

OFFICE OF THE ADVOCATE GENERAL CHHATTISGARH BILASPUR

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HIGH COURT CAMPUS
BILASPUR - 495 001
CHHATTISGARH

No.AG/CG/BSP/2023/

Bilaspur, Dated 10/11/2023

(BY-FAX/POST)
(MOST URGENT – HIGH COURT MATTER)

To,

The Principal Secretary,
Government of Chhattisgarh,
Department of **School Education,**
Mahanadi Bhawan, Mantralaya, Atal Nagar,
Nava Raipur, District Raipur (C.G.)

Sub.: Legal opinion in response to the letter dated 08/11/2023 in respect of judgement dated 03.11.2023 passed by the Hon'ble Single Bench of the Hon'ble High Court of Chhattisgarh.

Ref.: W.P.(S) No. 7203/2023 – "Rohit Kumar Yadav Vs. State of Chhattisgarh & 03 Others".

Sir,

That, in the instant petition listed alongwith the batch of petitions, the Principal Secretary, School Education Department, has sent a letter on 08/11/2023 seeking legal opinion with respect to the order dated 03/11/2023 particularly para 11 of the said order, wherein it has been mentioned that *Petitioners be allowed to join at their previous place of posting so that their issue of salary could be resolved*. The department has sought clarification on two points by way of legal opinion, which is as follows:-

1. पदोन्नति उपरांत मूल रूप से पदस्थ शाला
 2. संयुक्त संचालक द्वारा पदस्थापना पश्चात संशोधित शाला
- 2/ कृपया उपरोक्त संबंध में स्पष्ट अभिमत प्रदान करने का कष्ट करें । ताकि न्यायालयीन आदेश के पालन हेतु शीघ्र कार्यवाही की जा सकें ।"

That, the Hon'ble Court by its batch of petitions passed the detailed order on 03/11/2023 wherein at paras 10 & 11, it has been clarified that:-

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"10. Before the committee, all the applications of the Petitioners, which were made before the Joint Directors on the basis of which amended posting orders were issued, shall be placed. The Petitioners shall have liberty to submit any document in support of their said applications before the committee within 15 days from today. The committee shall decide the matter of each of the Petitioners and their fresh posting orders shall be issued by the committee or the competent authority. All these exercises shall be completed within 45 days from today. The committee or the competent authority, while deciding the matter of the Petitioners and issuing their fresh posting orders, shall also consider relevant provisions of the transfer policy of the State dated 22.8.2022 and the directions issued by the State (School Education Department) dated 29.3.2023.

11. Considering the submissions made by Learned Counsel for the parties that pursuant to the orders passed by the concerned Joint Directors, the Petitioners have already joined at their place of posting and their last pay certificates have also been sent there and pursuant to the impugned order dated 4.9.2023 the Petitioners have already been relieved automatically from their place of posting and as of now pursuant to the order of this Court dated 11.9.2023 passed in the lead case, i.e., Writ Petition (S) No.6253 of 2023 they are not being allowed to join back at their previous place of posting and, therefore, they are not able to draw their salary, further considering the fact that pursuant to the impugned order the Petitioners have already been relieved automatically and in their places none have joined and, therefore, considering the interest of the students also, in the interest of justice it is directed that all the Petitioners be allowed to join at their previous place of posting so that their issue of salary could be resolved."

In view of the aforesaid order, the Hon'ble Court has specifically directed that relying upon the lead case no. W.P.(S) No. 6253/2023 in which the petitioner raised the ground that they are not being allowed to join back at their previous place of posting and therefore they are not able to draw their salary.

Therefore, in view of the entirety of the judgement dated 03/11/2023, particularly para 11, I am of the considered opinion that, petitioners be allowed to join in their previous place of posting where they are posted after getting promotions,

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which means that answer to the first query (i.e. 1. पदोन्नति उपरांत मूल रूप से पदस्थ शाला) raised by way of your letter dated 08/11/2023 has been addressed.

It is therefore opined accordingly.

Thanking you,


(SANDEEP DUBEY)
DY. ADVOCATE GENERAL

Copy to: The P.S. to Hon'ble Advocate General, Office of the Advocate General, High Court Campus, Bodri, Bilaspur (C.G.).