



2026:CGHC:13135

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 4685 of 2018**

- Satyanarayan Chaudhary S/o Shri Radheshyam Chaudhary Aged About 39 Years R/o Village Kanwar, P. O. Kanwar, Tahsil Gurur, District- Balod, Chhattisgarh., District : Balod, Chhattisgarh
... **Petitioner(s)**

versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Chief Executive Officer, Janpad Panchayat Dhamtari , District Dhamtari , Chhattisgarh., District : Dhamtari, Chhattisgarh
3. Block Education Officer, Dhamtari, District Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh
4. Principal Governement Primary School Parastarai, Tahsil And District Dhamtari , Chhattisgarh., District : Dhamtari, Chhattisgarh
... **Respondent(s)**

For Petitioner	:	Mr. Mayank Chandrakar, Adv.
For State	:	Mr. Vivek S. Ojha, P.L.
For Respondent No. 2	:	Mr. Mohd. Naqeeb, Adv. on behalf of Mr. Harshwardhan Parganiha, Adv.

Hon'ble Shri Justice Rakesh Mohan Pandey**Judgment On Board****19.3.2026**



1) By way of this petition, petitioner has sought following reliefs:-

10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records, of the case.

10.2 That, this Hon'ble Court may kindly be pleased to quash the impugned order dated 25.11.2017 and direct the respondent authorities to grant consequential relief including wages from the date of transfer till the date of joining along with a interest of 12%..

10.3 That, any appropriate writ, direction or order may also kindly be passed in favour of the petitioner, which this Hon'ble court deems fit in the interest of Justice.

2) Facts of present case are that petitioner who was working on the post of Teacher (Panhayat) at Govt. Primary School Parastarai was accommodated to another school vide order dated 9.1.2014 (Annexure P/1) and as the petitioner failed to comply with the said order, show-cause notice was served ; it was properly replied by the petitioner and thereafter order dated 25.11.2017 (Annexure P/20) was passed declaring the period of 609 days of absence as 'dies non'. Petitioner challenged the order dated 9.1.2014 by filing WPS No. 1203 of 2014 which was dismissed as withdrawn and petitioner was sent back to his original place of posting vide order dated 30.4.2014 (Annexure P/4) but petitioner was not permitted to join the services. Thereafter, he preferred WPS No. 1399 of 2015 which was disposed of reserving liberty in favor of petitioner to move representation and respondent authorities were directed to decide the same but no heed was paid to such representation, therefore petitioner preferred contempt petition and finally, petitioner was permitted to join the services on 26.8.2015.



- 3) Learned counsel for the petitioner submits that Chief Executive Officer, Janpad Panchayat Dhamtari has passed the order impugned inflicting the penalty of 'dies non' which is a major penalty without conducting departmental inquiry. He further submits that order dated 25.11.2017 is bad in law and deserves to be set aside.
- 4) On the other hand, learned counsel appearing for the respective respondents would oppose. They submit that petitioner failed to comply with the order dated 9.1.2014 and remained absent from services, therefore a show-cause notice was issued which was replied by the petitioner and thereafter order impugned was passed. They further submit that this petition deserves to be dismissed as sufficient opportunity of hearing was afforded to petitioner before passing the order impugned.
- 5) I have heard learned counsel for the parties and perused the documents placed on record with utmost circumspection.
- 6) Evidently, petitioner was accommodated to another school vide order dated 9.1.2014 and ultimately, he was permitted to join the services vide order dated 26.8.2015. It appears that respondent No. 2 has passed the order dated 25.11.2017 against petitioner declaring the period of 609 days of absence as 'dies non' after receipt of reply to the show-cause notice issued against him.



- 7) The High Court of Madhya Pradesh in the matter of **Battilal vs. Union of India and others**¹ held that when the authority directs that the period would be treated as “dies non”, such a period would not count for leave, salary, increment and pension. It is further held that the period which has been declared as “dies non” amounts to infliction of a major penalty and it could not be inflicted without holding the departmental inquiry. The relevant para 3 is reproduced herein-below:-

“3.....When the Authority directs that the period will be treated 'dies-non', it means that continuity of service is maintained, but the period treated as 'dies-non' will not count for leave, salary, increment and pension. In fact, F.R. 54 (1) casts such a duty on the authority. It provides that when a Government servant who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review, the authority competent, to order reinstatement shall consider and make a specific order-

- (a) regarding the pay and allowances to be paid to the government servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be; and*
- (b) whether or not the said period shall be treated as a period spent on duty.”*

- 8) From a perusal of the law laid down in the matter of **Battilal** (supra), it appears that to declare the period of absence from duty of a public servant as dies non is punitive in nature and cannot be passed without proceeding departmentally in view of the procedure laid down under the provisions of the CCA Rules, 1966. In the case at hand, the authority concerned straightway passed

1. 2005 (3) MPHT 32 (DB)



the order and declared the period of absence as dies non without affording the opportunity of hearing.

- 9) Taking into consideration the law laid down by the High Court of M.P. in the matter of **Battilal** (supra), and the facts of the present case, the order dated 25.11.2017 (Annexure P/20) is not sustainable in the eyes of the law and is hereby quashed. Consequently, the instant petition is hereby **allowed**.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Ajinkya