
Smriti Dubey Vs State Of Chhattisgarh And Ors

Writ Petition (S) No. 4934 Of 2018

Court: Chhattisgarh High Court

Date of Decision: Feb. 7, 2019

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Mateen Siddiqui, Ishaan Verma, Rahul Mishra

Final Decision: Disposed Of

Judgement

P. Sam Koshy, J

1. The relief sought for by the petitioner through the present writ petition is for a direction to the respondents to take a decision in respect of her joining

on the post of Teacher (Panchayat). The brief facts relevant for the adjudication of the present dispute is that the petitioner, at the first instance was

appointed as a Teacher (Panchayat) vide order dated 16/06/2005 (Annexure P/1). The petitioner was granted place of posting at Lailunga, District

Raigarh. The petitioner gave her joining at the said place on 25/06/05.

2. Barely working at the said place for about less than a week's time, the petitioner took leave and disappeared. The petitioner, thereafter, surfaced

after a period of more than a decade. The contention of the petitioner was that during the said period, the petitioner was not well. It is said that the

petitioner had made a couple of representations to the Department in the year 2016-17 and when no response was received, the petitioner got a legal

notice issued on 04/05/17. In response to the said legal notice the Additional Chief Executive Officer, Zila Panchayat, Raigarh is said to have issued a

letter in favour of the petitioner asking her to report for duty, however she has not been given joining. Thereafter, the present writ petition has been

filed seeking for a direction to the respondents for permitting the petitioner to join her duties.

3. It is very surprising that the Additional Chief Executive Officer, Zila Panchayat, Raigarh has given such a letter of joining to the petitioner vide

Annexure P/7 dated 01/07/17. If at all, if there was a letter so issued, there is no reason assigned as to why he has not acted upon the letter

subsequently by giving joining to the petitioner.

4. What cannot be lost sight of is the fact that from 02/07/2005 till 2016, except for an initial leave application which the petitioner had submitted in the

Department followed by the oral submission of the petitioner that she has been making frequent request seeking extension of the leave, there does not

seem to be any cogent document to justify that absence. It also does not reveal from the record that the petitioner, at any point of time got sanction or

approval of the absence from duty.

5. It is also necessary to mention at this juncture, that the total period of service which the petitioner had rendered to the State Government was less

than a period of 7 days from the date of her joining. As such, admittedly, there could not have been any medical leave to her credit, neither is there

any order of the Department to show that the leave of the petitioner has been regularized or has been sanctioned by the competent authority. Service

rules also show that beyond a period of 5 years of absence of a regular employee in the Government employment the joining cannot be granted

without the approval of the Departmental Head. In the instant case, there is no such request or sanction or approval obtained from the Departmental

Head.

6. Given the said facts and circumstances of the case, this Court finds it difficult to grant the relief that the petitioner has sought for in the present writ

petition. Our reluctance to entertain the writ petition should not come in the way of the petitioner or for that matter, for the respondents in intimating

the petitioner in respect of her status in the Department and for the petitioner to approach the authority concerned in the Department for ventilating

her grievance.

7. This writ petition accordingly stands disposed off.