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**(2018) 07 CHH CK 0317**

**Chhattisgarh High Court**

**Case No:** Writ Petition (S) No. 4799 Of 2018

Parmeshwar Puri Goswami

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

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**Date of Decision:** July 26, 2018

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** C.J.K. Rao, Ashutosh Pandey

**Final Decision:** Disposed Of

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### **Judgement**

P. Sam Koshy, J

1. The solitary grievance of the petitioner in the instant Writ Petition is that, though the petitioner was initially terminated by the respondents but by the

order of the Collector dated 13/07/2012 he has been reinstated in services and the respondent no.3 subsequently vide Annexure-P/2 dated 08/12/2016

has held that, the intervening period which the petitioner was out of employment i.e. between 31/03/2008 to 15/04/2008 and 17/08/2009 to 07/07/2011

would be treated as no work no pay.

2. According to the counsel for the petitioner, since, Annexure-P/2 is only an order of 'no work no pay', the same cannot be considered as the

intervening period not to be counted for the purpose of calculating the length of service of the petitioner. He further submits that the said period if

taken into consideration as period spent on duty, the petitioner would be eligible for absorption in the department as per the scheme of the State

Government. He further submits that the respondents have granted absorption who have otherwise 8 years of service, but so far as the petitioner is

concerned, they have not considered his case for absorption in this regard.

3. Given the nature of dispute raised by the petitioner, this Court prima facie is of the opinion that since the order of termination has been set aside by

the Collector vide order dated 13/07/2012, for all practical purposes the petitioner would have to be treated as if he has been on duty. That the

intervening period also has to be treated as the period spent on duty and this Court does not see any good reason on the part of the respondents not to

count the said intervening period for the purpose of counting the length of service of the petitioner.

4. Given the aforesaid factual matrix of the case, let the petitioner file a detailed representation to respondent No.3 in this regard within a period of 3

weeks from today and in turn the respondent No.3 shall consider and decide the representation in accordance with the rules governing the field and

also keeping in view the judgment of the Division Bench of this Court in the case of *Tukaram v. State of Chhattisgarh* (WPC No.1703 of 2015 and

batch of petitions) decided on 16/05/2017 the judgment of which also would be produced by the petitioner to the respondent No.3.

5. Let the respondent No.3 take a final decision on receipt of the representation of the petitioner within a further outer limit of 90 days.

6. The Writ Petition accordingly stands disposed of.