders dated 4-12-2013 & 22-1-2014. Paragraphs 1, 2, 7 & 8 of the said orders are reproduced hereunder :

(1) शिक्षक (पंचायत) संवर्ग की सेवाकाल की गणना उनकी प्रथम नियुक्ति पर कार्यभार ग्रहण करने की तिथि से की जायेगी । इस संबंध में स्पष्ट किया जाता है कि शिक्षक (पंचायत) संवर्ग से तात्पर्य है व्याख्याता (पंचायत), शिक्षक (पंचायत) एवं सहायक शिक्षक (पंचायत) । उक्त पदों पर उनकी प्रथम नियुक्ति पर कार्यभार ग्रहण करने की तिथि से सेवाकाल की गणना की जावेगी । उदाहरणार्थ यदि कोई शिक्षक (पंचायत) संवर्ग का कर्मचारी अप्रैल 2004 में

सहायक शिक्षक (पंचायत) के पद पर नियुक्त हुआ है तथा मई 2012 में उसकी पदोन्नति शिक्षक (पंचायत) के पद पर हो चुकी है तो 1-5-2013 को उसकी कुल सेवा अवधि 9 वर्ष होगी। इस प्रकार शिक्षक (पंचायत) संवर्ग के तीनों पदों की सेवाओं को जोड़कर सेवा की गणना की जावेगी।

(2) विभाग द्वारा जारी आदेश में उल्लेखित है कि उपरोक्त वेतनमान पर शासकीय शिक्षकों के समतुल्य भत्ते की पात्रता होगी। अतः शासकीय शिक्षकों को मूल वेतन के अतिरिक्त जो महंगाई भत्ता प्राप्त होता है, उसी दर से महंगाई भत्ता पुनरीक्षित वेतनमान प्राप्त करने वाले शिक्षक (पंचायत) संवर्ग को भी प्राप्त होगा। इसके अतिरिक्त किसी भी अन्य भत्ते की पात्रता नहीं होगी।

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(7) ऐसे शिक्षक (पंचायत) संवर्ग, जिनको 10 वर्ष की सेवा अवधि पूर्ण करने के उपरांत क्रमोन्नति वेतनमान दिया जा रहा है, उन्हें भी जिस वर्ग में कार्यरत हैं, उस पद का पुनरीक्षित वेतनमान प्रदान किया जायेगा तथा उपरोक्तानुसार वेटेज का लाभ प्रदान किया जायेगा।

(8) जिन शिक्षक (पंचायत) संवर्ग के कर्मचारियों द्वारा निम्न पद पर रहते हुए जिला/जनपद पंचायतों से अनुमति प्राप्त कर उच्च पद (शिक्षक पंचायत संवर्ग) पर आवेदन प्रस्तुत कर नियुक्त हुए हैं, उनकी सेवा की गणना निम्न पद पर कार्यरत अवधि से नहीं की जायेगी। नव नियुक्त पद पर कार्यभार ग्रहण करने की तिथि से उनकी सेवा की अवधि की गणना की जायेगी।

9. It is the above clarification, which has been assailed by the petitioners. According to the petitioners, such was not the intention of the Government in its order dated 17-5-2013 and which was rightly so in view of Rule 26 of the Chhattisgarh Civil Services (Pension) Rules, 1976 (for short 'the Rules, 1976') wherein it is provided that a resignation shall not entail forfeiture of past service, when it has been submitted to take up with prior permission,



another appointment, whether temporary or permanent, under the State Government, where service qualifies. However, the said rule is applicable to a Government servant and not to a T (P) whose appointing authority is the ZP and not the State Government. Even otherwise, the said rule is for the purpose of counting the qualifying service for grant of pension and not for granting any other benefits.

10. In course of hearing learned counsel appearing for the State has argued that grant of pay scale equal to Government Teachers, on completion of 8 years service on a post in the cadre of T (P), is a modified form of benefit of kramonnati.
11. In service jurisprudence, when a public servant intends to apply for a different post in any recruitment process, it is necessary for him, in most of the service rules, to seek permission from his employer before participating in the recruitment process for any other post. When he is selected for any other post, it is necessary for him to resign from the earlier post because otherwise, he would be guilty of working on two different posts at the same time and it may amount to misconduct. However, services rendered on the prior post is exclusive for granting any service benefits, although, it may count in the total length of service for the purpose of calculating qualifying service for his entitlement to pension. A fresh appointment on any other post always remains fresh appointment for grant of increment and revised pay scale and is never treated as continuation of service rendered in the earlier post.



**B) Procedural illegality in issuing the orders dated 4-12-2013 & 22-1-2014 :-**

12. The petitioners have argued that the order dated 17-5-2013 was issued by the Government pursuant to the decision taken by the cabinet and the said order having been issued by order and in the name of Governor, the subsequent clarification has no legal effect because it runs contrary to the main order and further that the impugned clarification vide para 8 of the circular dated 4-12-2013 has been issued by the Under Secretary and has not been authenticated in the name of Governor of Chhattisgarh, therefore, the same is void *ab initio* and has no effect whatsoever on the earlier order dated 17-5-2013.
13. Per contra, learned counsel appearing for the State, would submit that the subsequent clarification dated 22-1-2014 (Annexure – R/1) was issued by the Secretary, Department of Panchayat, Rural Development and Labour, by order and in the name of the Governor of Chhattisgarh, therefore, the same has equal force in law as the earlier order dated 17-5-2013 and there is no procedural defect in issuing the clarification. Learned counsel would further submit that under Article 163 (3) of the Constitution of India discussion in the cabinet cannot be subject matter of debate in the Court, therefore, the interpretation put forth by the petitioners by taking shelter of the synopsis and note sheet presented before the Cabinet cannot improve their case.
14. On perusal of the document, it would be manifest that the subsequent clarification dated 22-1-2014 having been

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authenticated by order and in the name of the Governor of Chhattisgarh, therefore, there is no doubt that it is the decision of the Government at whatsoever level taken.

15. In *State of M.P. and Others v. Dr. Yashwant Trimbak*<sup>1</sup>, it has been held by the Supreme Court that when an order has been executed in the name of the Governor and has been duly authenticated by the signature of the Under Secretary to the Government and therefore the bar to judicial enquiry with regard to the validity of such order engrafted in Article 166 (2) of the Constitution will be attracted. The order which is expressed in the name of the Governor and is duly authenticated cannot be questioned in any court on the ground that it is not made or executed by the Governor. The signature of the Secretary or Under Secretary concerned who is authorised under the authentication rules to sign the document signifies the consent of the Governor as well as the acceptance of the advice rendered by the Minister concerned. Since the subsequent order is authenticated in a proper manner and is an order of the State Government, this Court is not entitled to question the decision only on the ground that it was not taken in the same manner in which the earlier decision was taken. In fact, such an argument cannot be applied in favour of the petitioner because the communication dated 22-1-2014 is not the amendment of the earlier order, but it is in the nature of clarification.

16. Learned counsel for the petitioners have strenuously argued, by referring to the official note sheet based on which the order dated

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<sup>1</sup> (1996) 2 SCC 305

17-5-2013 was issued by order and in the name of the Governor of Chhattisgarh, to submit that the State Government had taken a conscious decision for grant of allowances and for counting of the services rendered on the lower post, therefore, such decision could not have been withdrawn without taking the matter to the Cabinet because the earlier decision was taken by the Cabinet.

17. On this particular aspect of the matter, learned counsel for the State has drawn attention of the Court to Article 163 (3) of the Constitution of India and has argued that by virtue of the said constitutional provision it is not open for the Court to make enquiry as to what advice was tendered by the Ministers to the Governor and, as such, reliance placed by the petitioners on the official note sheet containing the advice tendered is not open to scrutiny.
18. Article 163 (3) of the Constitution provides that 'the question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any Court.'
19. In *The State of Punjab v. Sodhi Sukhdev Singh*<sup>2</sup>, it has been held by the Supreme Court that the advice given by the Cabinet to the Governor is expressly saved by Article 163 (3) of the Constitution. If the Department does not give permission for production of documents, the Court cannot compel the State to produce them.
20. Relying on *Sodhi Sukhdev Singh* (supra), the Supreme Court in *State of Punjab v. Salil Sabhlok and Others*<sup>3</sup>, has held thus in para 149 :

149. The learned counsel for the State of Punjab submitted that the High Court could not have directed

<sup>2</sup> AIR 1961 SC 493  
<sup>3</sup> (2013) 5 SCC 1

production of the advice tendered by the Chief Minister to the Governor. The basis of this argument is the order dated 1st August 2011 passed by the Full Bench. The relevant portion of the order reads as follows:

"Mr. Jindal, Addl. Advocate General shall also produce the record relating to the appointment process of respondent No.4 [Mr. Dhanda]."

The grievance made by learned counsel in this regard is justified. It need only be pointed out that in State of Punjab v. Sukhdev Singh, this Court clearly held that: (AIR pp. 511-12, para 42).

"42....It is hardly necessary to recall that advice given by the Cabinet to the Rajpramukh or the Governor is expressly saved by Article 163, clause (3) of the Constitution; and in the case of such advice no further question need to be considered."

It is not necessary to say anything more on this subject.

21. In the cases in hand, a peculiar situation has arisen because in WP (S) Nos.106, 107, 108, 109 & 110 of 2014, by order dated 9-1-2014 this Court had directed the State to produce the entire record in which the earlier circular dated 17-5-2013 as well as the order dated 4-12-2013 have been issued. Subsequently, an application for modification/recalling was filed by the State claiming privilege of the documents and note sheet of the cabinet. However, the petitioners had also moved an application before the concerned Department claiming copies of the said documents under the Right to Information Act, 2005 (for short 'the RTI Act').
22. Before this Court could decide the State Government's application claiming privilege and modification of the earlier order, the petitioners were supplied the documents under the RTI Act and the

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same have been placed before this Court by the petitioners themselves.

23. Learned Dy. Advocate General would submit that the State still claims privilege under Article 163 (3) of the Constitution because an application to that effect has already been filed.

24. In *State of M.P. and Others etc. etc. v. Nandlal Jaiswal and Others*<sup>4</sup>, it has been held thus by the Supreme Court :

"29.....This decision provides a complete answer to the contention urged on behalf of M/s. Doongaji & Co. based on the language of the last clause of Rule XXII. It is true that what has been produced before the Court by way of policy decision dated 30th December 1984 is the decision of the Cabinet and if its production had been objected to on behalf of the State Government, a question would perhaps have arisen whether it is barred from the scrutiny of the Court under clause (3) of Article 163 of the Constitution. But, it has been produced by the petitioners without any objection on the part of the State Government and once it is produced, the Court is entitled to look at it and it clearly contains the decision of the State Government and must be held to fall within the last clause of Rule XXII. This view finds complete support from the decision of this Court in *L.G. Chaudhari v. Secretary, L.S.G. Deptt., Govt. of Bihar* AIR 1980 SC 383."

(Emphasis added)

25. In view of the law laid down by the Supreme Court in *Sodhi Sukhdev Singh* (supra), *Salil Sabhlok* (supra) & *Nandlal Jaiswal* (supra), I am of the considered opinion that since the State has claimed privilege and refused to produce the documents/note sheet presented before the Cabinet for a scrutiny by the Court, in view of the provisions contained in Article 163 (3), this Court cannot scrutinize the papers presented before the Cabinet.

<sup>4</sup> AIR 1987 SC 251

C) Whether discrimination between promoted T (P) and freshly recruited T (P) :-

26. It has also been argued that by issuing the impugned clarification vide paras 1 & 8, the State Government has discriminated between the promoted T (P) and freshly recruited T (P). In this regard it is to be seen that T (P) who have been appointed by way of promotion and those appointed by way of direct recruitment belong to different class, therefore, there is no discrimination and consequent violation of Article 14 of the Constitution of India. There is basic difference between the status of promoted teachers and the freshly recruited Teachers inasmuch as the promoted Teachers enjoys continuous service whereas the Teacher who is freshly recruited on the higher post does so by resigning from his lower post.
27. It has also been argued that such AT (P) who have joined on the post of T (P) as a fresh recruit are not entitled for the benefit of revised pay scale, have been put to disadvantageous position because had they not resigned and continued to work on the lower post, they would be getting higher salary in the revised scale than the one which they are presently getting in the higher post of T (P). It seems, such a situation is not at all possible because revised scale for each cadre is different. The argument is based on some pay slips showing reduction in gross pay, however, such situation has occurred in few JP or ZP wherein AT (P) or T (P) were granted revised scale on the basis of KV or SV which is not at all permissible. In this regard, it is apt to refer the judgment of the



Supreme Court wherein relief has been refused on the ground that Article 14 does not recognize negative equality.

28. It is settled law that if someone has been wrongly extended a benefit that cannot be cited as a precedent for claiming similar benefit by others. In umpteen number of cases, the Supreme Court held that guarantee of equity before law under Article 14 is a positive concept and cannot be enforced in a negative manner; and that if any illegality or irregularity is committed in favour of any individual or group of individuals, others cannot invoke the jurisdiction of Courts for perpetuating the same irregularity or illegality in their favour also on the reasoning that they have been denied the benefits which have been illegally extended to others.

(See: *Union of India & others v. M.K. Sarkar*<sup>5</sup>).

D) **Grant of revised scale on the basis of KV or SV already received by AT (P) or T (P) :-**

29. In some of the writ petitions the petitioners have challenged the validity of clauses 2, 7 & 8 of the circulars dated 4-12-2013 & 22-1-2014. Learned counsel for the petitioners have argued that the petitioners were earlier granted KV & SV on completion of 7 years service or 10 years service, as the case may be, and accordingly they started receiving the said KV on the basis of the State Government's order dated 2-11-2011 and SV by order dated 1-5-2012, however, after issuance of the impugned circular dated 22-1-2014 their pay scales have been revised in such a manner that their pay scale has been reduced and recovery has been made from their salary. Learned counsel would also submit that benefit



of HRA, Medical Allowance and other allowances paid to the petitioners have also been withdrawn even though they are entitled for the same. They would further submit that once the petitioners have been granted revised pay scale equal to the Government Teachers pursuant to the order dated 17-5-2013, they are also entitled for allowances, as is admissible to the Government Teachers. Thus, according to learned counsel, reduction of pay and withdrawal of allowances is wholly arbitrary.

30. Countering the above submissions, learned counsel for the State has drawn attention of the Court to paras 6, 7 & 8 of the order dated 4-12-2013 and 22-1-2014 to argue that the State Government has clarified the position that such AT (P) or T (P) who have been granted the benefit of SV/KV on completion of 7 years of service, but since thereafter, they have completed 8 years of service, their pay scale is also to be revised pursuant to the Government order dated 17-5-2013 and such revision is to be made on the basis of the pay scale admissible to the particular post and not on the basis of the KV or SV. He would further submit that there is absolutely no ambiguity in the decision and the writ petition deserves to be dismissed.
31. It appears after issuance of the order dated 2-11-2011 such T (P) cadre who have completed 10 years of service were allowed KV because at that time there was no decision by the State Government to grant them the benefit of revised pay scale at par with Government Teachers. Similarly by order dated 1-5-2012 the T (P) cadre were granted benefit of SV stating that such T (P)

cadre who are graduates and have completed more than 7 years of service as on 1-4-2012 and such Teachers who are non-graduates and have completed service of 10 years or more shall be entitled to SV w.e.f. 1-4-2012 along with DA of 51% to be calculated on the basic pay. They shall also receive annual increment every year.

32. In para 7 of the order dated 1-5-2012 the terms & conditions for grant of SV were mentioned, which included non-imposition of any penalty, rendering of continuous teaching job and average grading of 'ख' with compulsory 'ख' grading in just preceding year.
33. By order dated 17-5-2013 the T (P) cadre were sanctioned equivalent pay scale of Government Teachers on completion of 8 years satisfactory service and one increment for each completed 2 years of service and thereafter, annual increment to be paid in next July after completing one year period from 1-5-2013. As a result of three different pay scales namely; KV 2011; SV 2012 and pay scale equivalent to Government Teachers in the year 2013, the pay scales pursuant to the order dated 17-5-2013 were wrongly revised in some blocks or districts by treating their KV or SV as the basis, resultantly, AT (P) started getting salary much more than what they are entitled for whereas, in fact, after the latest order dated 17-5-2013 the previous arrangement of KV/SV became redundant as all the T (P) cadre is now getting pay scale equivalent to Government Teachers after completion of 8 years of service on the post.

34. If the effect of 3 different orders issued in successive years is considered as per the argument raised by the petitioners, then the AT (P) who is already receiving KV or SV would get much more than what is provided in the revised scale, as mentioned in the order dated 17-5-2013.
35. On a conjoint reading of paras 6 & 7 of the circular dated 22-1-2014 there remains no doubt or ambiguity that such teachers who are getting SV or KV shall be granted revised scale of the cadre post held by them equivalent to Government Teachers, if they have completed 8 years satisfactory service meaning thereby that the SV or KV, as the case may be, already granted to the T (P) cadre shall be replaced/substituted by the revised scale equal to Government Teachers as provided in the order dated 17-5-2013.
36. In some of the writ petitions pay slips have been annexed to demonstrate that before revision of their pay scales pursuant to the order dated 4-12-2013 and 22-1-2014 they were receiving higher gross salary whereas upon calculation of the gross salary after effecting the revision of pay of scale, their gross salary has been reduced. This Court verified some of the pay slips and on close scrutiny, it revealed that in some of the JP or ZP, the AT (P) or T (P) who were earlier receiving KV or SV and after coming into force of the order dated 17-5-2013 their pay scales have been revised on the basis of KV or SV whereas, the pay scale should have been revised on the basis of the pay scale of the cadre post and not on the basis of the KV scale or SV scale. Similarly, their gross salary

increased because upon issuance of the order dated 17-5-2013 some of the JP and ZP have started paying HRA, medical allowance and stagnation allowance for which the State Government has never issued any specific order. Thus, when after issuance of order dated 4-12-2013 and 22-1-2014 the revised pay scale for which they are actually entitled were paid and payment of the amount of allowances wrongly granted to them were stopped, their gross pay was reduced, however, that does not mean that they have been brought down to a reduced pay scale.

37. For the foregoing, challenge to clauses 2, 7 & 8 of the order dated 22-1-2014 has no substance and it fails.

e) **Withdrawal of allowances : (challenge to para 2 of the orders dated 4-12-2013 & 22-1-2014) and recovery of amount already paid to them :-**

38. Another issue raised before this Court is about withdrawal of other allowances like HRA, Medical & Stagnation, etc., which were paid to the petitioners after issuance of the order dated 17-5-2013. According to the petitioners the said allowances have wrongly been withdrawn after issuance of the circulars dated 4-12-2013 & 22-1-2014.

39. In this regard, petitioners have argued that once having construed the order dated 17-5-2013 in a particular manner by sanctioning all other allowances over and above the DA, it could not have been withdrawn by subsequent orders dated 14-12-2013 & 22-1-2014. They would submit that the State Government had taken a conscious decision to grant benefit of all allowances, which are

payable to Government Teachers, therefore, petitioners are entitled to all the allowances.

40. Learned counsel appearing for the State has argued that the order dated 17-5-2013 nowhere stated that T (P) cadre shall receive all allowances by naming the same, therefore, the decision was only to clarify the position and the benefit has not been withdrawn because it was never granted. Learned counsel would submit that merely because few JP or ZP have wrongly construed the order dated 17-5-2013 and started granting benefit of all allowances to the T (P) cadre, the same may not become the rule, when the State Government has never decided to grant benefit of all the allowances to the T (P) cadre.
41. In the order dated 17-5-2013 it is stated that T (P) cadre shall be entitled to the pay scale of Government Teachers and allowance. It has used the word 'allowance' in singular and has not used it in plural by mentioning 'allowances' or 'all other allowances' admissible to Government Teachers. In financial matters any benefit, which the Government desires to confer upon an employee of a particular cadre, is always stated in express terms and more so when it involves financial burden on the exchequer.
42. It is trite law that the Courts have no power to take a decision in a particular fashion or direct the State to grant any benefit to the employees, which imposes financial burden on the Government.
43. The Supreme Court in *Secretary, State of Karnataka and Others v. Umadevi (3) and Others*<sup>6</sup>, held thus in paras 19 & 21 :

<sup>6</sup> (2006) 4 SCC 1

19. One aspect arises. Obviously, the State is also controlled by economic considerations and financial implications of any public employment. The viability of the department or the instrumentality of the project is also of equal concern for the State. The State works out the scheme taking into consideration the financial implications and the economic aspects. Can the court impose on the State a financial burden of this nature by insisting on regularization or permanence in employment, when those employed temporarily are not needed permanently or regularly? As an example, we can envisage a direction to give permanent employment to all those who are being temporarily or casually employed in a public sector undertaking. The burden may become so heavy by such a direction that the undertaking itself may collapse under its own weight. It is not as if this had not happened. So, the court ought not to impose a financial burden on the State by such directions, as such directions may turn counter-productive.

21. In Dharwad case this Court was actually dealing with the question of 'equal pay for equal work' and had directed the State of Karnataka to frame a scheme in that behalf. In paragraph 17 of the judgment (in SCC), this Court stated that the precedents obliged the State of Karnataka to regularize the services of the casual or daily/monthly rated employees and to make them the same payment as regular employees were getting. Actually, this Court took note of the argument of counsel for the State that in reality and as a matter of statecraft, implementation of such a direction was an economic impossibility and at best only a scheme could be framed. Thus a scheme for absorption of casual/daily rated employees appointed on or before 1.7.1984 was framed and accepted. The economic consequences of its direction were taken note of by this Court in the following words: (SCC pp. 408-09, para 24)

"24. We are alive to the position that the scheme which we have finalized is not the ideal one but as we have already stated, it is the obligation of the court to individualize justice to suit a given situation in a set of facts that are placed before it. Under the scheme of the Constitution the purse remains in the hands of the executive. The legislature of the State controls the Consolidated Fund out of which the expenditure to be incurred, in giving effect to the scheme, will have to be met. The flow into the Consolidated Fund depends upon the policy of taxation depending perhaps on the capacity of the payer. Therefore, unduly burdening the State for implementing the

constitutional obligation forthwith would create problems which the State may not be able to stand. We have, therefore, made our directions with judicious restraint with the hope and trust that both parties would appreciate and understand the situation. The instrumentality of the State must realize that it is charged with a big trust. The money that flows into the Consolidated Fund and constitutes the resources of the State comes from the people and the welfare expenditure that is meted out goes from the same Fund back to the people. May be that in every situation the same tax payer is not the beneficiary. That is an incident of taxation and a necessary concomitant of living within a welfare society."

(Emphasis added)

44. The same view has been reiterated by the Supreme Court in *Union of India and Others v. Tejram Parashramji Bombhate and Others*<sup>7</sup> and *Indian Drugs & Pharmaceuticals Ltd. v. Workmen, Indian Drugs & Pharmaceuticals Ltd.*<sup>8</sup>
45. If the State Government has issued subsequent circular on 22-1-2014 by order and in the name of the Governor of Chhattisgarh clarifying the position that except DA, no other allowances is admissible to T (P) cadre, this Court cannot interpret the order dated 17-5-2013 differently to impose financial burden on the State.
46. It is the settled practice that the author of the document is the most suitable person to interpret the contents thereof. It is also trite that while construing a document the Court shall not supply any words which the author thereof did not use. (See: *State Bank of India and Another v. Mula Sahakari Sakhar Karkhana Ltd.*<sup>9</sup>). Thus, this Court has to accept the plea of the respondents that the State

<sup>7</sup> (1991) 3 SCC 11

<sup>8</sup> (2007) 1 SCC 408 (para 51)

<sup>9</sup> (2006) 6 SCC 293



Government never decided to grant benefit of any other allowances than DA to the T (P) cadre. The petitioners are, therefore, not entitled to other allowances like HRA, Medical, Stagnation, etc.

47. In *Chandi Prasad Uniyal and Others v. State of Uttarakhand and Others*<sup>10</sup>, it has been held by the Supreme Court that excess payment of public money which was wrongly granted can be withdrawn and recovery can be made. In paras 8, 13 & 14 the Supreme Court has held thus :

"8. We are of the considered view, after going through the various judgments cited at the bar, that this court has not laid down any principle of law that only if there is misrepresentation or fraud on the part of the recipients of the money in getting the excess pay, the amount paid due to irregular/wrong fixation of pay be recovered.

13. We are not convinced that this Court in various judgments referred to hereinbefore has laid down any proposition of law that only if the State or its officials establish that there was misrepresentation or fraud on the part of the recipients of the excess pay, then only the amount paid could be recovered. On the other hand, most of the cases referred to hereinbefore turned on the peculiar facts and circumstances of those cases either because the recipients had retired or were on the verge of retirement or were occupying lower posts in the administrative hierarchy.

14. We are concerned with the excess payment of public money which is often described as "taxpayers' money" which belongs neither to the officers who have effected overpayment nor to the recipients. We fail to see why the concept of fraud or misrepresentation is being brought in such situations. Question to be asked is whether excess money has been paid or not, may be due to a bona fide mistake. Possibly, effecting excess payment of public money by the Government officers may be due to various reasons like negligence, carelessness, collusion, favouritism etc. because money in such situation does not belong to the payer or the payee. Situations may also arise where both the payer and the payee are at fault, then the mistake is mutual.

<sup>10</sup> (2012) 8 SCC 417



Payments are being effected in many situations without any authority of law and payments have been received by the recipients also without any authority of law. Any amount paid/received without the authority of law can always be recovered barring few exceptions of extreme hardships but not as a matter of right, in such situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment."

48. In view of the law laid down by the Supreme Court in *Chandi Prasad Uniyal* (supra), the excess payment made to the T (P) cadre on account of wrong fixation of pay scale on the basis of KV or SV or faulty grant of allowances other than Dearness Allowance can be recovered. In some cases the recovery is also under challenge. Such recovery is neither illegal nor arbitrary, therefore, challenge to the recovery of amount already paid to any such T (P) fails and the prayer made for quashment of the recovery is rejected.
49. As a sequel, all the writ petitions, *sans substratum*, are liable to be and are hereby dismissed with the following conclusions :

**Conclusions :**

- Teacher (Panchayat) cadre initially appointed as Assistant Teacher (Panchayat), but later on joined as Teacher (Panchayat) as a fresh recruit are not entitled for counting their length of service on the lower post for the purpose of revision of pay scale pursuant to the order dated 17-5-2013 read with the orders dated 4-12-2013 & 22-1-2014.
- Teacher (Panchayat) cadre are only entitled for pay scale similar to the Government Teachers.
- Teacher (Panchayat) cadre are entitled to Dearness Allowance only, they are not entitled for any other

allowances like House Rent Allowance, Medical, Stagnation, etc.

- The revision of pay scales of Teacher (Panchayat) cadre pursuant to the order dated 17-5-2013 read with the orders dated 4-12-2013 & 22-1-2014 will be on the basis of the pay scale of the post held by them. Such revision is not to be made on the basis of Kramonnati Vetanman or Samayman Vetanman.
- Recovery of excess amount paid to the Teacher (Panchayat) on account of wrong fixation of pay scale or wrong payment of allowances does not suffer from any infirmity. Challenge to the recovery of amount paid in excess is rejected.
- The respondent/Panchayat, Rural Development and Labour, Government of Chhattisgarh shall direct all the Zila Panchayats/Janpad Panchayats and Drawing & Disbursing Officers working therein to apply the Government instructions uniformly, as different application by giving different interpretation to the Government orders have generated confusion and discrepancy giving rise to unnecessary litigations and loss to the exchequer.
- The State Government shall circulate copy of this order to all the Zila Panchayats & Janpad Panchayats for implementation.
- Henceforth, if any monetary benefit will be paid to any Teacher (Panchayat) cadre, for which he is not entitled, the same shall be recoverable from the concerned Chief Executive Officer of the Zila Panchayat/ Janpad Panchayat who has wrongly granted the benefit.

50. There shall be no order as to costs.

Gowri

Sd/-  
**Prashant Kumar Mishra**  
Judge