



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.502 of 2022

- Ravi Kant Patel S/o A.K. Patel Aged About 52 Years Presently Posted As Head Master At Government Primary School Kesda, Block Simga, District Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary Department of School Education, Mahanadi Bhawan, Mantralaya, Police Station And Post Office Rakhi, Atal Nagar, Raipur, District Raipur (CG)
2. Director Directorate Of Public In Structions, Indrawati Bhawan Mantralaya, Police Station And Post Office Rakhi, Atal Nagar, Raipur, District Raipur (CG)
3. Divisional Joint Director Education Division Pension Bada, Tahsil Raipur, District Raipur (CG)
4. District Education Officer Baloda Bazar, District Balodabazar-Bhatapara (CG)
5. Block Education Officer Baloda Bazar, District Balodabazar-Bhatapara (CG)

---- Respondents

WPS No. 557 of 2022

1. Chinta Ram Dhivar S/o Late Shri Sakharam Dhivar Aged About 53 Years R/o Primary School Nevdha, Block Simga, District Baloda Bazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Khelan Ram Sahu S/o Shri Amru Sahu Aged About 51 Years Primary School Kirwai, Block Fingeshwar, District Gariyaband, Chhattisgarh., District : Gariyabandh, Chhattisgarh
3. Ram Sai Tande S/o Shri Nathuram Tande Aged About 48 Years Primary School Dadhakar, Block Kasdol, District Baloda Bazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
4. Hemlal Dhruv S/o Late Shri Asha Ram Dhruv Aged About 50 Years R/o Primary School, Khola, Block Abhanpur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh



---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary General Administration Department, Mahanadi Bhavan, Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. The Secretary Department Of School Education, Mahanadi Bhavan, Village Rakhi, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Director School Education Department, Directorate Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

WPS No. 598 of 2022

- Sanjay Kumar Yadu S/o Bali Ram Yadu Aged About 47 Years Presently Working As Head Master Primary School At Government Police Station Jhonka, Tahsil And District Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of School Education, Mahanadi Bhawan, Mantralay Police Station And Post Office Rakhi, Atal Nagar, Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Director Directorate Of Public In Structions, Indrawati Bhawan Mantralaya, Police Station And Post Office Rakhi, Atal Nagar, Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Divisional Joint Director Education Division Pension Bada, Tahsil Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
4. District Education Officer Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
5. Block Education Officer Baloda Bazar, District Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondents





WPS No. 599 of 2022

- Madhusudan Tandan S/o Latel Das Tandaon, Aged About 48 Years Presently Working As Head Master Government Primary School At Gaurkheda Block Andtahsil Tilda, District Balodabazar Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of School Education, Mahanadi Bhawan, Mantralay, P.S. And P.O. Rakhi, Atal Nagar, Raipur District Raipur Chhattisgarh.
2. Director, Directorate Of Public In Structions, Indrawati Bhawan, Mantralaya, P.S. And P.O. Rakhi, Atal Nagar Raipur District Raipur Chhattisgarh.
3. Divisional Jiont Director, Education Division Pension Bada, Tahsil Raipur District Raipur Chhattisgarh.
4. District Education Officer, Baloda Bazar, District Balodabazar Bhatapara Chhattisgarh.
5. Block Education Officer Baloda Bazar District Baloda Bazar Bhatapara Chhattisgarh.

---- Respondents

WPS No. 892 of 2022

- Shailesh Kumar S/o Shambhu Das Aged About 36 Years R/o Village Dhadgaon, Post Bhatgaon, Tahsil Pathariya, District Mungeli Chhattisgarh.

---- Petitioner

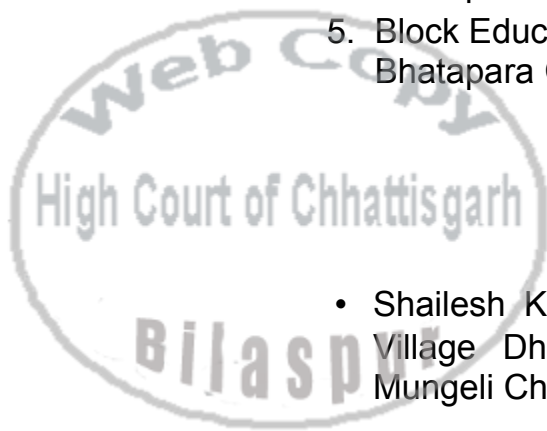
Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Chhattisgarh. 492002.
2. The Commissioner Directorate Of Public Instructions, 1st Floor, Block - C, Indravati Bhawan, Atal Nagar, Nawa Raipur, Chhattisgarh. 492002.

---- Respondents

WPS No. 1275 of 2022

1. Shrikumar Nair S/o Late Shri N.P.D. Nair Aged About 55 Years Posted As Head Master Primary School At Village Kulhadi, District Surguja Chhattisgarh.





2. Smt. Saroj Prabha Toppo W/o Rev. Pranay Toppo Aged About 56 Years Posted As Head Master Primary School At Village Sargawan, District Surguja Chhattisgarh.
3. Shailendra Kumar Verma S/o K.P. Singh Aged About 45 Years Posted As Head Master Primary School At Village Bakirma, District Surguja Chhattisgarh.
4. Omprakash Rai S/o Ram Niwas Rai Aged About 56 Years Posted As Head Master Primary School At Village Mahuatikra, District Surguja Chhattisgarh.
5. Vijay Kumar Verma S/o Durga Prasad Verma Aged About 57 Years Posted As Head Master Primary School At Village Hariharpur, District Surguja Chhattisgarh.
6. Juyesh Pratap Singh S/o K.P. Singh Aged About 45 Years Posted As Head Master Primary School At Village Bakalo, District Surguja Chhattisgarh.
7. Pradeep Kumar Shrivastava S/o Jitendra Shrivastava Aged About 56 Years Posted As Head Master Primary School At Village Korwapara (Khala) District Surguja Chhattisgarh.
8. Hari Shankar Shrivastav S/o Jai Shankar Shrivastav Aged About 58 Years Posted As Head Master Primary School At Village Narbadapara, District Surguja Chhattisgarh.
9. Surendra Verma S/o S.P. Verma Aged About 56 Years Posted As Head Master Primary School At Village Saskalo, District Surguja Chhattisgarh.
10. Ayodhya Prasad Jaiswal S/o Gopal Prasad Jaiswal Aged About 56 Years Posted As Head Master Primary School At Village Asola, District Surguja Chhattisgarh.
11. Sudhir Sharma S/o Ramsahay Sharma Aged About 58 Years Posted As Head Master Primary School At Village Majhapara, District Surguja Chhattisgarh.
12. Prem Narayan Singh S/o Hareram Singh Aged About 58 Years Posted As Head Master Primary School At Village Sundarpur, District Surguja Chhattisgarh.
13. Rajesh Bahadur Singh S/o Radhamohan Singh Aged About 56 Years Posted As Head Master Primary School At Village Ghangri, District Surguja Chhattisgarh.
14. Satyanarayan Bhagat S/o Late B.N. Bhagat Aged About 45 Years Posted As Head Master Primary School At Village Batua Budha,



District Surguja Chhattisgarh.

15. Ritu Shrivastava W/o Rajesh Kumar Shrivastava Aged About 53 Years Posted As Head Master Primary School At Village Bhattikalan, District Surguja Chhattisgarh.
16. Dinesh Soni S/o Suraj Prasad Soni Aged About 56 Years Posted As Head Master Primary School At Ghutrapara, District Surguja Chhattisgarh.
17. Abhimanyu Tiwari S/o Amardeo Tiwari Aged About 58 Years Posted As Head Master Primary School At Police Line Ambikapur, District Surguja Chhattisgarh.
18. Shubhashish Mukharjee S/o B.C. Mukharjee Aged About 57 Years Posted As Head Master Primary School At Darripara, District Surguja Chhattisgarh.
19. Dayanand Singh S/o Ramratan Singh Aged About 58 Years Posted As Head Master Primary School At Parraclanol, District Surguja Chhattisgarh.
20. Udayshankar Shrivastav S/o Ramchandra Shrivastav Aged About 56 Years Posted As Head Master Primary School At Chatirma, District Surguja Chhattisgarh.
21. Damodar Pandey S/o V.P. Pandey Aged About 55 Years Posted As Head Master Primary School At Rampur, District Surguja Chhattisgarh.

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
2. Director Directorate Of Public Instructions, Indravati Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
3. Joint Director Divisional Office, School Education Department Sarguja Division, Ambikapur, District Surguja Chhattisgarh.
4. District Education Officer District Sarguja, Ambikapur, District Surguja Chhattisgarh.

---- **Respondents**



WPS No. 1569 of 2022

1. Lalit Kumar Koshaley S/o Shri Bajelal Koshaley, Aged About 61 Years Working As Lecturer (L.B.) And Posted At Govt. Higher Secondary School Kona, Block And District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh
2. Anjor Das Kurrey, S/o Shri Kariya Das Kurrey, Aged About 61 Years Working As Lecturer (L.B.) And Posted At Govt. High School Chanadongri, Block Takhatpur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education Mahanadi Bhawan, Mantralaya New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Director, Directorate Of Chhattisgarh Public Instruction Indravati Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. District Education Officer, Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
4. District Education Officer, Mungeli, District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh

---- Respondents

WPS No. 1702 of 2022

- Bharat Lal Gahre S/o Late Shri T.R. Gahare Aged About 42 Years R/o Near Post Office, Sirpur Road, Kasdole, District Baloda Bazar Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, General Administration Department, Mahanadi Bhavan, Naya Raipur, District Raipur Chhattisgarh.
2. The Secretary Department Of School Education, Mahanadi Bhavan, Village Rakhi, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.



3. Director School Education Department, Directorate Naya Raipur, Indravati Bhawan District Raipur Chhattisgarh.

---- Respondents

WPS No. 2240 of 2022

- Manoj Kumar Rana Son Of Shri Chhattar Ram Aged About 50 Years Working As Upper Division Teacher, And Posted At Govt. Middle School Sohagpur, Block Pithora, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Education, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Director Directorate Of Chhattisgarh Public Instruction Indravati Bhawan, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Joint Director Education Division, Raipur, Indravati Bhawan, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

WPS No. 2280 of 2021

1. Dayal Singh S/o Late J.P. Singh, Aged About 43 Years Lecture, Posted At Govt. Higher Secondary School, Indurai, Kawardha, District- Kabirdham Chhattisgarh
2. Ashok Kumar Chouhan, S/o Late T.R. Chouhan, Aged About 45 Years Lecturer, Posted At Govt. High School, Stationpra, Sakti, District- Janjgir-Champa Chhattisgarh
3. Sunil Kumar Keshri, S/o Late M.L. Keshri, Aged About 53 Years Lecture, Posted At Govt. High School, Baiharsari, Kawardha, District- Kabirdham Chhattisgarh
4. Teekaram Sarthi, S/o Shri C.S. Sarthi, Aged About 54 Years Lecture, Posted At Govt. Higher School, Maharajpur, Kawardha, District Kabirdham Chhattisgarh

---- Petitioners





Versus

1. State Of Chhattisgarh Through- Principal Secretary, department Of School Education, Mahandi Bhawan, Mantralaya, Atal Nagar, Raipur Chhattisgarh
2. The Directorate Of Public Education, Chhattisgarh, Indrawati Bhawan Block-3, First Floor, New Raipur, Atal Nagar Raipur Chhattisgarh

---- Respondents

WPS No. 2436 of 2022

- Gautam Prasad Yadav S/o Shri Rup Kumar Yadav Aged About 49 Years Head Master Primary School At Government Primary School Chhal, Tahsil Dharamjaygarh, District Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of School Education, Mahanadi Bhawan, Mantralaya Police Station And Post Office Rakhi, Atal Nagar, Raipur District Raipur, Chhattisgarh
2. Director Directorate Of Public In Structions, Indrawati Bhawan Mantralaya, Police Station And Post Rakhi, Atal Nagar Raipur, District Raipur, Chattisgarh
3. District Educatrion Officer Raigarh, District Raigarh, Chhattisgarh

---- Respondent

WPS No. 2742 of 2022

- Marcus Dungdung S/o Barnabas Dungdung Aged About 48 Years Head Master Primary School At Government Primary School Kadamdhodhi, Block And Tahsil Dharamjaygarh, District Raigarh Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of



School Education Mahanadi Bhawan, Mantralay P.S. And P.O. Rakhi, Atal Nagar, Raipur, District Raipur Chhattisgarh.

2. Director Directorate Of Public Instructions, Indrawati Bhawan Mantralaya, P.S. And P.O. Rakhi, Atal Nagar, Raipur, District Raipur Chhattisgarh.
3. District Education Officer Raigarh, District Raigarh Chhattisgarh.

---- Respondents

WA No. 196 of 2022

1. Ram Gopal Sahu S/o Shri Shambhu Ram Sahu Aged About 51 Years Lecturer L.B., Posted At Govt. Higher Secondary School, Pounsara Block Bilha, District - Bilaspur Chhattisgarh.
2. Chintaram Kashyap S/o Shri Firturam Kashyap, Aged About 53 Years Lecturer L.B., Govt. Higher Secondary School, Loharsi (Son), Masturi, District - Bilaspur Chhattisgarh.

---- Appellants

Versus

1. State Of Chhattisgarh Through Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District - Raipur Chhattisgarh.
2. Director, Directorate Of Public Education, Indrawati Bhawan, Atal Nagar, Naya Raipur, District - Raipur Chhattisgarh.
3. District Education Officer, Bilaspur District Bilaspur Chhattisgarh.

---- Respondents

WA No. 212 of 2022

1. Santosh Kumar Sharma S/o Shri Bhikham Chand Sharma Aged About 52 Years Presently Posted At Government Higher Secondary School, Kanki, Block Tilda, District Raipur Chhattisgarh.
2. Sanjay Shrivastava, S/o Late Shri Bagishwar Prasad Shrivastava, Aged About 52 Years Presently Posted At Government Higher Secondary School, Damakheda, District Baloda Bazaar Chhattisgarh.
3. Smt. Saroj Yadav W/o Late Shri Madan Mohan Shrivastava, Aged About 54 Years Presently Posted At Government Higher





Secondary School, Baloda, Block Dharsiva, District Raipur Chhattisgarh.

4. Ku. Nivedita W/o Shri , Arvind Shukla Aged About 46 Years Presently Posted At Government Higher Secondary School, baloda Block Sarayapali, District Mahasamund Chhattisgarh.
5. Smt. Yogini Sudhakar, W/o Shri, Bhanupratap Shukla, Aged About 47 Years Presently Posted At Government Higher Secondary School, choriya, District Balod, Chhattisgarh.

---- Appellants

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Director, Directorate Public Instructions, Indravati Bhawan, Atal Nagar, Naya Raipur District Raipur Chhattisgarh.
3. District Education Office, Raipur, District Raipur, Chhattisgarh.
4. District Education Officer, Raipur District Chhattisgarh.
5. District Education Officer, Mahasamund, District Mahasamund, Chhattisgarh.
6. District Education Officer, Balod, District Balod, Chhattisgarh.
7. Block Education Officer, Tilda, District Raipur Chhattisgarh.

---- Respondents

WA No. 324 of 2022

1. Ved Prakash Tiwari S/o Late Shri Vidhyadhar Tiwari Aged About 53 Years Presently Posted As Lecturer (Elb) Government Girls Higher Secondary School Kusmura, R/o Jai Maa Durga Vihar Colony In Front Of Indian School, Tahsil - Raigarh, District - Raigarh (C.G)
2. Harishankar Patel S/o Gautam Prasad Patel Aged About 49 Years Presently Posted As Lecturer (Tlb) Government Girls Higher Secondary School Kunkuri, Tahsil Kunkuri District Jashpur, R/o Girls School Campus Tapkara Road Kunkuri (C.G.)
3. Choodamai Patel S/o Late Shri Salikram Patel Aged About 48



Years Presently Posted As Lecturer (E.L.B) Government Higher Secondary School Kotarliya, Tahsil And District Raigarh And R/o House No. 160 Panchwati Nagar Boirdadar Raigarh (C.G.)

---- Appellants

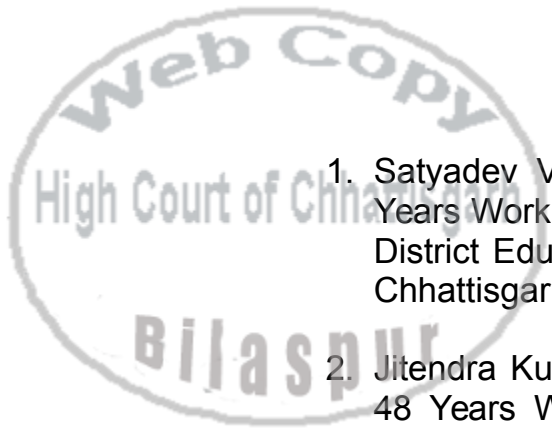
Versus

1. State Of Chhattisgarh Through - Secretary Department Of Water Resource, Mahanadi Bhawan, Atal Nagar, New Raipur, District - Raipur Chhattisgarh
2. Director Directorate Of Public Education, Indrawati Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh
3. District Education Officer Bilaspur, District : Bilaspur, Chhattisgarh
4. District Education Officer, Jashpur District Jashpur Chhattisgarh.

---- Respondents

WPS No. 3286 of 2021

1. Satyadev Verma S/o Shri Arjun Singh Verma, Aged About 50 Years Working As Lecturer And Presently Posted In The Office Of District Education Officer, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Jitendra Kumar Kanoje S/o Late Sohan Lal Kanoje, Aged About 48 Years Working As Lecturer, Government Higher Secondary School, Trimurti Nagar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Ashok Kumar Thakur S/o Shri Lakhan Lal Thakur, Aged About 61 Years Working As Lecturer, Arundhati Devi Government Higher Secondary School, Arang, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Bharat Lal Diwan S/o Shri Kejuram Diwan, Aged About 49 Years Working As Lecturer, Arundhati Devi Government Higher Secondary School, Arang, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. Aagya Ram Thakur S/o Shri Barhu Ram Thakur, Aged About 51 Years Working As Lecturer, Government Higher Secondary School, Samoda, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
6. Rajesh Kumar Sahu S/o Shri Bhau Ram Sahu, Aged About 55





Years Working As Block Education Officer, Abhanpur, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

7. Neeta Lawaniya D/o Late Purushottam Lawaniya, Aged About 53 Years Working As Lecturer, Government Higher Secondary School, Trimurti Nagar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
8. Devlal Sahu S/o Late Dukalha Ram Sahu, Aged About 58 Years Working As Lecturer, R/o B-83, Kamal Vihar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
9. Gangadhar Verma S/o Late Malik Ram Verma, Aged About 57 Years Working As Lecturer, Government Higher Secondary School, Dondekala, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- **Petitioners**

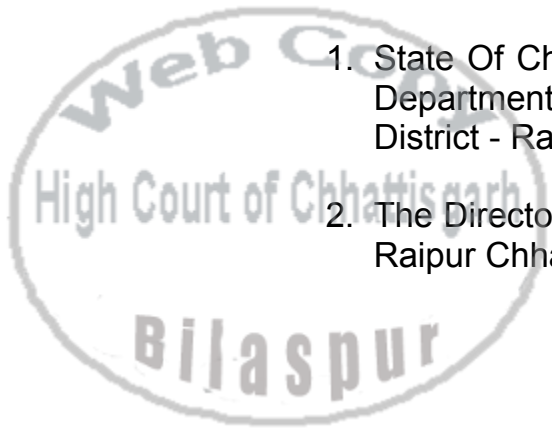
Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director, Directorate Of Public Instructions, Atal Nagar, Nawa Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- **Respondents**

WPS No. 4603 of 2021

1. Girish Tamrakar S/o Late C.V. Tamrakar Aged About 48 Years Working As Lecturer, J.N. Pandey Govt. Higher Secondary School, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Anil Sharma S/o Late Shri M.L. Sharma Aged About 50 Years Working As Headmaster, Swami Atmanand, R.D. Tiwari Govt. English Medium School, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Dr. Prabha Sharma W/o Shri Ravi Prasad Sharma Aged About 58 Years Working As Lecturer, Resident Of 54/1427 Tarun Nagar, Near Gayatri Hospital Dagania Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Pawan Kumar Shrivastava S/o Late Jeevanlal Shrivastava Aged About 52 Years Working As Lecturer, Govt, Higher Secondary Tilaknagar, Gudhiyari, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh





5. Smt. Seema Pandey W/o Shri Ashok Kumar Pandey Aged About 50 Years Working As Lecturer, Govt. Higher Secondary Shool, Changora Bhatha, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
6. Rupendra Kumar Chandrakar S/o Shri Itwari Ram Aged About 57 Years Working As Lecturer, Govt. High School, Krishna Nagar, Supela, District Durg Chhattisgarh., District : Durg, Chhattisgarh
7. Kaushal Kumar Deshmukh S/o G.R. Deshmukh Aged About 57 Years Working As Lecturer, Govt. High School, Basin, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioners

Versus

- State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

WPS No. 5911 of 2022

1. Ramgopal Sahu S/o Shri Shambhu Ram Sahu, Aged About 51 Years Lecturer L.B., Posted At Govt. Higher Secondary School, Pounsara Block Bilha, District Bilaspur (Chhattisgarh)
2. Chinta Ram Kashyap, S/o Shri Firturam Kashyap, Aged About 53 Years Lecturer L.B., Govt. Higher Secondary School, Lohara (Son), Masturi, District Bilaspur (Chhattisgarh)

---- Petitioners

Versus

1. State of Chhattisgarh Through Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur District Raipur (Chhattisgarh)
2. Director, Directorate Of Public Education, Indrawati Bhawan, Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)
3. District Education Officer, Bilaspur District Bilaspur (Chhattisgarh)

---- Respondents

WPS No. 3518 of 2022





1. Shyam Kumar Verma S/o Late Shri Kunjlal Verma Aged About 54 Years Presently Posted At Government Maatrasadan Higher Secondary School, Mandir Hasaud, Block- Arang, District Raipur (C.G.)
2. Narendra Dheewar S/o Shri Firanta Ram Dheewar Aged About 54 Years Presently Posted At Government Higher Secondary School, Kathouali, Block Kurud, District Dhamtari (C.G.)
3. Indra Pratap Singh S/o Shri Sadhu Singh Thakur Aged About 50 Years Presently Posted At Government Higher Secondary School, Tongpal, Block Chhindgarh, District Sukma (C.G.)
4. Brijesh Prasad Shri Ratneshwar Prasad Aged About 51 Years Presently Posted At Government Higher Secondary School, Adawal, Block- Jagdalpur, District Bastar (C.G.)

---- Petitioners

Versus

1. State Of Chhattisgarh Through- The Secretary, School Education Department, Indrawati Bhawan, Block 01, Nawa Raipur Atal Nagar, District Raipur (C.G.)
2. Director Directorate Public Instructions, Nawa Raipur, Nawa Raipur, Atal Nagar, District Raipur (C.G.)
3. District Education Officer Raipur, District Raipur (C.G.)
4. District Education Officer Dhamtari, District Dhamtari (C.G.)
5. District Education Officer Bastar, District Bastar (C.G.)
6. District Education Officer Sukma, District Sukma (C.G.)

---- Respondents

WPS No. 3431 of 2021

1. Domar Singh Yadav S/o Late Shri P. R. Yadav Aged About 58 Years Working As Lecturer At B. D. G. H. S. S. Kharora, District Raipur Chhattisgarh
2. Balram Prasad Verma S/o Shri Khamhan Lal Verma Aged About 58 Years Working As Lecturer At Govt. High School Bhimbhouri, Block Tilda, District Raipur Chhattisgarh
3. Deepak Mishra S/o Shri Mahesh Kumar Mishra Aged About 56 Years Working As Lecturer At Govt. Higher School Sargaon, District Raipur Chhattisgarh
4. Lekh Ram Verma S/o Shri Derha Ram Verma Aged About 57 Years Working As Lecturer At Diet. Raipur B., District Raipur



Chhattisgarh

5. Mukund Ram Sahu S/o Shri Mamgal Ram Sahu Aged About 55 Years Working As Lecturer At Diet, Raipur District Raipur Chhattisgarh
6. Ghanshyam Prasad Verma S/o Shri Mohar Singh Verma Aged About 56 Years Working As Lecturer At Govt. High School Kathiya No. 1, Tilda, District Raipur Chhattisgarh
7. Bhuwan Lal Patel S/o Shri Ramadhar Patel Aged About 55 Years Working As Lecturer At Mayaram Surjan Higher Secondary School Chaube Colony, Raipur, District Raipur Chhattisgarh
8. Lakhan Lal Banjare S/o Shri Jagatu Ram Banjare Aged About 59 Years Working As Lecturer At Govt. Higher Secondary School Kunra, District Raipur Chhattisgarh
9. Mahendra Kumar Sahu S/o Shri Jiwarakhan Lal Sahu Aged About 58 Years Working As Lecturer At Govt. Higher Secondary School Kharora, District Raipur Chhattisgarh
10. Vijay Kumar Dhruw S/o Shri Rameshwar Prasad Dhruw Aged About 56 Years Working As Lecturer At Govt. Higher Secondary School Bangoli, District Raipur Chhattisgarh
11. Toksingh Verma S/o Shri Ramadhin Verma Aged About 56 Years Working As Lecturer At Govt. Higher Secondary School Bangoli, District Raipur Chhattisgarh
12. Fanindra Bhushan Patel S/o Shri Naresh Ram Patel Aged About 58 Years Working As Lecturer At Govt. Higher Secondary School Ganiyari (Tilda) District Raipur Chhattisgarh
13. Nandkumar Bandhe S/o Shri Dewal Das Bandhe Aged About 61 Years Working As Lecturer At Govt. Higher Secondary School Khauli, District Raipur Chhattisgarh
14. Kala Das Manhare S/o Shri Suklal Manhare Aged About 60 Years Working As Lecturer At Govt. High School Khatiya No. 1, Tilda, District Raipur Chhattisgarh
15. Taran Singh Nayak S/o Shri Niranjana Singh Nayak Aged About 60 Years Working As Lecturer At Govt. Higher Secondary School Ganiyari Tilda, District Raipur Chhattisgarh
16. Ganesh Ram Miri S/o Shri Phirtu Ram Miri Aged About 52 Years Working As Lecturer At Govt. Higher Secondary School Bhansoj (Arang), District Raipur Chhattisgarh





17. Gopat Ram Tandon S/o Shri Sukalu Ram Tandon Aged About 59 Years Working As Lecturer At Govt. Higher Secondary School Arang, District Raipur Chhattisgarh
18. Rajendra Prasad Soni S/o Shri Ram Bishal Soni Aged About 55 Years Working As Lecturer At Govt. High School Devartilda, (Arang), District Raipur Chhattisgarh
19. Narsingh Banjare S/o Shri Budharu Banjare Aged About 56 Years Working As Lecturer At Govt. High School Amsena, Block Arang, District Raipur Chhattisgarh
20. Bhupendra Kumar Nayak S/o Shri Chati Ram Nayak Aged About 61 Years Working As Lecturer At Govt. Higher Secondary School Ganiyari (Tilda), District Raipur Chhattisgarh
21. Narsinghnath Nayak S/o Late Shri Lakhan Lal Nayak Aged About 53 Years Working As Lecturer At Govt. Higher Secondary School Mova, District Raipur Chhattisgarh
22. Premnarayan Khichariya S/o Late Shri Rewa Shankar Khichariya Aged About 58 Years Working As Lecturer At Govt. Higher Secondary School Mohrenga, District Raipur Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mahanadi Bhawan, new Raipur District Raipur Chhattisgarh
2. The Director Chhattisgarh Public Instruction, Raipur Indrawati Bhawan, Atal Nagar, Nava Raipur Chhattisgarh
3. The District Education Officer Raipur District Raipur Chhattisgarh

---- Respondents

WPS No. 3432 of 2021

1. Hansraj Sonpipre S/o Late Shri Onkar Sonpipre Aged About 56 Years Working As Lecturer And Posted At Govt. Higher Secondary School, Tendunala, Block Dongargaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
2. Omprakash Dewangan S/o Shri Shankar Lal Dewangan Aged About 56 Years Working As Lecturer And Posted At Padumlal Pannalal Bakshi Govt. Girls Higher Secondary School, Rajnandgaon, Block Rajnandgaon District Rajnandgaon



Chhattisgarh., District : Rajnandgaon, Chhattisgarh

3. Devesh Kumar Sao S/o Shri Lekhram Sao Aged About 56 Years Working As Lecturer And Posted At Govt. High School, Arjuni, Block Dongargaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
4. Smt. Sushila Netam W/o Santosh Kumar Netam Aged About 58 Years Working As Lecturer And Posted At Govt. Multipurpose Higher Secondary School, Rajnandgaon, Block Rajnandgaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
5. Smt. Purnima Shukla W/o Shri Shailendra Kumar Shukla Aged About 52 Years Working As Lecturer And Posted At Maharani Laxmi Bai, Adarsh Govt. Girls Higher Secondary School, Rajnandgaon, Block Rajnandgaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
6. Bharat Lal Dewangan S/o Shri Chhabi Lal Dewangan Aged About 53 Years Working As Lecturer And Posted At Govt. Girls Higher Secondary School, Dongargaon, Block Dongargaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
7. Rajendra Kumar Gayakwad S/o Shri Gaind Lal Gayakwad Aged About 58 Years Working As Lecturer And Posted At Govt. Higher Secondary School, Vicharpur Nawagaon, Block Dongargaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
8. Kajal Ram Sori S/o Shri Binjwar Sori Aged About 53 Years Working As Lecturer And Posted At Govt. Higher Secondary School, Kokpur, Block Dongargaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Petitioners

Versus

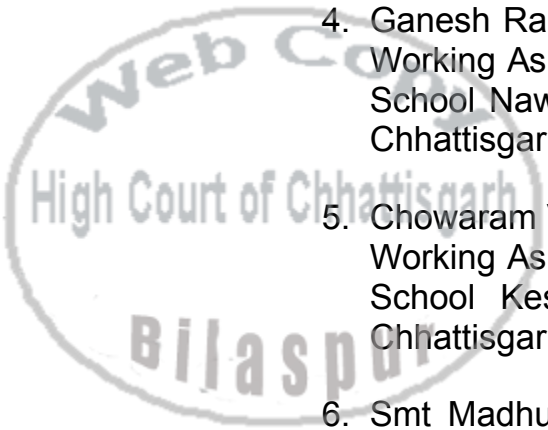
1. State Of Chhattisgarh Through Secretary, Department Of School Education Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Director Directorate Of Chhattisgarh Public Instruction First Floor, C, Khand, Indrawati Bhawan, Atal Nagar, Raipur District Raipur Chhattisgarh., District : Rajnandgaon, Chhattisgarh
3. District Education Officer Rajnandgaon District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh



---- Respondents

WPS No. 3441 of 2021

1. Bharat Lal Dhritlahare S/o Shri Sitaram Dhritlahare Aged About 54 Years Working As Lecturer And Post At Government Higher Secondary School Bhatbehra Block Simga, District Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Ramesh Kumar Kosare S/o Shri Dhansingh Kosare Aged About 51 Years Working As Lecturer And Post At Government Higher Secondary School Shikari Kesali, Block Simga, District Balodabazar Bhatapara Chhattisgarh.
3. Bansilal Dewangan S/o Mukutram Dewangan Aged About 60 Years Working As Lecturer And Post At Government High School Kachlon Block Simga, District Balodabazar Bhatapara Chhattisgarh.
4. Ganesh Ram Verma S/o Keshoram Verma Aged About 59 Years Working As Lecturer And Post At Government Higher Secondary School Nawagaon Block Simga, District Balodabazar Bhatapara Chhattisgarh.
5. Chowaram Verma S/o Shri Devsingh Verma Aged About 60 Years Working As Lecturer And Post At Government Higher Secondary School Kesda Block Simga, District Balodabazar Bhatapara Chhattisgarh.
6. Smt Madhuri Banskar W/o Shri Santosh Kumar Banskar Aged About 48 Years Working As Lecturer And Post At Government Girls Higher Secondary School Aurethi Block Simga, District Balodabazar Bhatapara Chhattisgarh.
7. Satrugan Lal Verma S/o Shri Darab Singh Verma Aged About 56 Years Working As Lecturer And Post At P.D. Government Higher Secondary School Bhatapara , District Balodabazar Bhatapara Chhattisgarh.
8. Narendra Kumar Verma S/o Shri Tilakram Verma Aged About 54 Years Working As Lecturer And Post At Government Higher Secondary School Newari Block Simga, District Balodabazar Bhatapara Chhattisgarh.
9. Ram Kumar Dewangan S/o Shri Jiwrakhan Lal Dewangan Aged About 57 Years Working As Lecturer And Post At Government Higher Secondary School Chourenga Block Simga, District Balodabazar Bhatapara Chhattisgarh.





10. Nijamsingh Verma S/o Shri Tulasiramverma Aged About 56 Years Working As Lecturer And Post At Government Higher Secondary School Kesda Block Simga, District Balodabazar Bhatapara Chhattisgarh.
11. Shankarlal Soni S/o Shri Manoharlal Soni Aged About 59 Years Working As Lecturer And Post At Government Higher Secondary School Darchura Block Simga, District Balodabazar Bhatapara Chhattisgarh.
12. Ramkumar Verma S/o Shri Madhwaram Verma Aged About 59 Years Working As Lecturer And Post At Government Higher Secondary School Temari Block Simga, District Balodabazar Bhatapara Chhattisgarh.
13. Arun Kumar Sahu S/o Shri Malik Ram Sahu Aged About 56 Years Working As Lecturer And Post At Government Higher Secondary School Deorikala Block Kasdol, District Balodabazar Bhatapara Chhattisgarh.
14. Pukram Purena S/o Shri Mohitram Purena Aged About 57 Years Working As Lecturer And Post At Government Higher Secondary School Katagi Block Kasdol, District Balodabazar Bhatapara Chhattisgarh.
15. Laxman Prasad Dewangan S/o Shri Ramlal Dewangan Aged About 61 Years Working As Lecturer And Post At Government Higher Secondary School Sarwa Block Kasdol, District Balodabazar Bhatapara Chhattisgarh.
16. Ashok Kumar Sahu S/o Shri Malik Ram Sahu Aged About 58 Years Working As Lecturer And Post At Government Higher Secondary School Hatod Block Kasdol, District Balodabazar Bhatapara Chhattisgarh.
17. Bhagwat Prasad Sahu S/o Shri Puranlal Sahu Aged About 61 Years Working As Lecturer And Post At Government Higher Secondary School Badgaon Block Kasdol, District Balodabazar Bhatapara Chhattisgarh.
18. Bhanuram Sahu S/o Shri Sundardas Sahu Aged About 54 Years Working As Lecturer And Post At Government Higher Secondary School Kotiyadih Block Kasdol, District Balodabazar Bhatapara Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary Department Of School



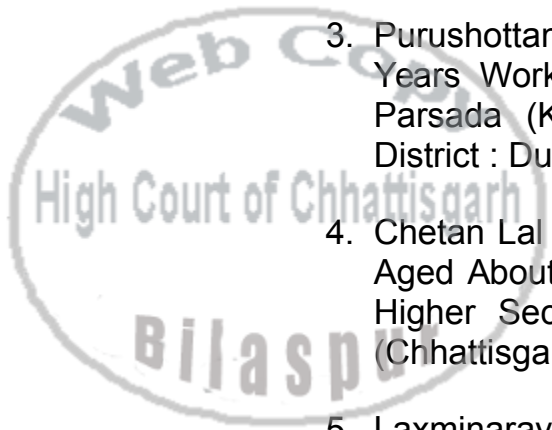
Education , Mahanadi Bhawan, Mantralaya New Raipur District
Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2. Director Directorate Of Chhattisgarh Public Instruction , First Floor, C- Khand, Indrawati Bhawan, Atal Nagar , Raipur , District Raipur (CG).

.....Respondents

WPS No. 3437 of 2021

1. Poshan Kumar Dewangan Son Of Shri Uday Lal Dewangan Aged About 59 Years Working As Lecturer And Posted At Govt. High School Parsada Block Patan District Durg (Chhattisgarh), District : Durg, Chhattisgarh
2. Ramesh Kumar Soni Son Of Late Shri Surendra Kumar Soni Aged About 58 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kugada Block Patan District Durg (Chhattisgarh), District : Durg, Chhattisgarh
3. Purushottam Singh Vyas Son Of Shri Than Singh Aged About 55 Years Working As Lecturer And Posted At Govt. High School Parsada (Kumhari) Block Patan District Durg (Chhattisgarh), District : Durg, Chhattisgarh
4. Chetan Lal Sharma Son Of Late Shri Chandrika Prasad Sharma Aged About 54 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kugada Block Patan District Durg (Chhattisgarh), District : Durg, Chhattisgarh
5. Laxminarayan Sahu Son Of Late Shri Bhuneshwar Sahu Aged About 59 Years Working As Vice Principal And Posted At Govt. Higher Secondary School Selud, Block Durg, District Durg (Chhattisgarh), District : Durg, Chhattisgarh
6. Govind Kumar Sao Son Of Late Shri Kartik Ram Aged About 57 Years Lecturer Working As B.R.C.At Durg Rural Samarg Siksha Abhiyan District Durg (Chhattisgarh), District : Durg, Chhattisgarh
7. Devendra Kumar Banchhor Son Of Shri Mani Ram Banchore Aged About 57 Years Working As Lecturer And Posted At Govt. Higher Secondary School Sirsakala Block Patan District Durg (Chhattisgarh), District : Durg, Chhattisgarh
8. Gorelal Sahu Son Of Shri Lakhan Lal Sahu Aged About 50 Years Working As Lecturer And Posted At Govt. Girls Higher Secondary School Utai Block Durg District Durg (Chhattisgarh), District : Durg, Chhattisgarh





9. Prakash Narayan Baghel Son Of Shri Bhushan Lal Baghel Aged About 54 Years Working As Lecturer And Posted At Govt. Higher Secondry School Sirsakala Block Patan District Durg (Chhattisgarh), District : Durg, Chhattisgarh
10. Gyan Singh Rajput Son Of Late Shri Poshan Singh Thakur Aged About 52 Years Working As Lecturer And Posted At Govt. High School Krishna Nagar Bhilai District Durg (Chhattisgarh), District : Durg, Chhattisgarh
11. Keshram Jangde Son Of Shri Bhau Lal Jangde Aged About 50 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kodekasa, Block Doundilohara District Balod (Chhattisgarh), District : Balod, Chhattisgarh
12. Arvind Kumar Mishra Son Of Late Shri Shyam Sundar Mishra Aged About 56 Years Working As Lecturer And Posted At Jrd Govt. M.P.H.S. Higher Secondary School District Durg (Chhattisgarh), District : Durg, Chhattisgarh
13. Ramesh Kumar Barley Son Of Shri Ferha Ram Barle Aged About 50 Years Working As Lecturer And Posted At Govt. Girls Higher Secondary School Utai Block Durg District Durg (Chhattisgarh), District : Durg, Chhattisgarh
14. Sukhen Lal Sonwani Son Of Shri Bhagat Ram Sonwani Aged About 58 Years Working As Lecturer And Posted At Govt. Higher Secondary School Purena District Durg (Chhattisgarh), District : Durg, Chhattisgarh
15. Dhanau Ram Kosre Son Of Pusau Ram Kosre Aged About 61 Years Working As Lecturer And Posted At Govt. High School Station Maroda Bhilai District Durg (Chhattisgarh), District : Durg, Chhattisgarh
16. Loor Singh Kashyap Son Of Shri Late Shri Ganga Ram Kashyap Aged About 53 Years Working As Lecturer And Posted At Govt. Higher Secondary School Bathena, District Durg (Chhattisgarh), District : Durg, Chhattisgarh
17. Chandrakant Sharma Son Of Shri Kunj Bihari Sharma Aged About 59 Years Working As Lecturer And Posted At Govt. Higher Secondary School Kumhari Block Dhamdha District Durg (Chhattisgarh), District : Durg, Chhattisgarh
18. Rajendra Kumar Dewangan S/o Late Shri Mannu Lal Dewangan Aged About 60 Years Lecturer Govt. H.S.S. Jarway, District Durg (Chhattisgarh), District : Durg, Chhattisgarh
19. Chhaganlal Sahu Son Of Late Shri Teck Ram Sahu Aged About



59 Years Lecturer And Posted At Rajya Open Board, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
2. Director Directorate Of Chhattisgarh Public Instruction, First Floor, C-Khand, Indrawati Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Joint Director Education Office Durg, District : Durg, Chhattisgarh
4. District Education Officer Durg / Balod (Chhattisgarh).

---- **Respondents**

WPS No. 4409 of 2021

1. Tika Ram Patel S/o Shri Jagdish Patel, Aged About 57 Years Working As Lecturer And Posted At Govt. Kanya Higher Secondary School Saraipali District Mahasamund (Chhattisgarh)
2. Bhog Singh Bhoi S/o Shri Gopo Bhoi Aged About 49 Years Lecturer And Posted At Govt. Higher Secondary School Banogirola Block Saraipali District Mahasamund (Chhattisgarh)
3. Thanadaram Tikuliya S/o Shri Bodhram Tikuliya Aged About 57 Years Lecturer And Posted At Govt. High School Tikuliya Block Saraipali District Mahasamund (Chhattisgarh), District : Mahasamund (CG)

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur
2. Director, Directorate Of Chhattisgarh Public Instruction, First Floor, C-Khand, Indrawati Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. District Education Officer, Mahasamund, District Mahasamund (CG)



---- Respondents

AND

WPS No. 4627 of 2019

1. Dilip Jha S/o Shri Sk Jha Aged About 50 Years Occupation Lecturer Posted At Present In Government Higher Secondary School, Tirmurti Nagar, At Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Ashok Kumar Chouhan S/o Shri Late T.K. Chouhan Aged About 54 Years Occupation Lecturer, Posted At Present In Government Higher Secondary School, Station Para At Shakti, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
3. Avinash Tiwari S/o Shri Radha Krishna Tiwari Aged About 45 Years Occupation Lecturer, Posted At Present In Government Higher Secondary School At Kurud, District Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh
4. Ram Kumar Rajwade S/o Late Sukhlal Rajwade Aged About 52 Years Occupation Lecturer, Currently Posted At Government Higher Secondary School, Mahalpara, Baikundpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya Atal Nagar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Secretary, Scheduled Caste And Scheduled Tribe Development, Department Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Prafulla Bharat, Senior Advocate assisted by Mr. Akash Pandey, Advocate Advocate; Mr. Manoj V. Paranjpe, Mr. N.K. Malviya, Mr. Gautam Khetrapal, Mr. Ajay Shrivastava, Mr. Neeraj Choubey, Mr. Kishore Narayan, Mr. Pritam Singh, Advocates for respective petitioners. Mr. Anup Mazumdar, Advocate for appellants in Writ Appeals.
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For Respondent-State : Mr. Jitendra Pali & Mr. H.S. Ahluwalia,
Deputy Advocate Generals along with
Ms. Ashta Shukla, Dy. Government
Advocate.

For Interveners : Mr. N. Naha Roy, Mr. Prateek Sharma,
Mr. Pramod Ramteke, Ms. Prabha
Sharma, Mr. Govind Prasad Dewangan
& Mr. Raj Shengale, Advocates

Order Reserved on 03.12.2022
Order Delivered on 09/03/2023

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

CAV Order

Per Parth Prateem Sahu, J

1. In above writ petitions, the petitioners have challenged constitutional validity of some of the provisions of the Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and Promotion Rules, 2019. Since common questions of fact and law are involved, all the above writ petitions/appeals were being heard together and are disposed of by this common order.

2. In the body of this order, Assistant Teachers (LB), Teachers (LB) and Lecturers (LB) are referred to as 'Teacher (LB)', unless specifically referred to otherwise.

• **WPS No.557/2022 (Chinta Ram Dhiwar & 3 ors Vs. State)**

3. Petitioners were initially appointed in Panchayat Department. Subsequently they participated as departmental candidates in recruitment proceedings for appointment on the post of Head Master (Primary School) initiated by the School Education Department and



through limited departmental examination were appointed on the post of Head Master (Primary School) in the year 2010. Grievance of petitioners in this writ petition is of reserving 50% posts of available vacancy for promotion of Lecturers from E-(LB) Cadre and T-(LB) Cadre. Similarly for the post of Head Master (Middle School) on the ground that this would reduce chance and avenue of promotion of Teachers already working under the School Education Department.

Accordingly, petitioners have sought relief of declaration of remarks under Column-8 at Sr. No.22 as well as remark under Column No.8 at Sr. No.25 of Schedule II of the Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and Promotion Rules, 2019 (henceforth 'the Rules of 2019') as ultra vires and to declare action of respondents creating separate E-(LB) cadre under the Rules of 2019 to be bad in law; to set aside order dated 30.6.2018 to the extent it creates separate 'E' (LB) cadre and treats them equivalent to 'E' Cadre.

• **WPS No.502/2022 (Ravikant Patel v. State);-**

4. In this writ petition, Notification dated 31.12.2021 is under challenge by which relaxation in qualifying service in feeder cadre was granted, and also letter dated 7.1.2022 issued by the Divisional Joint Director, Education Division Raipur for initiating proceedings for promotion to different posts from the post of Assistant Teachers -'E' Cadre, 'T' Cadre, Teachers - 'E' & 'T' Cadres (trained graduate) and Assistant Teachers (LB), 'E' & 'T' Cadres.



- **WPS No.1702/2022 (Bharat Lal Gahre v. State of CG):**

5. Petitioner in this writ petition was initially appointed in Panchayat Department. During course of his employment, he appeared in limited departmental exam conducted for filling-up posts of Head Master (Primary School). On coming out successful in departmental exam, petitioner was appointed as Head Master (Primary School) in the year 2010. Relief claimed in this writ petition is that remarks made in Column No.8 at Sr. No.22 as also Column No.8 at Sr. No.25 of the Rules of 2019 be declared ultra vires; order of absorption dated 30.6.2018 passed by respondent No.1 to the extent it creates separate cadres of 'E' (LB) & 'T' (LB) and treats them equivalent to 'E' Cadre be set aside; Notification dated 31.12.2021 relaxing minimum period of service in feeder cadre from five years to three years as also Notification dated 23.7.2020 being bad in eye of law (absorption of teachers who completed two years or more in Panchayat/LB) be set aside.

WPS No.598/2022 (Sanjay Kumar Yadu v. State):

WPS No.599/2022 (Madhusudan Tandan v. State):

6. Petitioners in these two writ petitions were initially engaged in Panchayat & Rural Department. Subsequently, in the year 2010 they participated in recruitment proceedings for appointment on the posts of Head Master (Primary School) in School Education Department through limited departmental exam and were appointed as Head Master (Primary School). Petitioners have challenged Notification dated 31.12.2021 granting relaxation in qualifying period



of service in feeder cadre from five years to three years; order dated 6.1.2022 passed in pursuance of Notification dated 31.12.2021 for initiating proceedings for promotion.

WPS No.2436/2022 (Gautam Prasad Yadav v. State):

WPS No.2742/2022 (Marcus Dungdung v. State):

7. Petitioners in these two writ petitions are originally appointed in Panchayat Department, but later on they successfully appeared in limited departmental exam conducted by School Education Department for filling-up posts of Head Master (Primary School) under the Chhattisgarh Non-gazetted Class III Education Service (School Level Service) Rules, 2008 (for short 'Rules of 2008') and appointed as Head Master (Primary School) in the year 2010. Petitioners have sought setting aside of order dated 9.1.2020 by which representation submitted by them was rejected. They have also prayed that Notification dated 31.12.2021 granting relaxation in qualifying period of service in feeder cadre from five years to three years, be declared ultra vires; remarks made in Column No.8 at Sr. Nos.2 & 25 of Schedule-II of the Rules of 2019 be declared ultra vires; to fix their seniority from the date of their initial appointment as Shiksha Karmi; to calculate salary from their first appointment deeming 'E' (LB) & 'T' (LB) cadres to be one cadre and; to revise pay-scale of petitioners as per applicable fundamental rules.

WPS No.892/2022 (Shailesh Kumar v. State):

8. Petitioner in this writ petition has prayed that Notification dated 31.12.2021 be declared ultra vires to Articles 14 & 16 of the



Constitution of India and further direction be issued to respondents to follow the Rules governing area in fair and lawful manner for promotion.

- **WA No.196/2022 (Ramgopal Sahu & another Vs. State):**
- **WA 212/2022 (Santosh Kumar Sharma & 4 ors Vs. State):**
- **WA No.324/2022 (Vedprakash Tiwari & 02 ors Vs. State):**

9. These writ appeals arise from common order dated 30.3.2022 passed by learned Single Judge dismissing batch of writ petitions seeking direction to respondents therein to consider names of petitioners therein for grant of promotion on the post of Principal against the posts meant for promotion through Lecturer (LB) quota as per Rules of 2019; and further to set aside process of promotion initiated by respondent No.1 calling names of Lecturers 'E-Cadre' exclusively and excluding names of Lecturers 'E' (LB) Cadre and; also prayed for a direction to respondents to convene meeting of Departmental Promotion Committee for promotion of Lecturers E-Cadre and Lecturers E-(LB) Cadre to the post of Principal from respective quotas.

- **WPS No.3286/2021 (Satyadev Verma & 08 others Vs. State):**
WPS No.4603/2021 Girish Tamrakar & 06 ors Vs. State):

10. In above two writ petitions, petitioners were initially appointed as Assistant Teacher in the School Education Department. Subsequently, they were promoted to the post of Upper Division Teacher and then Head Master (Primary School) and lastly as



Lecturer. Order of promotion of petitioners as Head Master was challenged by some similarly situated employees by filing writ petition, which came to be allowed. Petitioners preferred Special Leave Petition before Hon'ble Supreme Court, which was allowed, order of the High Court was set aside and matter was remanded back for fresh hearing after granting opportunity to petitioners. After remand, writ petition came to be dismissed and promotion order of petitioners herein as Head Master was restored. In these writ petitions, petitioners have sought relief that Entry No.9 of Schedule-IV under Rules 14 & 15 of the Rules of 2019 and Entry No.18 of Schedule-II under Rule 8 of the Rules of 2019 be declared ultra vires; respondents be directed to compute qualifying service of Lecturers and Head Masters (Middle School) from the date of attaining pay-scale of that cadre or to compute service rendered by petitioners as Head Master (Middle School) for the purpose of seniority on the ground that in the Rules of 2019 posts of Lecturer and Head Master (trained graduate) have been made equivalent and feeder cadre post for promotion to the post of Principal.

11. Respondent State initially submitted reply in these two writ petitions stating that ground raised in writ petition for declaring Rule 15 of Rules of 2019 to be ultra vires is no ground under service jurisprudence to challenge the Rules. Mere personal hardship cannot be the ground to challenge vires of any enactment. Rules of 2019 are framed in exercise of powers



conferred under Article 309 of the Constitution of India. In Schedule-IV appended to the Rules of 2019, Teachers (Middle School) / Head Masters (Primary School), who are trained post-graduate, are entitled for promotion to the post of Lecturer upon completion of five years in feeder cadre post. Similarly, graduate teachers (Middle School) / Head Masters (primary school), are to be promoted to the post of Head Master (middle school) on completion of five years of qualifying period of service in feeder cadre. Posts of Lecturer & Head Master (Middle School) are Class-II grade posts and pay-scale is also one and the same i.e. Level-9. Since pay-scale and avenue of promotion of Lecturer and Head Master (Middle School) are same, separate gradation list was prepared and percentage was fixed for promotion to the post of Principal under the Rules of 2019. Petitioners have misunderstood the Rules and its implementation, they have not even seen gradation list as prepared by the Department with respect to Lecturers. Head Masters who were earlier promoted to the posts of Lecturer, their seniority is also taken care of and in no way, they are put to disadvantageous position. Separate gradation list of Head Masters is prepared with an object to grant them opportunity to get further promotion to the post of Principal after acquiring requisite qualification and they should not be deprived from promotional avenues.





- **WPS No.5911/2022 (Ramgopal Sahu & another V. State):**

12. Petitioners in this writ petition were initially appointed as Shiksha Karmi Grade-I in the Panchayat and Rural Development Department under Chhattisgarh Panchayat Shiksha Karmi (Recruitment and Conditions of Service) Rules, 1997 (for short 'Rules of 1997'). Educational qualification and duties of Shiksha Karmis Grade-1 are at par with Lecturers in School Education Department or Tribal Department. The Rules of 1997 were repealed and new rules known as 'Chhattisgarh Panchayat Shiksha Karmi (Recruitment and Conditions of Service) Rules, 2007, were brought into force and the same were also repealed in the year 2012 and new rules known as 'Chhattisgarh Teacher (Panchayat) Cadre (Recruitment and Conditions of Service) Rules, 2012 (for short 'the Rules of 2012') were brought in force by the Panchayat & Rural Development Department. In the Rules of 2012, nomenclature of 'Shiksha Karmi Grade-III' was renamed as 'Assistant Teacher (Panchayat)', 'Shiksha Karmi Grade-II' as 'Teacher (Panchayat); 'Shiksha Karmi Grade-I' as 'Lecturer (Panchayat)'. In this writ petition, petitioners have sought quashment of Remark No.2 & 3 of Entry No.18 under Schedule-II of the Rules of 2019 and also Notification dated 31.12.2021.

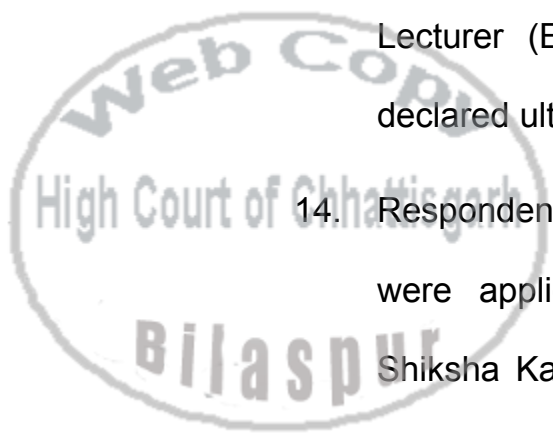
- **WPS No.1569/2022 (Lalit Kumar Koshley & another V. State):**

13. Petitioners in this writ petition were initially appointed as Assistant Teacher and thereafter, they were promoted as Upper Division



Teacher (UDT), Head Master (Middle School) and Lecturer. Petitioners are aggrieved by equivalence granted to Head Masters with Lecturers and keeping them in feeder post for promotion to the post of Principal by fixing ratio of 65% out of total 90% promotional posts of Principal reserved for promotion from Lecturers (trained post -graduate) and 25%, out of total 90% posts, reserved for promotion to the post of Principal from Head Masters (Middle School) [trained post-graduate]. Petitioners in this writ petition have sought that insertion of post of Head Master (Middle School) E-Cadre and Lecturer (LB) at par with Lecturer (E-Cadre) in Schedule-II of the Rules of 2019 be declared ultra vires.

14. Respondent State initially filed reply stating that different rules were applicable for appointment and service conditions of Shiksha Karmis to be appointed under Panchayat Department, School Education Department, Municipal Corporation and Municipality. In the year 2019, upon absorption of Teachers Panchayat & Local Bodies i.e. Municipal Corporation and Municipalities, common rules are framed i.e. Rules of 2019. Beneficial parts of different rules were borrowed and made part of the Rules of 2019. Head Masters (Middle School) and Lecturers are given opportunity for promotion to the post of Principal by fixing ratio in maximum posts available for promotion i.e. 65% from Lecturer and 25% from Head Master (Middle School). The object of respondent State is to bring post of

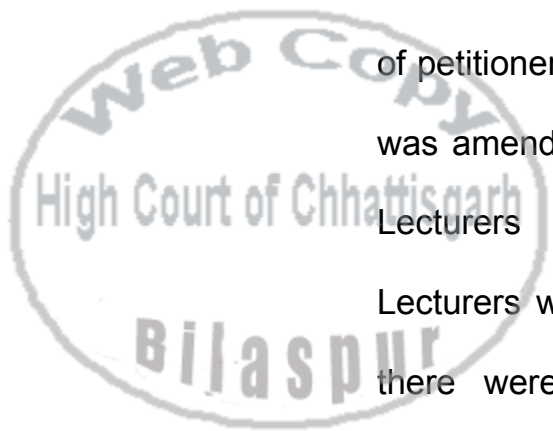




panchayat and local body Teachers in regular establishment and also to provide equal benefits, which are being provided to Teachers of the School Education Department. Teachers under the Panchayat and Local Body were discharging duties at par with Teachers of the School Education Department, but not getting similar benefits and therefore, after absorption, the Rules of 2019 are framed to achieve said object.

- **WPS No.3518/2022 (Shyam Kumar Verma & 03 ors Vs. State):**

15. Petitioners in this writ petition were initially appointed as Shiksha Karmi Grade-I under Rules of 1997. The Rules governing service of petitioners came to be amended from time to time and lastly it was amended as the Rules of 2012. Shiksha Karmis Grade-I / Lecturers (Panchayat) were discharging duties similar to Lecturers working under the School Education Department, but there were discrepancies in pay-scale and other benefits. Lecturers (E-Cadre) and Lecturers (Panchayat) posted in same school and teaching same set of students, were governed by different conditions of service and therefore, to resolve said discrepancy in both service conditions, the State Government had initially absorbed teachers working under Panchayat Department into the School Education Department on 30.6.2018. In the order of absorption it has been mentioned that for grant of benefits to Teachers (Local Body), service will be counted from the date of absorption and it is nowhere mentioned that benefit of





experience as Shiksha Karmi Grade-I will not be granted. Aggrieved by fixation of 70:30 ratio for promotion of Lecturers (E-Cadre) and Lecturers 'E' (LB) & 'T' (LB) i.e. 70% from Lecturers 'E' Cadre and 30% from Lecturers 'E' (LB), out of total 65% of posts reserved for promotion from the posts of Lecturers, sought relief that remark in Entry No.18 under Schedule-II of Rule 15 of the Rules of 2019 be declared unconstitutional and respondents be directed to frame fresh rules in accordance with law.

16. Respondent State initially submitted reply denying claim of petitioners and stated that though duties being discharged by Lecturers (E-Cadre) and Lecturers (Panchayat) / Shiksha Karmi Grade-I were similar but they were being treated differently and governed by different set of rules. The State Government took policy decision and vide order dated 30.6.2018 absorbed Teachers working under Panchayat and Local Body in the School Education Department to those who have completed eight years of their service. Petitioners have accepted terms and conditions prescribed for their absorption in the School Education Department and once they accepted terms and conditions of absorption, they are estopped from making submissions contrary to terms of absorption. Rule 4 of Rules of 2019 specifically provides for absorption in the School Education Department only after completion of eight years of service and therefore, petitioners cannot claim that their past service should be counted for the purpose of granting benefit of promotion. There is no





specific mention in pleadings that any vested right of petitioners under Articles 14 & 16 of the Constitution of India is violated by framing new set of rules. Rules of 2019 do not affect right of petitioners to be considered for promotion and therefore, there cannot be any challenge to the Rules framed by the Competent Authority under proviso to Article 309 of the Constitution of India only on the ground that their chance of promotion is reduced. Chance of promotion is not the condition of service but it is only right to be considered for promotion in terms of service rule. Reliance is placed on decision of Hon'ble Supreme Court in case of **State of Maharashtra vs. Chandrakant Anant Kulkarni**, reported in **(1981) 4 SCC 130**. Even after bifurcating total promotional posts into different ratio for promotion for different sets of feeder cadres in Entry-18, it nowhere debars or takes away right of petitioners for being promoted to higher post. Relying upon decision of Hon'ble Supreme Court in case of **Air Commodore Naveen Jain v. Union of India**, reported in **(2019) 10 SCC 34**, it is pleaded that policy of the State affecting chances of promotion cannot be said to be illegal, arbitrary and discriminatory so as to attract Article 14 of the Constitution.

- **WPS No.3431/2021 (Domar Singh Yadav & 21 ors V. State)**
- **WPS No.3432/2021 (Hansraj Sonpipre & 07 ors V. State)**
- **WPS No.3437/2021 (Poshan Kumar Dewangan & 18 ors V. State)**

17. Petitioners in these writ petitions were initially appointed as Assistant Teacher and thereafter they were promoted from time



to time and presently holding post of Lecturer. They are aggrieved by decision of the State Government making post of Head Masters (Middle School, trained post-graduate) equivalent to the post of Lecturer and feeder cadre post for promotion to the post of Principal at Entry No.9 under Schedule-IV and Entry No.18 under Schedule-II of the Rules of 2019. Educational qualification for the post of Head Master (Middle School) is graduate, whereas for the post of Lecturer it is Post-graduate. Lecturers are posted in high schools and higher secondary schools. Head Masters (Middle School) are posted in Middle Schools. Seniority of Head Masters is maintained at District Level, whereas seniority of Lecturers is maintained at State level. Lecturers and Head Masters (Middle School) are made equal for promotion to the post of Principal. Head Masters (Middle School) who could not be considered being juniors in cadre, by way of new Rules will march-over Lecturers and they will be directly promoted to the post of Principal and therefore, the Rules of 2019 to the extent of giving equivalence to Head Master (Middle School) with Lecturer is violative to Articles 14 & 16 of the Constitution. They sought relief that Schedule-IV making Head Master (Middle School) and Lecturer equivalent be declared ultra vires and the words 'Head Master' be deleted from Entry No.9 of Schedule IV for the purpose of promotion to the post of Principal. Further declaration of remark column in Entry No.18 of Schedule-II for promotion of 25%, out of total 90%, promotional posts of





Principal from Head Masters (Middle School) (trained post-graduate) to be ultra vires.

18. Respondent State submitted reply to writ petition denying claim of petitioners, stating that grievance of petitioners is of reduction of chance of promotion from Lecturer to Principal, which cannot be the ground to challenge statutory rules framed under Article 309 of the Constitution of India. Lecturers and Head Masters (Middle School) are Class-II posts, as mentioned at Sr. Nos.22 & 25 of Schedule-I. Work of Lecturers is to teach students of high schools and higher secondary schools, whereas post of Head Master (Middle School) is an administrative post having much experience in administration. Work of Principal is also of administration at higher secondary schools level. Equivalence granted is not unreasonable and arbitrary. Similar issue was raised challenging provisions under the Chhattisgarh Tribal and Scheduled Castes Development Department Education Cadre (Gazetted) Service Recruitment Rules, 2011 (for short 'the Rules of 2011') in which post of Head Master (Middle School) has been provided equivalence with Lecturer and 75% posts of Principal were to be filled by way of promotion; 25% by departmental exam from Shiksha Karmi Grade-I and Lecturers, who have completed ten years of service. **WPS No.1407/2012 (Tilak Ram Mandavi vs. State)**, came to be decided on **30.4.2014** upholding equivalence given to the post of Lecturer and Head Master. Reliance is placed on decision in case of **Chandrakant Anant**





Kulkarni (supra) to argue that any rule affecting right of a person to be considered for promotion is a condition of service and mere chance of promotion may not be condition of service.

- **WPS No.3441/2021 (Bharat Lal Dhritlahare & 17 ors V. State)**

19. Petitioners in this writ petition were initially appointed as Assistant Teacher / Upper Division Teacher; firstly they were promoted to the post of Head Master (Middle School) in the year 2010-11 and thereafter promoted to the post of Lecturer. Prior to coming into force of the Rules of 2019, their services were governed by the Rules of 2008 and thereafter by the Rules of 2014 in which post of Head Master (Middle School) is feeder cadre post for promotion to the post of Lecturer and feeder cadre post for promotion to the post of Principal was Lecturer. Petitioners' grievance in this writ petition is that out of 90% promotional posts of Principal, 25% posts are to be filled-up from Head Masters (Middle School). Qualifying service for promotion to the post of Principal is to be counted from the date of joining to the post which he is holding. In such a situation, Head Masters, who are below the petitioners in seniority list in the cadre of Head Master, will become entitled for promotion to the post of Principal ahead of petitioners. Hence, petitioners have sought relief that Schedule-II and Explanation to Rule 15 of Rules of 2019 be declared ultra vires to the extent that it discriminates senior Lecturers from promotion to the post of Principal in comparison to junior Head Masters and further sought a direction for





respondents to modify Rule 15 and Schedule-II to the extent that service benefits of Lecturer rendered as Head Master may also be counted for the purpose of assessing seniority/eligibility for promotion. Requirement of five years experience only for Lecturers for promotion to the post of Principal in Schedule-III be also declared ultra vires being discriminatory.

20. Respondent State submitted reply to writ petition denying claim of petitioners, stating that grievance of petitioners is of reduction of chance of promotion from the post of Lecturer to the post of Principal, which cannot be the ground to challenge statutory rules framed under Article 309 of the Constitution of India. Posts of Lecturer and Head Master (Middle School) are Class-II posts, as mentioned at Sr. Nos.22 & 25 of Schedule-I. Job of Lecturer is to teach students of high schools and higher secondary schools, whereas Head Master (Middle School) is an administrative post having much experience in administration. Job of Principal is also of administration in higher secondary school. Equivalence granted is not unreasonable and arbitrary. Similar issue was raised challenging provisions under Chhattisgarh Tribal and Scheduled Castes Development Department Education Cadre (Gazetted) Service Recruitment Rules, 2011 in which post of Head Master (Middle School) has been provided equivalence to the post of Lecturer and 75% posts of Principal are to be filled-up by way of promotion; 25% posts are to be filled-up by departmental exam from Shiksha Karmis Grade-I and Lecturers,





who have completed 10 years of service. **WPS No.1407/2012 (Tilak Ram Mandavi vs. State)**, came to be decided on **30.4.2014** upholding equivalence given to the post of Lecturer and Head Master. Reliance is placed on decision in case of **Chandrakant Anant Kulkarni (supra)** to argue that any rule affecting right of a person for promotion is a condition of service and mere reduction in chance of promotion may not be condition of service. Respondents further stated that Lecturers & Head Masters (Middle School) are getting same pay-scale i.e. of Level-9 and both are Class-II officers. Petitioners have not seen gradation list as prepared by the department with respect to Lecturers. Head Masters who were earlier promoted to the post of Lecturer, against their names, their seniority in Head Master has also been taken care of and in no manner they will remain in any disadvantageous position while being considered for further promotion. Object of preparing separate gradation list of Head Masters (Middle school) and Lecturers is with a view that Head Masters (Middle school) should also get opportunity of further promotion after acquiring requisite eligibility.

• **WPS No.4409/2021 (Tikaram Patel & 02 ors V. State of CG)**

21. Petitioners in this writ petition are holding post of Lecturer. Petitioner No.2 after promotion to the post of Head Master was further promoted to the post of Lecturer, whereas petitioner No.1 & 3 participated in limited departmental exam for promotion and promoted as Lecturer. Petitioner No.1 was promoted from the



post of Upper Division Teacher. Order of promotion through limited departmental exam on the post of Lecturer is dated 28.1.2011. In this writ petition the petitioners have prayed that insertion of Head Master (Middle School) at par with Lecturer in feeder cadre for promotion to the post of Principal be declared ultra vires.

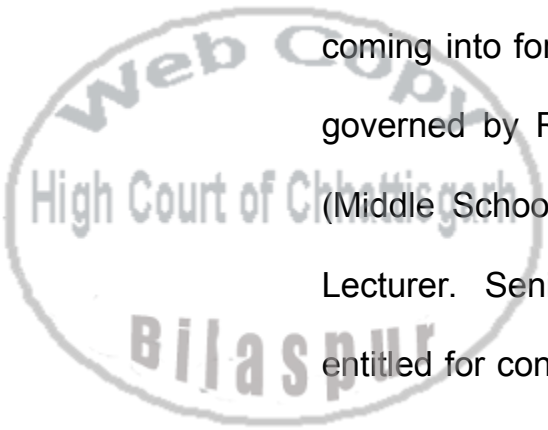
- **WPS No.4627/2019 (Dilip Jha & 3 ors Vs. State of CG)**

22. Petitioners in this writ petition are holding post of Lecturer. It has been pleaded that total posts of Lecturer in 'E' Cadre are 27,363 and Lecture 'T' Cadre are 18,650. Posts of Head Master (Middle School) 'E' Cadre are 6,365 and 'T' Cadre are 6,084. Posts of Principal 'E' Cadre are 2,195 and 'T' Cadre are 1,898. Total number of posts of Head Master (Middle School) 'E' Cadre is less than one-fourth of Lecturer and less than one-third in case of Lecturer 'T' cadre. 25% separate quota for promotion of Head Master (Middle School) to Principal has been fixed. Providing separate channel of promotion to Head Masters (Middle School) is also unreasonable. Classification of Head Masters (Middle School) and Lecturers for promotion to the post of Principal is not based on *intelligible differentia*. Reliance is placed on decision in case of **Nagpur Improvement Trust v. Vitthal Rao**, reported in (1973) 1 SCC 500; **Budhan Choudhary vs. State of Bihar**, reported in (1995) 1 SCR 1045; **State of Jammu & Kashmir v. Triloki Nath Khosa**, reported in (1974) 1 SCC 19.



Based on above, petitioners sought relief that Entry-18 of Schedule-II of the Rules of 2019 be declared unconstitutional to the extent it prescribes 25% quota for Head Master (Middle School) (trained post-graduate) for promotion to the post of Principal and to the extent it prescribes 30% posts for promotion to the post of Principal from 'E' (LB) Cadre and 'T (LB)' Cadre; Entry-9 of Schedule IV of Rules of 2019 be also declared unconstitutional to the extent it includes Head Masters (Middle School) as feeder cadre post for Principal.

By way of additional affidavit it was pleaded that prior to coming into force of the Rules of 2019, services of petitioners were governed by Rule 14 of the Rules of 2014 wherein Head Master (Middle School) is feeder cadre post for promotion to the post of Lecturer. Senior Head Masters having five years experience were entitled for consideration for promotion to the post of Lecturer. Post of Head Master (Middle School) is district level post, whereas post of Lecturer is State Level Post. Appointing Authority for Lecturer is the Director and for Head Master (Middle School) it is Joint Director. Till the year 2019, Head Masters (Middle School) were promoted to the post of Lecturer and upon promotion from Head Master (Middle School) to Lecturer, they were placed at the bottom of gradation list of Lecturers according to their date of promotion. Persons being senior in gradation list of Head Masters and promoted to the post of Lecturer, will suffer adversely if Head Masters are promoted to the post of Principal because juniors to petitioners (who were promoted

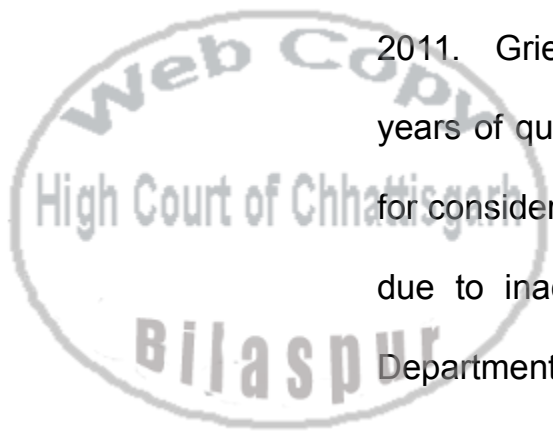




as Lecturer from Head Master), will now be directly promoted to the post of Principal above them. There is clear violation of Articles 14 & 16 of the Constitution of India. Unequals have been treated as equal under Rules of 2019 for promotion to the post of Principal. Reliance is placed in case of **Pradeep Kumar Biswas v. Indian Institute of Chemical Biology**, reported in (2002) 5 SCC 111; **UP Power Corporation Ltd. v. Ayodhya Prasad**, reported in (2008) 10 SCC 139.

- **WPS No.2280/2021 (Dayal Singh & 03 ors V. State of CG)**

23. Petitioners in this writ petition are holding post of Lecturer since 2011. Grievance of petitioners is that after completion of five years of qualifying service in feeder cadre, they became entitled for consideration for promotion to the post of Principal. However, due to inaction on the part of respondent State, meeting of Departmental Promotion Committee could not be convened and thereafter the Rules of 2019 came into force. Posts of Assistant Block Education Officer and Lecturer are Class-II posts under pay-matrix Level-9. The Assistant Block Education Officer is feeder cadre post for promotion to the post of Block Education Officer. As both the posts i.e. Assistant Block Education Officer and Lecturer, are equivalent, therefore, the same are made feeder cadre post for promotion to the post of Block Education Officer. Post of Assistant Block Education Officer was created under the Rules of 2015 as direct recruitment post. Earlier Upper Division Teachers were posted as Assistant Block Education





Officer, whereas Lecturer as Block Education Officer. Petitioners are holding post of Lecturer since 2011 and therefore, they are senior to the persons holding post of Assistant Block Education Officer. Under Entry No.17 of Schedule-II in remark column mentioning of 'Principal' for promotion to the post of Block Education Officer for feeder cadre post is unconstitutional and irrational. Further direction is sought for filling of 75% post of Block Education Officer/Assistant Director (Administration) through the cadre of Lecturer.

24. Respondent State filed reply to writ petition stating that writ petition as filed is misconceived and not maintainable. Petitioners are claiming their promotion to administrative post mentioning that posts of Assistant Block Education Officer and Lecturer, which the petitioners are holding, are of same pay-scale. Posts of Principal and Assistant Block Education Officer are administrative posts. Lecturer holds the post as a teacher and therefore, only on the basis of same pay-scale, petitioners, who are holding post of Lecturer, cannot claim equivalence to the posts of Assistant Block Education Officer and Principal. Only because petitioners at some point of time were posted temporarily on administrative post, they cannot be given promotion to the post of Block Education Officer or Assistant Block Education Officer. Reliance is placed on decision in cases of **P. Venugopal vs UOI**, reported in (2008) 5 SCC 1; **State of Punjab vs. J.L. Gupta**, reported in (1990) SCC L&S 437; KR





Laxman v. Karnataka State Electricity Board, reported in (2001) 1 SCC 442.

- **WPS No.1275/2022 (Shrikumar Nair & 20 ors V. State of CG)**

25. Petitioners, except Petitioner No.17, in this writ petition are working in the School Education Department in the post of Assistant Teacher and Petitioner No.17 is holding post of Teacher. Petitioners were appointed in between 1982 to 1997. In the year 1997, the Rules of 1997 were notified in exercise of powers under Section 53 (2) read with Section 71 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993. Teachers appointed as Shiksha Karmis under the Rules of 1997 were absorbed by School Education Department in the year 2018. Grievance of petitioners is with respect to seniority of teachers absorbed in School Education Department as Assistant Teacher 'E' (LB), Teacher 'E' (LB), Lecturer 'E' (LB) from the date of their absorption and division of promotional posts between 'E' cadre employees and 'LB' cadre employees. They have prayed that Rule 6 read with Schedule II of the Rules of 2019 be declared unconstitutional to the extent it divides promotional post between Teachers 'E cadre' and 'LB Cadre'; seniority of Teacher (LB) be counted from the date of their absorption in the School Education Department; respondents be directed to prepare single gradation list of both cadre after counting seniority of LB cadre from the date of absorption in the School Education Department.





- **WPS No.2240/2022 (Manoj Kumar Rana Vs. State of CG)**

26. Petitioner in this writ petition is working in the post of Upper Division Teacher since 2008. Teachers (Panchayat) were absorbed in the School Education Department vide order dated 30.6.2018 and were brought in cadre of Education Department only in the year 2018. Petitioner is much senior in the feeder cadre. Due to classification of feeder cadre post for promotion to the post of Head Master (Middle School), teachers who were absorbed in the School Education Department will get promotion prior to petitioner. Grievance of petitioner is with regard to reduction of experience period in feeder cadre post of Teacher (LB) for promotion to higher post from five years to three years.

Relief sought for is that classification of teachers as 'E' cadre and 'E' (LB) cadre for promotion be declared ultra vires.

27. Respondent State filed consolidated affidavit dated 16.9.2022 of the Secretary, School Education Department, Raipur in reply to pleadings made in above writ petitions, stating that the Rules of 2019 are framed in exercise of powers conferred under proviso to Article 309 of the Constitution of India. Fixation of quota or different avenues and ladders for promotions in favour of various categories of posts in feeder cadre based upon structure and pattern of the Department, is prerogative of the employer. Fixation of quota for the categories of posts is on consideration of various relevant factors and therefore, same cannot be challenged by petitioners. Policy of the State affecting chances



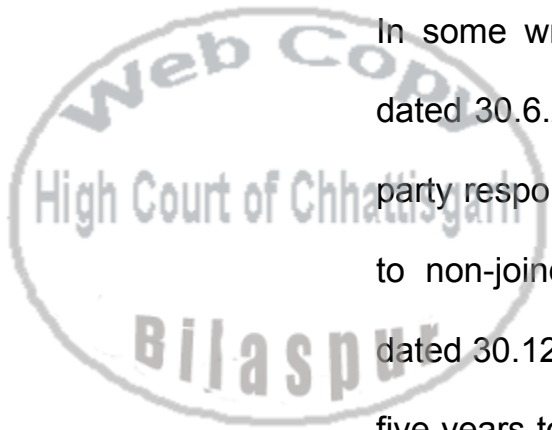
of promotion cannot be said to be illegal, arbitrary and discriminatory. There is presumption in favour of constitutionality / validity of a subordinate legislation. Burden is upon the person who attacks on the ground that policy or Act of the State is invalid. Submission of learned counsel for petitioners that Teachers (LB) were absorbed in the year 2018 and therefore, they are juniors to them, is not correct. Impugned Notification issued pursuant to policy decision clearly stipulates that Teachers (LB) should have completed eight years or more service for their absorption in School Education Department. Object of the State Government is to bring post of Teachers (LB) in regular establishment and also to provide them equal benefits as they are also discharging duties at par with Teachers of School Education Department. Since the source of appointment of Teachers appointed in School Education Department and Local Body is different, they have been classified as Teacher 'E' Cadre and 'E' (LB) cadre, which is based on *intelligible differentia*. Post of Assistant Teacher in School Education Department has been declared as 'dying cadre' post in the year 1997-98 and thereafter no appointment was made on said posts and posts of Assistant Teachers were filled up by local body. Rule 2 (j) of the Rules of 2019 clearly provides that Lecturer (Panchayat) / Lecturer (Urban Body), Teacher (Panchayat) / Teacher (Urban Body) and Assistant Teacher (Panchayat) / Assistant Teacher (Urban Body) mean the persons appointed for teaching in schools of





department under administrative control of District Panchayat, Janpad Panchayat, Municipal Corporation, Municipalities or Nagar Panchayat and therefore, contention that 'E', 'E (LB)' & 'T (LB)' cadres are not defined is incorrect. Under Rule 2 (s) of the Rules of 2019 definition of 'teacher' is provided which means teacher of 'E', 'E (LB)' & 'T (LB)' cadres. Earlier there were two different departments under which schools were being run i.e. School Education and Tribal Welfare. In the year 2015, all schools under the control of Tribal Welfare Department have been brought under the control of School Education Department.

In some writ petitions, challenge is to the order of absorption dated 30.6.2018, but affected persons have not been arrayed as party respondents, hence, writ petitions are not maintainable due to non-joinder of necessary parties. Challenge to Notification dated 30.12.2021 granting relaxation in period of experience from five years to three years for promotion from the post of Teacher / Head Master (Primary School) (Trained post-graduate) / Lecturer and Teacher/ Head Master (Middle School) (trained graduate); Assistant Teacher (Trained Graduate) to Teacher and Assistant Teacher (Trained) to Head Master (Primary School) is made with an object to fill-up existing vacant posts and to bring absorbed Assistant Teachers (LB) 'E' Cadre & 'T' Cadre under zone of consideration for promotion. Posts of Assistant Teacher 'E' Cadre were very less i.e. only 700 as on 1.7.2018, and sanctioned posts of Assistant Teacher are 87,669. Promotion to





the posts of Teacher from Assistant Teacher is subject-wise from the Assistant Teachers, who are trained graduate in Biology, Special English, Special Hindi and Maths. As per Rules of 2019, 50% posts of Teacher are to be filled up by way of direct recruitment and 50% by way of promotion. About 4,000 promotional posts of Teacher are lying vacant for want of eligible Assistant Teachers and therefore, 'one-time relaxation' has been granted in minimum experience criteria considering that studies of students may not be affected. This relaxation has not been provided to the post of Lecturer as there are sufficient number of eligible candidates in the feeder cadre.

Reliance on Rule 10 of the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961 (for short 'Rules of 1961') is misplaced. The State Government has created two separate cadres belonging to two different groups and therefore, separate seniority list is required to be prepared. Rule 12 (2) (c) of the Rules of 1961 is also not applicable in the facts of case as the appointment of Teachers (LB) are not by way of transfer. Absorption of Teachers (LB) is conditional giving them seniority from the date of their absorption. Teachers working under local body have been held to be entitled for absorption only on their completing eight years of service as Teacher (LB) and therefore, for the said condition imposed under the Rules of 2019 created separate class/cadre of posts and wisdom of administration cannot be challenged.





With regard to challenge to Rules of 2019 of bringing Head Master (Middle School) also in feeder cadre for promotion to the post of Principal, it is pleaded that posts of Head Master (Middle School) and Lecturer both are Class-II posts and having same pay-scale, educational qualification and channel of promotion. Petitioners have misunderstood the Rules and its implementation. They have not seen gradation list as prepared by the Department with respect to Lecturers. Their seniority of Head Master has also been taken care of and in no manner they will be in any disadvantageous position while being considered for further promotion. Thus, interest of petitioners has also been taken care of. Petitioners, who are Lecturer 'E' Cadre, have already been provided promotional quota of 65% for promotion to the post of Principal and as such, there is no violation of fundamental rights. Employees are entitled only for their consideration for promotion. Reduction in chance of promotion cannot be a ground to challenge statutory rules. The State Government while framing the Rules of 2019 brought Head Masters (Middle School) (trained post-graduate) and Lecturers under Entry No.9 of Schedule-IV showing both the posts as feeder post for promotion on the post of Principal. Under the Rules of 2019 both the posts have been shown to be Class-II posts with same pay-matrix i.e. Level-9. Merely because appointing authority is different, it would not mean that equivalence to post cannot be given. Job of Lecturers is to teach





students of Class 9th to 12th , whereas job of Head Master (Middle School Post-Graduate) is to manage day-to-day administration of school upto Class 8th , and therefore Head Master (Middle School Post-Graduate) is having administrative experience. In the Rules of 2019, the State Government, considering that there is stagnation in the post of Head Master (Middle School) and to avoid frustration, promotion to the post of Principal has been restructured by including Head Master (Middle School) also in feeder cadre with limited ratio of posts available for their promotion along with Lecturers. Identical issue came up for consideration before the Division Bench in **WPS No.1407/2012 (Tikaram Mandavi v. State of CG)**, for promoting Shiksha Karmis Grade-I and Lecturers, who had completed 10 years of service and said writ petition was dismissed and statutory provisions providing equivalence to the post of Lecturer and Head Master (Middle School) was upheld.

Some of the petitioners, who were initially appointed to the post of Shiksha Karmi Grade-I by respective District Panchayats, have filed writ petitions claiming that their seniority be counted from the date of their initial appointment and common seniority list for the post of Lecturer should be made. Petitioners' appointment is from different source i.e. under statutory Rules of 1997. Absorption of Shiksha Karmis is with certain conditions that Shiksha Karmis should have completed eight years of service and date of absorption is fixed as 1.7.2018 mentioning



that they would not be entitled for any arrears prior to their absorption. In the order itself it is clearly mentioned that teachers of panchayat and local body will have separate cadre. Absorption of teachers (LB) is under Rule 4 (d) of the Rules of 2019. Petitioners who have accepted order of absorption and already taken benefits, cannot now claim any benefit outside the provisions of Rules of 2019. Submission on behalf of petitioners, who are working on the post of Lecturer 'E' Cadre, that Entry made at Sr. No.17 under Schedule II be declared ultra vires and to fill-up 75% posts of Block Education Officer / Assistant Block Education Officer through cadre of Lecturer is *per se* wrong. Petitioners being employees cannot suggest the manner in which posts are to be filled-up, that too, as per their convenience. There are promotional avenues for the petitioners.

28. Mr. Prafulla Bharat, learned Senior Counsel for petitioners in WPS No.557/2022 & 1702/222 would argue that petitioners were initially appointed as Teacher/Shiksha Karmis in the Department of Panchayat & Rural Development. Pursuant to advertisement for filling-up post of Head Master (Primary School) from Shiksha Karmis of Panchayat Department through departmental exam, petitioners along with others appeared in exam, became successful and were appointed to the post of Head Master (Primary School) in School Education Department. Unsuccessful Shiksha Karmis working under the Panchayat Department were absorbed by the State Government in the year 2018 as per policy





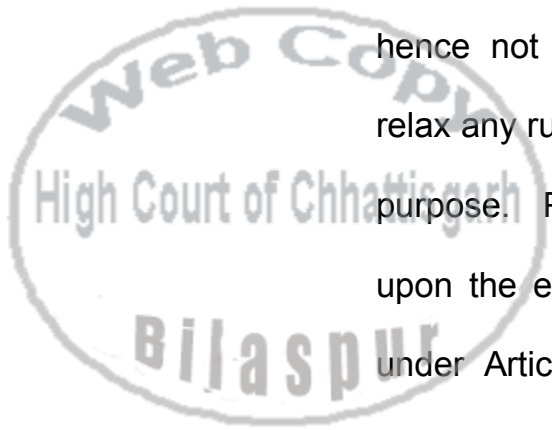
of State Government. Creation of different cadres of 'E' & 'T' (LB) Cadres is *per se* illegal, arbitrary and violative to Articles 14 & 16 of the Constitution of India. By creating separate cadres, the authorities are wrongly benefiting Shiksha Karmis / Teachers (Panchayat) who could not become successful in departmental exam. Since the date of appointment i.e. 10.12.2010, petitioners are working as Head Master (Primary School) in School Education Department. As per order dated 30.6.2018, after absorption, the Teachers (Panchayat) are placed in separate cadre of Teacher (LB) in School Education Department from the date of absorption. Petitioners are working in the post of Head Master (Primary School) since 2010, whereas other Teachers/ employees of Panchayat Department were absorbed in School Education Department only in the year 2018 and by creating a separate cadre and giving relaxation in period of qualifying service in feeder cadre from five years to three years, have brought all those teachers at par, who came to the department at a later date. Petitioners who came to the department on the basis of limited departmental exam, which is accelerated mode of appointment, are entitled to be kept above similarly placed Teachers/ Head Masters (Primary school) in gradation list. He contended that challenge in this writ petition is also to the creation of separate cadre for absorbed Assistant Teachers and Head Masters (Primary School), Teachers and Lecturers. By providing relaxation in qualifying service in feeder cadre,





respondent State had reduced chances of promotion of petitioners which is not permissible. It is further submitted that Notification dated 31.12.2021 is only executive instructions and it will not override Rules of 2019. In support of his contention, he also referred to Rule 21 of the Rules of 2019 and submits that power of relaxation as provided cannot be used to the detriment of existing employees of the School Education Department.

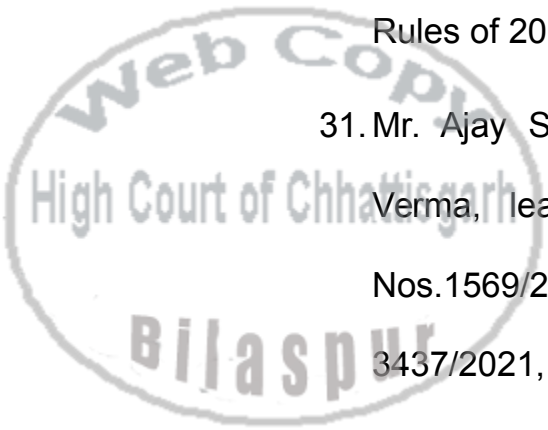
29. Submission of Mr. Manoj Paranjpe, learned counsel for petitioner in WPS No.892/2022 is that Notification is discriminatory in nature and against Articles 14 & 16 of the Constitution of India, hence not permissible under service jurisprudence. Power to relax any rule must be made judicially keeping in mind object and purpose. Power to relax does not confer unfettered discretion upon the employer. Once the State Government framed rules under Article 309 of the Constitution of India, the same are having binding effect and the State Government should refrain from acting in the manner not contemplated under the Rules. Power of relaxation is required to be exercised in public interest in a given case and there cannot be any wholesale relaxation. He placed reliance on decisions in case of **K. Ramesh Babu V. State Bank of India**, reported in **1992 (3) SLR 561 (AP)**; **Lakshman V. A.P. State Electricity Board**, reported in **1984 Lab IC 927 (AP)**; **P. Sadagopan v. Food Corp. of India**, reported in **(1997) 4 SCC 301**; and **Jit Singh v. State of Punjab**, reported in **AIR 1979 SC 1034**.





30. Mr. Malviya, learned counsel for petitioners in WPS Nos. 502/2022, 598/2022 & 599/2022, 2436/22, 2742/2022, has challenged grant of relaxation in period of experience from five years to three years vide Notification dated 31.12.2021 and also the letter dated 6.1.2022 issued by respondent No.1 for taking steps for promotion to the post of Head Master (Primary School), Teacher and Head Master (Middle School) and further direction to respondents to define cadre under Rule 2 (j) of the Rules of 2019 and definition of absorption used in Entry -25 of Schedule-II as 'E' Cadre, 'E (LB)' Cadre, 'T' Cadre and 'T (LB)' Cadre in the Rules of 2019.

31. Mr. Ajay Shrivastava, Mr. Gautam Khetrapal & Mr. Somkant Verma, learned counsel for respective petitioners in WPS Nos. 1569/2022, 2240/2022, 3286/2021, 3431/2021, 3432/2021, 3437/2021, 3441/2021, 4409/2021 & 4603/2021 respectively would argue that equivalence granted to Head Masters with Lecturers for promotion to the post of Principal is arbitrary and unreasonable. Earlier Rules governing promoted Lecturers and Head Masters provide channel of promotion to Head Masters (Middle School) to the post of Lecturer, but by bringing Head Masters at par and providing equivalence for their promotion to the post of Principal directly, will be accelerated promotion. They further submit that promoted Lecturers being senior in cadre of Head Masters and eligible for promotion under the old Rules, were promoted to the post of Lecturer and after promotion, they

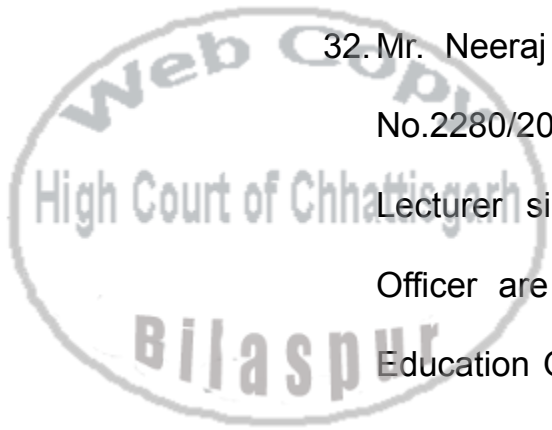




were placed at the bottom in the cadre of Lecturers. If Head Masters are also considered for promotion to the post of Principal along with Lecturers, petitioners, who are promoted Lecturers, will be adversely affected and therefore, their seniority should have been counted from the date when they were born in the cadre or pay-scale of Head Master / Lecturer. Hence, declaration that 25% posts of Principal shall be filled-up by way of promotion from Head Masters is unreasonable and violative to Articles 14 & 16 of the Constitution of India. Reliance is placed on decision in **WPS No.1407/2012 (supra)**.

32. Mr. Neeraj Choubey, learned counsel for petitioners in WPS No.2280/2021 would submit that petitioners are holding post of Lecturer since 2011. Post of Principal and Block Education Officer are equivalent post, whereas post of Assistant Block Education Officer and Lecturer are equivalent post, therefore, in place of Principal, post of Lecturer should be included in feeder cadre for promotion to the post of Block Education Officer. Hence, stipulation in Entry No.17 under Schedule-II of the Rules of 2019 that 75% post of Block Education Officer shall be filled-up from the Principals having atleast five years experience is liable to be struck down being ultra vires and unconstitutional.

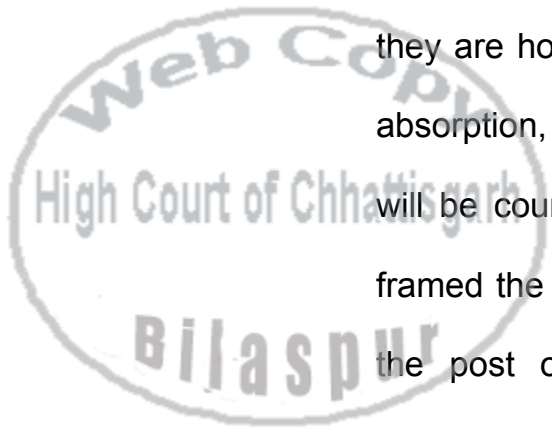
33. Mr. Kishore Narayan, learned counsel for petitioners in WPS No.1275/2022 would submit that division and reservation of promotion posts between Teachers 'E-Cadre' and 'E (LB) Cadre'





under the Rules of 2019 is ultra vires and unconstitutional as it affects promotional avenues of petitioners. Further, counting of seniority of Teachers LB Cadre from the date of absorption in School Education Department is violative to Articles 14 & 21 of the Constitution of India.

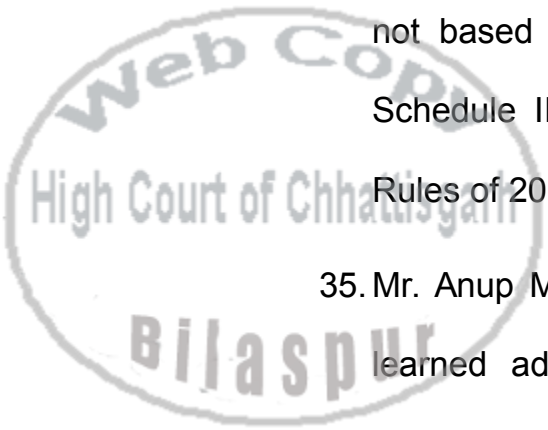
34. Mr. Prateek Sharma, learned counsel for petitioners in WPS No.4627/2019 & 3518/2022 would submit that petitioners were initially appointed to the post of Shiksha Karmi Grade-1 in the Panchayat Department and subsequently, they were absorbed in the School Education Department w.e.f. 1.7.2018 and presently they are holding post of Lecturer (E-LB Cadre). As per order of absorption, seniority of absorbed teachers for grant of all benefits will be counted from the date of absorption. Respondent State framed the Rules of 2019 fixing different quotas for promotion to the post of Principal from Lecturers/ Head Master (Middle School) (Trained Graduate) i.e. 10% by way of direct recruitment; 65% by way of promotion from Lecturers 'E' & 'E (LB)' Cadres and 25% by way of promotion of Head Master (Middle School) to Principal. Entry-9 of Schedule-II of the Rules of 2019 prescribes five years teaching experience as minimum eligibility criteria for promotion to the post of Principal. In earlier Rules, post of Head Master (Middle School) was feeder cadre post for promotion to the post of Lecturer, but in the Rules of 2019 equivalence is given to post of Head Master with Lecturer, which would adversely affect promotional avenues of Lecturer (E-LB Cadre) for the





reason that as per absorption order, service period of petitioners will be counted from the date of absorption i.e. from 1.7.2018, whereas the Head Masters (Middle School), will get promotion ahead of petitioners on completing five years of service, although they are much junior to them. Hence, the provision prescribing separate promotion channel to the Head Masters (Middle School) not only gives them illegal preference over Lecturers (E LB Cadre) but they would also supersede the Lecturers like the petitioners. This classification of Head Masters (Middle School) and Lecturers for promotion and division of promotional posts is not based on *intelligible differentia* and therefore, Entry-18 of Schedule II of Rules of 2019 and Entry -9 of Schedule IV of Rules of 2019 are liable to be declared unconstitutional.

35. Mr. Anup Mazumdar, Mr. Prateek Sharma and Mr. Hariom Rai, learned advocates representing respective appellants in writ appeals would submit that appellants, who were initially holding post of Shiksha Karmi Grade-I, were absorbed in School Education Department and are presently holding post of Lecturer (E-LB) Cadre. As per Rule 12 (2) (c) of the Rules of 1961, seniority of absorbed employee in the grade in which he is absorbed will normally be counted from the date of absorption in his parent department, then his regular service in grade shall also be taken into account while fixing seniority in present department. Hence, services rendered by appellant as Shiksha Karmi Grade-I be also counted for the purpose of promotion and seniority. But,





respondent authorities have initiated process for promotion of Lecturer 'E' Cadre excluding Lecturers 'E' LB) Cadre. If promotion is granted to Lecturer 'E-Cadre' only ignoring Lecturer E-LB Cadre, then they will become senior to Lecturers E (LB) Cadre which will adversely affect future prospects of Lecturers (E-LB).

36. Learned counsel appearing on behalf of the State opposed the submissions of learned counsel for respective petitioners and reiterated their contentions raised in consolidated affidavit dated 16.9.2022 filed on behalf of respondent State, which are elaborated in preceding paragraphs.

37. Learned advocates appearing on behalf of respective interveners adopted all the contentions raised on behalf of the State.

38. Heard learned counsel for respective petitioners, learned counsel for the State; learned counsel for intervener and perused the documents available on record.

WPS Nos.502/2022, 557/2022, 892/2022, 1702/2022, 2436/2022; 2742/2022, 598/2022, 599/2022;

39. WPS No.502/2022, 557/2022 & 1702/2022 are filed by the Teachers who were initially appointed under the Panchayat and Rural Development Department and while in service they successfully participated in limited departmental exam for appointment on the post of Head Master (Primary School) in School Education Department and appointed as Head Master (Primary School) in the year 2010. Petitioners in these writ



petitions have challenged remarks in Column No.8 at Sr. No.22 under Schedule-II and sought relief of declaration that Column No.8 under Sr. Nos.22 & 25 in Schedule-II be declared ultra vires primarily on the ground that creation of separate classes within the class is not permissible and; further sought that as per Rule 10 of the Rules of 1961, gradation list be prepared for each branch. Petitioners and Teachers (LB) belong to same group, therefore, separate gradation list is not permissible and as per Rule 12 (2) (c) of the Rules of 1961, transferees are to be placed below direct recuritees / promotees and only to overcome provisions under Rule 12, separate gradation list has been created for teachers 'E (LB)' cadre.

In WPS Nos.2436/2022 & 2742/2022 challenge is to wrong fixation of pay and relaxation given to Teachers (LB) from five years to three years in experience clause for their promotion from the post of Head Master (Primary School), Teacher to the post of Head Master (Middle School) and Lecturer. Reliance is placed in case of **UP Power Corporation Ltd. vs. Ayodhya Prasad Mishra**, reported in **(2008) 10 SCC 139**.

Challenge in WPS Nos.598/2022, 599/2022, 892/2022 is to the Notification dated 31.12.2021 granting relaxation in experience clause from five years to three years to the Teachers 'E' (LB) and also order dated 6.1.2022 directing to initiate promotion proceedings.



Petitioners in above writ petitions are holding post of Head Master ('E' Cadre). They were initially appointed as Shiksha Karmi in the Panchayat and Rural Development Department. In the year 2010, petitioners appeared in departmental exam conducted for appointment to the post of Head Master (Primary School) under the Rules of 2008. Teachers (Panchayat & Local Bodies) who completed eight years of service, as on 1.7.2018, were absorbed w.e.f. 1.7.2018. Separate cadres were created as Assistant Teacher (LB), Teacher (LB), Lecturer (LB) for the teachers who were posted in government schools under the control of Panchayats and Local Bodies; and Assistant Teacher (T), Teacher (T) & Lecturer (T) for the teachers posted in schools under the control of Tribal Development Department. In the year 2019, the State Government framed the Rules of 2019 governing services of employees working under the School Education Department. As per Entry No.25 of Schedule-II of the Rules of 2019, posts of Head Master (Middle School) are to be filled-up 100% by way of promotion and feeder cadre post, as provided under Schedule-IV, is Teacher / Head Master (Primary School) (trained Graduate having five years teaching experience). Out of total posts for promotion, 50% are to be filled up from 'E' Cadre and 50% posts are to be filled from 'E (LB)' cadre. Further provision is made that if sufficient number of eligible candidates are not available in feeder cadre in 'E' Cadre, then posts are to be filled by way of promotion from 'E (LB)' Cadre and same





process shall be adopted for 'T' / 'T (LB)' cadre. Under the Schedule, separate sanctioned posts are also mentioned for 'E' Cadre and 'T' Cadre. On 31.12.2021 the State Government issued Notification relaxing minimum qualifying service in feeder cadre from 5 years to 3 years, for only one time, for promotion as provided under Entry Nos.14, 15, 17, 19 of Schedule-IV of the Rules of 2019 i.e. for promotion to the post of Lecturer, Head Master (Middle School) from different feeder cadre posts.

40. In above writ petitions, the petitioners were initially appointed as Shiksha Karmis under the Panchayat Department. While working under Panchayat Department, they participated in recruitment process initiated by the School Education Department for appointment on the post of Head Master (Primary School). Petitioners were appointed as Head Master (Primary School) vide order dated 25.11.2010 and became employees of School Education Department. They started getting benefits of pay and perks like the employees of School Education Department and also became entitled to pension, as argued by learned State Counsel. Participation of petitioners in limited departmental exam for their appointment in School Education Department is with their own will and choice.

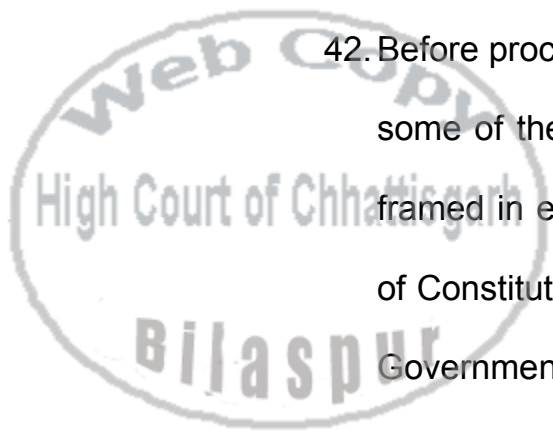
41. Submission of learned counsel for petitioners that persons who could not get selected in limited departmental exam were only left, is without any basis and material because some Shiksha





Karmis might not have appeared in limited departmental exam for their appointment to the post of Head Master (Primary School). Since 2010, upon their joining School Education Department, their services are in separate cadre than that of Shiksha Karmis and therefore, on the date of issuance of order of absorption i.e 30.6.2018, they were in a cadre different from Teacher (Panchayat). The State Government while taking policy decision to absorb Teachers working in Panchayat and Local Bodies, put them in a separate cadre, which is clearly specified in the order dated 30.6.2018.

42. Before proceeding further it would be relevant to have a glance at some of the relevant provisions of the Rules of 2019, which are framed in exercise of powers conferred by proviso to Article 309 of Constitution. **Rule 2 (b)** defines 'appointing authority' to mean Government of Chhattisgarh and includes the authorities specified in column (6) of Schedule-I. **Rule 2 (j)** defines 'Lecturer' (Panchayat) / Lecturer (Urban Body), Teacher (Panchayat) / Teacher (Urban Body) and Assistant Teacher (Panchayat) / Assistant Teacher (Urban Body) to mean persons appointed for teaching in schools of department and under administrative control of District Panchayat, Janpad Panchayat, Municipal Corporation, Municipalities or Nagar Panchayat. **Rule 2 (s)** defines 'teacher' to mean the Teacher of E-Cadre, T-Cadre, E(LB) and T (LB), appointed for the purpose of teaching in government schools of the State. **Rule 4** deals with constitution





of the service and **Rule 4 (d)** is relevant for the purpose of dealing with grounds raised in writ petitions and therefore, the same is reproduced below:-

“(d) Persons, who were recruited by the provisions of Chhattisgarh Teacher (Panchayat) Cadre (Recruitment and Conditions of Service) Rules, 2012 under the notification of Panchayat and Rural Development Department, dated 17th August, 2012 and recruited by the provisions of the Chhattisgarh Shikshak (Nagriya Nikay) Samvarg (Recruitment and Conditions of Service) Rules, 2013 under the notification of Urban Administration and Development Department, dated 08th March, 2013 and have completed eight years of service and those have not given the option of counting in the employer department and have been included in the service through absorption.”

The Rules of 2019 was notified and came into force w.e.f. 5.3.2019. Absorption of Teachers Panchayat and Local Bodies was prior to coming into force of existing Rules.

43. The State Government took policy decision to absorb all teachers appointed by Panchayat Department and working in government schools under the control of District Panchayat, Municipal Corporation, Municipalities or Nagar Panchayat, in the School Education Department. Pursuant to policy decision, an order was issued on 30.6.2018 for absorption of teachers Panchayat / Urban Body, who have completed eight years of service, in School Education Department w.e.f. 1.7.2018, as Teacher



Panchayat/ Urban Body. In the order of absorption some conditions like their status, separate cadre and their placement in separate cadre after their absorption with the condition that for all purposes their services will be calculated from the date of absorption i.e. 1.7.2018, were laid down. Absorption of Teachers (Panchayat) and (Urban Body) are under specific conditions. In the absorption order it is further mentioned that Teachers (Panchayat) and (Urban Body) will be placed in separate cadre with new name i.e. Teacher 'E (LB) Cadre and Teacher 'T (LB)-Cadre'. The Rules of 2019, which are framed and notified after the order of absorption, are in consonance with the order dated 30.6.2018, making specific provisions for the Teachers absorbed from Panchayat Department as also separate promotion channel. Upon framing of the Rules of 2019, after absorption of Teacher Panchayat and Urban Body, posts have been bifurcated and quota has also been fixed for appointment by way of promotion for 'E-Cadre' as also E(LB) & T(LB) cadre.

The State Government in its reply pleaded that there are only 700 posts of Assistant Teacher (E-Cadre), whereas number of total sanctioned posts of Assistant Teacher are 87,669. Further promotion of Assistant Teacher to the post of Teacher to be subject-wise and out of 700 Assistant Teachers, none is eligible for promotion to the post of Teacher, Biology, Special English, Special Hindi, Maths. More than 4,000 promotional posts are vacant and same could not be filled-up for want of eligible



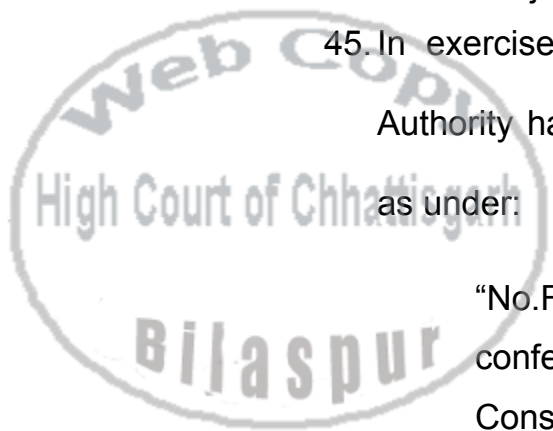
Assistant Teachers. Therefore, one-time relaxation in experience in feeder cadre post has been provided with an object to fill-up vacant promotional posts so that studies of students in government schools may not be affected.

44. Rule 21 of the Rules of 2019 deals with power of relaxation, which reads thus;-

“21. **Relaxation.**- Nothing in these rules shall be construed to limit or abridge the power of the Governor to deal with the case of any person to whom these rules may apply, in such manner as may appear to it to be just and proper.”

45. In exercise of powers conferred by Rule 21, the Competent Authority had issued Notification dated 31.12.2021, which reads as under:

“No.F-2-86/2021/20.2.- In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the State Government, hereby, relaxes the minimum experience of 5 years, for only one time, fixes minimum experience for 3 years, for the promotion from the post of of Teacher/Head Master Primary School (trained post-graduate) to Lecturer, from Teacher/Head Master Primary School (Trained Graduate) to Head Master (Middle School), from Assistant Teacher (Trained Graduate) to Teacher and from Assistant Teacher (Trained) to Head Master (Primary School), prescribed in column (3) at serial number 14, 15, 17 and 19 of Schedule-IV of Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and





Promotion Rules, 2019 respectively.”

46. A bare perusal of Notification dated 31.12.2021 would show that it is amendment in the Rules of 2019 for one-time only and after its application, it will automatically become inoperative in law. The power under Rule 21 of the Rules of 2019 is invoked because the teachers working with the Panchayat/Local Body were absorbed in the School Education Department. In the order of absorption, the State Government made provisions for creating separate cadre for absorbed teachers as ‘E (LB)’ cadre for employees working within the schools under the School Education Department and ‘T (LB)’ Cadre for the employees working in schools of the Tribal Department. While framing the Rules of 2019, separate quota for promotion of ‘E (LB)’ & ‘T (LB)’ cadres were also made so as to grant equal and fair opportunity of promotion to absorbed employees. As absorption was done w.e.f. 1.7.2018 and the rules prescribed for five years’ minimum qualifying service in feeder cadre for promotion and further considering number of promotional posts that are lying vacant, the State Government took a decision to relax minimum qualifying service period, which cannot be said to be arbitrary or unreasonable in any manner. In absence of any allegation of malafide, the decision of relaxation cannot be invalidated. There is no material to show that the State Government resorted to exercise the power under Rule 21 of the Rules of 2019 for some unauthorized or oblique purpose. Exercise of power of relaxation





appears to be in the interest of absorbed employees and to enlarge zone of consideration of relatively senior persons which would only benefit public cause.

47. In the case of **J.C. Yadav v. State of Haryana**, reported in **(1990) 2 SCC 189**, the Hon'ble Supreme Court while considering issue of power to relax rules for promotion has observed that expression "any particular case" is not confined to individual cases alone but comprehends cases of group or class of individuals to meet a particular situation in a just and equitable manner. Government by a general order can relax rule prescribing qualification for promotion in the event of non-availability of any qualified person for promotion.

Paras 7 & 10 of the said judgment read thus;-

"7. The State of Haryana was formed in March, 1966 prior to that it was part of the State of Punjab. The service rules relating to Public Works Department as applicable to the State of Punjab were made applicable to Haryana. Rule 6(b) which prescribed qualification for appointment to Class I service lays down that no person shall be appointed to the service by promotion from Class II service unless he has completed eight years' service in Class II and has passed departmental examination prescribed under Rule 15. None of the appellants had completed eight years' service in Class II. In fact no other member of Class II service possessing the requisite qualifications was available for selection to Class I post. The respondent no doubt possessed the requisite qualification with regard to the eight years length of service in Class II but he did not





possess requisite educational qualification. Thus no qualified officer of Class II service was available for promotion to Class I service although a number of vacancies were existing in Class I service. Having regard to these facts the Selection Committee made recommendation for the relaxation of Rule 6(b) in favour of the appellants, who were found otherwise suitable. The Public Service Commission also agreed with the recommendation made by the Selection Committee. The non-availability of suitable Class II officers in Engineering Department possessing the necessary and prescribed qualifications for promotion to Class I posed a problem for the State Government, as on account of the large scale expansion of Engineering Department a number of posts in Class I service were lying vacant. A similar situation prevailed in the Building and Road Branch of Public Works Department. In the circumstances, the State Government with a view to meet the particular situation decided to relax the qualifying length of service to such officers who had completed four years of service in Class II, it therefore relaxed the requirement of Rule 6(b) to the extent that a member of Class II service having four years' service was qualified for being considered for promotion to Class I service. These facts would clearly show that the relaxation had been granted to particular individuals with a view to meet the situation, which was in public interest. We find no legal infirmity in the order of relaxation.”

10. On a careful scrutiny of the Rules in its various aspects we do not agree with the observations made in Jit Singh's case (supra). Though Rule 22 is not happily worded, as apparently it gives an impression that no





general relaxation can be granted by the State Government, out on a close scrutiny of the scope of the power we find that a narrow construction of the Rules would nullify the Government's power of relaxing Rules to meet a particular situation. Rule 22 is beneficial in nature it must be construed in a liberal manner and it should not be interpreted in a manner to defeat the very object and purpose of such power. Power to grant relaxation may be exercised in case of an individual to remove hardship being caused to him or to a number of individuals who all may be similarly placed. This power may also be exercised to meet a particular situation where on account of the operation of the Rules hardship is being caused to a set of individual officers. In the instant case the appellants were found suitable for promotion by the screening committee, the Commission and the State Government, and the contesting respondent Yvas Dev was not found suitable even otherwise for promotion, the State Government granted relaxation of Rule 6(b) in favour of the appellants. In such a situation, it is beyond comprehension that the power of relaxation under Rule 22 was exercised arbitrarily or that it caused hardship or injustice to any one. On the formation of the new State of Haryana no promotion from Class II officers could be made to Class I service without granting any relaxation since 1966 to 1978. In 1971-72 eleven vacancies in the post of Executive Engineers were filled by promotion from Class II officers although none of them had completed requisite period of service prescribed by the Rules for promotion. In 1976-77 and 1977-78 sixteen and nine vacancies respectively in the post of Executive Engineers were filled by promotion by granting





relaxation as no officer of Class II service possessing requisite number of years of service was available for promotion. In 1978-79 seven officers of Class II service were promoted to the post of Executive Engineer but only one of them possessed the requisite period of service and all others were granted relaxation. These facts clearly show that in the absence of relaxation there could be no promotion to the post of Executive Engineer and the officers who were found suitable would have suffered great hardship. In 1973 also the State Government with a view to meet the particular situation exercised its power of relaxation in appellants' favour. Having regard to these facts and circumstances, we find no illegality in the appellants' promotions, pursuant to the relaxation granted by the State Government."

48. Hon'ble Supreme Court in case of **Rajendra Kumar Agrawal V. State of Uttar Pradesh & ors**, reported in **(2015) 1 SCC 642** has observed thus:-

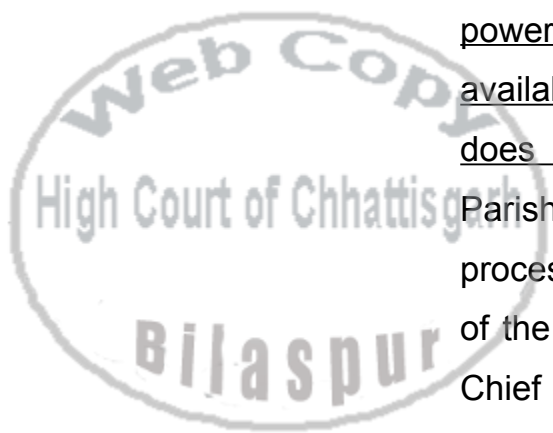
"24. So far as the present case is concerned we do not find any material to show that the State Government or the Parishad resorted to exercise of power under Regulation 20 for some unauthorised or oblique purpose. The allegation that it was only to benefit Rajendra Kumar Agrawal is ex facie incorrect because relaxation was beneficial for three officers who all were senior to Narsingh Prasad. There is no material to support the allegation that Rajendra Kumar Agrawal was responsible for the decision taken by the State Government or the Parishad on account of any political or other influence over any person. To us, the exercise of power of relaxation appears to be in the interest of the Parishad because the post of Chief Engineer, as



held by this Court in earlier proceeding, is a single post of considerable importance. The enlargement of zone of consideration with addition of relatively senior persons would only benefit the public cause by enabling selection of the most meritorious person from a larger group of eligible persons. Hence in the facts of the case, we are of the considered view that the High Court erred in inferring that the relaxation was for some dubious reasons or to benefit Rajendra Kumar Agrawal.”

“26. In the light of our discussions and findings, we are left with no option but to set aside the judgment and order of the High Court under appeal by holding that the power of relaxation under the Regulations was always available and has been exercised in a manner which does not call for any interference. We direct the Parishad and the State Government to expedite the process of selection of the most suitable candidate out of the eligible candidates and fill up the vacant post of Chief Engineer in the Parishad as per law without any delay within eight weeks. The appeals preferred by Rajendra Kumar Agrawal stand allowed and the appeal preferred by Narsingh Prasad is dismissed. There shall be no order as to costs.”

49. In the case at hand also, situation for relaxing portion of rules for promotion with regard to minimum experience in feeder cadre arose because of absorption of teachers working in Panchayat Department and Urban Body in School Education Department and further the quota for promotion has also been fixed for promotion between the teachers already appointed previously in the School Education





Department and teachers appointed by way of absorption of the Panchayat Department and Urban Body. The State has also furnished data and number of posts vacant for promotion which are large in number and relaxation has been granted as one-time measure which in the opinion of the Court cannot be considered to be not in public interest and in absence of relaxation, there cannot be any promotion to fill up vacant promotional posts of the cadre. To meet out aforementioned situation, the State Government has exercised its power of relaxation in favour of teachers appointed by way of absorption.

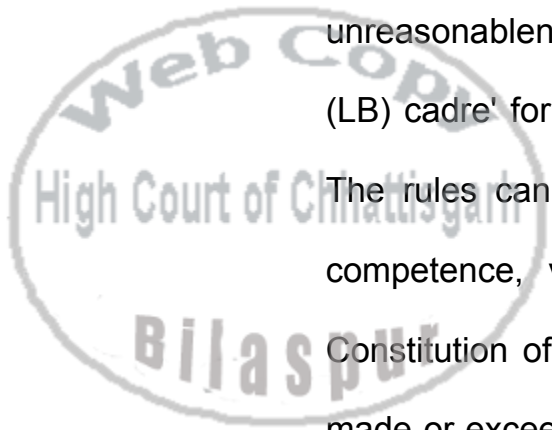
50. In view of above, submission of learned counsel for respective petitioners that Notification dated 31.12.2021 amending provision under Rules of 2019 relaxing minimum experience of five years to three years as one-time measure, is ultra vires, is not sustainable and it is hereby repelled.

51. Next submission that preparation of separate gradation list of petitioners, who were appointed in School Education Department as Head Master (Primary School) by way of limited departmental exam in the year 2010, and the Teachers absorbed pursuant to order dated 30.6.2018, is not permissible being a separate class within class, is also not sustainable. Petitioners while working on the post of Teacher (Panchayat) took decision with their own will to participate in limited departmental exam for their appointment to the post of Head Master (Primary School) in the School Education



Department. Since the date of their joining in School Education Department, they went in a different cadre and became employees of different department. As petitioners have opted to enjoy benefits which are applicable to teachers, Head Master (Primary School) in School Education Department from the date of their appointment, they cannot be permitted to be treated as Teacher (Panchayat) and (Urban Body) on the date of their absorption. Seniority of petitioners on the date of their joining is already fixed in School Education Department and therefore, they cannot be treated to be similarly situated to that of employees under 'E (LB) Cadre'. There is no unreasonableness in making separate cadre of 'E (LB) Cadre' and 'T (LB) cadre' for the teachers absorbed from Panchayat Department.

The rules can be challenged on the ground of lack of legislative competence, violation of fundamental rights granted under the Constitution of India, failure to conform to statute under which it is made or exceeding the limits of authority, repugnance to the laws of land i.e. any enactment or manifest arbitrariness/ unreasonableness to an extent where court might well say that the legislature never intended to give authority to make such rules. Petitioners failed to bring their case within the purview of any of above mentioned grounds. Separate gradation list is prepared to bring employees of different departments in one department. Further, newly appointed teachers are to be placed in seniority list of 'E (LB)' and 'T(LB)' cadres. A separate quota for promotional avenues has been fixed in the Rules of 2019 for promoting the Teachers already working in





School Education Department, Tribal Welfare Department as also Teachers absorbed from Panchayat Department and Local Bodies were put in separate cadre, considering the Department with whom they were originally appointed. In the above facts of the case, we do not find any arbitrariness or unreasonableness in making separate cadre of teachers absorbed from Panchayat Department and Urban Body in the School Education Department.

52. Furthermore, the employees are only having right to be considered for promotion on equal and fair basis without discrimination, but chance of promotion as such cannot be claimed as a matter of right.

Hon'ble Supreme Court in case of **Dwarika Prasad vs. Union of India**, reported in **(2003) 6 SCC 535**, has observed thus:-

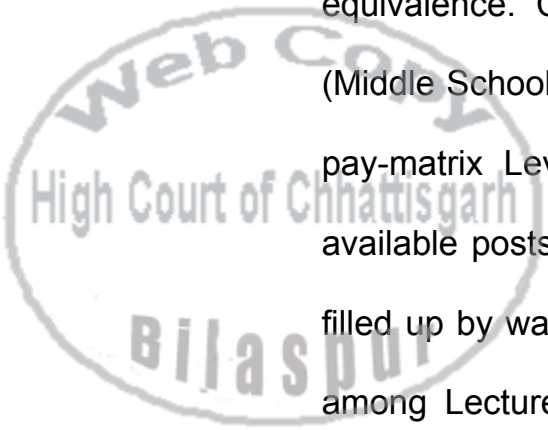
"24. Articles 14 & 16 of the Constitution of India cannot be pressed into service to describe the fixation of lower quota for POs as discriminatory. It is well established in law that the right to be considered for promotion on fair and equal basis without discrimination may be claimed as a legal and a fundamental right under [Article 14 & 16](#) of the Constitution but chances of promotion as such cannot be claimed as of right (see *Ramchnadra Shankar Deodhar vs. State of Maharashtra* AIR 1974 SC 259 para 12 at page 267). The decision relied on behalf of the appellants in the case of [All India Federation of Central Excise vs. UOI](#) [1977 (1) SCC 520] is of little assistance to the appellant's case. In that case, this Court has considered the proposals made by the department for re-fixation of quota to redress grievance of petitioners to some extent. In the other case between the same parties reported in 1999 (3)



SCC 384, the Court could not be persuaded to issue any direction for alteration of the quota fixed. None of the two decisions therefore is helpful in supporting the contention advanced on behalf of the appellants.”

53. For the foregoing reasons, WPS Nos.502/22, 557/22, 598/22, 599/22, 892/22, 1702/22, 2436/22; 2742/22, being devoid of substance are liable to be and are hereby dismissed.

54. Grievance raised in other batch of writ petitions is with regard to bringing Lecturers and Head Masters (Middle School) in feeder cadre post for promotion to the post of Principal and granting them equivalence. Classification of post of Lecturer and Head Master (Middle School) as Class-II post is not under challenge as also their pay-matrix Level-9. In Entry-18 under Schedule II, out of total available posts of Principal in ‘E’ & ‘T’ cadres, 90% posts are to be filled up by way of promotion and 10% by way of direct recruitment among Lecturers through limited examination. Out of 90% posts available for promotion, 65% posts are to be filled up by way of promotion of Lecturers and 25% posts are to be filled-up from trained post-graduate Head Masters (Middle School). In both categories, further provision is made for promotion of Lecturers and Head Masters Cadre ‘E’ & ‘E(LB)’ and similarly for Cadre ‘T’ & ‘T(LB)’. Total number of post of Lecturer is 46,013 and Head Master is 12,449. The State Government while framing rules, looking to the above number of posts of Lecturer and Head Master, made promotional avenues for the Lecturers and Head Masters (Middle





School) in the ratio of 65:25 respectively out of total promotional posts available and thereby fixed higher ratio for promotion to the Lecturers. Grievance of petitioners appears to be mainly on account of reduction of their chance of promotion, which cannot be a ground to invalidate the rules framed in exercise of powers under Article 309 of the Constitution of India.

55. As discussed in preceding paragraphs that employees are having right to be considered for promotion on fair and equal basis which may be claimed as a legal and fundamental right under Articles 14 & 16 of the Constitution of India, but chance of promotion as such cannot be claimed as a matter of right.

56. Equivalence provided to the Lecturers and Head Masters (Middle School) under the Chhattisgarh Tribal and Scheduled Castes Development Department Educational Cadre (Gazetted) Service Recruitment Rules, 2011 was considered by the Division Bench of this High Court in case of **Tilakram Mandavi (supra)** and in other connected matters, decided on 30.4.2014, and observed as under:-

“21. In order to become Lecturer or Vice Principal or Principal, the minimum educational qualification is Post Graduate. Though in Schedule-I, the post of Head Master, Middle School and Lecturer has been made equivalent, yet so far as the promotion to the post of Principal / Vice-Principal is concerned, only those Head Masters Middle School are considered, who are post graduate and are qualified to be so promoted.

22. The basic job of a Lecturer is to teach from Class IX



to class XII; whereas, the basic job of a Head Master, Middle School is to administer a school upto class VII. It is true that the Head Master does not teach class XI or XII. However, he has more experience in administering a school.

23. The Principal or Vice Principal is appointed in a school, which is upto class XII. Nonetheless, their basic job is administration that a Head Master of the Middle School has in abundance.
24. There was stagnation among the persons working on the post of Head Masters, Middle School. In order to remove the stagnation and frustration, the State Government has restructured the cadre and in its wisdom kept the experience of Lecturers in teaching class IX to XII and the experience of the Head Masters in administering the Middle School on the same level. There is neither any assertion in the writ petition, nor anything pointed to us that this equivalence is unreasonable or arbitrary.
25. It is essential in every service that promotional avenues are adequately provided. The entire purpose of the 2011- Rules is to give more avenues, remove stagnation and provide balance in service. It is in order to achieve this purpose that the State Government has treated the administering experience equivalent to the teaching experience in the higher school in the interest of service. Unless it is shown to be arbitrary or unreasonable, it cannot be struck down.
26. In view of above,
 - The equivalence given to the Head Master, Middle School to the Lecturer cannot be said to be illegal or invalid;





- The first group of writ petitions have no merit and they are liable to be dismissed.”

We are in agreement with view taken by the Division Bench of this Court in **Tilakram Mandavi's case (supra)** because in case at hand also the reason assigned for bringing Head Master (Middle School) along with Lecturers in feeder cadre is to remove stagnation, giving more avenues for promotion; Head Masters (Middle School) are having experience of administration of schools. The object of the State is loud and clear. On considering the object of the State in light of the law laid down by Hon'ble Supreme Court to declare any provision of the Statute to be ultra vires, we do not find it unreasonable or arbitrary or violation to Articles 14 & 16 of the Constitution of India.

57. Further challenge by petitioners, who are holding post of Lecturer, is to the quota fixed for promotion of Head Master to the extent of 25% to be unreasonable and illegal. As discussed above, ratio/quota for promotion of Head Master is appearing to have been fixed considering number of posts of Head Master and number of posts of Lecturer in the department. If total number of posts of Lecturer and Head Master *qua* ratio fixed for promotion is considered, it cannot be said that bifurcation of quota for promotion of Head Masters and Lecturers to the post of Principal is in any manner unreasonable or arbitrary. Hon'ble Supreme Court in the case of State of **Jammu Kashmir vs. Triloki Nath Khosa**, reported in **(1974) 1 SCC 19**, has observed that classification is primarily for the legislature or for the



statutory authority charged with the duty of framing the terms and conditions of service; and if, looked at from the standpoint of the authority making it, the classification is found to rest on a reasonable basis, it has to be upheld. Discrimination is essence of classification and does violence to the constitutional guarantee of equality only if it rests on unreasonable basis. The burden is thus upon the petitioners to set out facts necessary to sustain the plea of discrimination and to adduce “cogent and convincing evidence” to prove those facts for “there is presumption that every factor which is relevant or material has been taken into account in formulating the classification. Unless the classification is unjust on the face of it, the onus lies upon the party attacking classification to show by pleading necessary material before the Court that said classification is unreasonable and violative to Article 16 of the Constitution. In the cases at hand, the petitioners have not pleaded in so many words to discharge their burden to prove infirmity in classification or that classification is unreasonable and violative to Article 16 of the Constitution. In **K.R. Laxman (supra)** also Hon'le Supreme Court has held that amendment in the rules bifurcating posts for promotion is not discriminatory.

58. Determination of conditions of service, alteration thereof by amending rules, constitution, classification or abolition of posts, cadres or categories of service, amalgamation, bifurcation of departments, reconstitution, restructuring of pattern etc., all pertain to executive policy and within exclusive discretion of the State, subject to the limitations and restrictions envisaged in the



Constitution. Government servants have only right to safeguarding rights or benefits already earned, acquired or accrued but they cannot challenge the authority of the State to make such amendments or alterations in rules.

In the case of **P.U. Joshi vs. Accountant General**, reported in **(2003) 2 SCC 632**, the Hon'ble Supreme Court observed thus:-

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/ subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate.....”

59. In view of the above, the challenge made by the Lecturers of giving Head Masters equivalence and further 25% quota in promotional



avenues for the Head Master (Middle School) to the post of Principal and remarks under Column-8 of Entry No.18 of Schedule II under the Rules of 2019 cannot be held to be unconstitutional and therefore, WPS Nos.1569/2022, 3431/2021, 4409/2021, 4627/2019 to above extent are dismissed.

60. Likewise, WPS No.2240/2022 is also dismissed in the light of discussions made above.

61. Other challenge of petitioners, who are holding post of Lecturer, is that after grant of equivalence to Head Master and Lecturer by bringing them in one feeder cadre post for promotion to the post of Principal, Head Masters, who were juniors to the Lecturers promoted from the post of Head Master will become senior and therefore, seniority of promoted Lecturers be counted from the date they were appointed to the post of Head Master (Middle School). To appreciate submissions of petitioners it would be appropriate to extract Rule 15 (1) of the Rules 2019, which reads thus:-

“(1). Conditions regarding eligibility for promotion.- (1) Subject to the provision of sub-rule (2), the committee shall consider the cases of all persons, who on the first day of January of that year have completed such number of years of service, (whether officiating or substantive), on the posts from which promotion is to be made, as specified in column (3) of Schedule -IV and are within the zone of consideration in accordance with the provisions of



sub-rule (2).

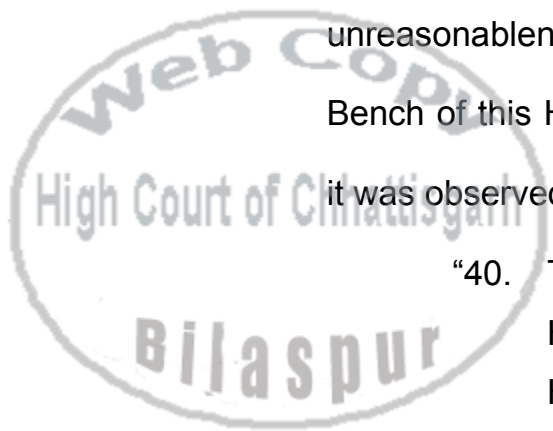
Explanation.- **Method of computation for eligibility of promotion-** The calculation of the period of qualifying service on the 1st January of the relevant year in which the Departmental Promotion Committee / Scrutiny Committee is convened, shall be counted from the calendar year in which public servant has joined the feeder cadre / part of service/ pay scale of the post and not from the date of joining of the cadre/part of service/ pay scale of the post....”

62. In the explanation of sub-rule (1) of Rule 15 of the Rules of 2019, the date from which length of service is to be counted for promotion is explained i.e. from the calendar year in which public servant has joined feeder cadre/part of service/pay-scale of post and not from the date of joining. It is the case of petitioners that earlier for the Head Master (Middle School), promotional post was Lecturer. In the Rules of 2019, the Head Masters (Middle School) and Lecturers have been brought under Entry-9 along with Lecturer, showing it to be feeder post for promotion to the post of Principal under Schedule IV. There were two modes of recruitment to the post of Lecturer, first by way of direct appointment and second, by way of promotion from the Head Masters (Middle School) (post-graduate). Considering seniority from the date of appointment for promotion under earlier Rules cannot be said to be discriminatory, particularly when for the post of Head Master (Middle School) promotional post was Lecturer. Meaning thereby, post of Head Master (Middle School) was lower in rank than Lecturer and both were placed in different classes. When



both posts have been given equivalence for considering promotion, considering length of service in feeder cadre from the date of joining for promoted Lecturers will be unreasonable because Head Masters (Middle School) (Post-Graduate) after specified length of service in cadre of Head Master become eligible for promotion and thereafter got promoted to the post of Lecturer and in the cadre of Head Master they were senior too. In the Rules of 2019, after bringing them into one platform for their promotion to higher post, non-counting of length of service as Head Master of promoted Lecturers in the opinion of this Court amounts to discrimination and unreasonableness. Identical issue was considered by Division Bench of this High Court in case of **Tilakram Mandavi (supra)** and it was observed as under:-

- “40. The classification- in counting the experience of Head Master Middle School who continued to be Head Master Middle School but not counting the same in case of those promoted as Lecturer - has no reasonable nexus with the object sought to be achieved; rather it defeats the same. There is no difference between those two classes so far as wanting experience of administering a Middle School is concerned.
41. This can be looked into from another angle as well. The courts have held (see below)³ treating unequal as equal to be violative of article 14 of the Constitution. The explanation treats the following two different classes mentioned in the next paragraph into one. This is discriminatory.
42. There are two classes namely the Lecturers, who





are directly appointed and the Lecturers, who have been promoted from the post of Head Master, Middle School (Post Graduate). In both the cases, it takes the seniority from the date of their becoming Lecturer. This was not discriminatory, when the post of Head Master Middle School was treated to be a lower post than the post of Lecturer but once the State Government treats the post of Head Master Middle School (Post-Graduate) as equivalent to the post of Lecturer, then in not taking into account the service rendered by those Lecturers as Head Master Middle School (Post Graduate) is not proper. These two fall in different classes and ought to be differently treated.

43. This is one more aspect to the unreasonableness. One can also look it with another angle. In case of Head Master, Middle School (Post Graduate), the experience as Head Master, Middle School is taken into account, but whereas, in case of Lecturer, who was promoted from the post of Head Master, Middle School (Post Graduate), his similar experience is not being taken into account. The result is that these Lecturers who were much senior than the Head Masters, are becoming junior. This is unreasonable and arbitrary.

44. Under the 2011- Rules, the Head Master, Middle School has been made equivalent to the post of Lecturer. We have also upheld this equivalence while deciding the first point. In case, the qualifying service for the Head Master, Middle School (Post Graduate) is from the date of his appointment on that post and the qualifying service for the post of Lecturer is from the date on





that post, it does not stand to reason as to why the Lecturer, who was promoted from the post of Head Master, Middle School (Post Graduate) is not being given seniority from the date of attaining pay scale of Head Master, Middle School.

45. In our opinion, the explanation to Rule 15 (1) of the 2011- Rules is discriminatory and declared illegal. The State Government may frame fresh explanation/rule and till it is framed, the qualifying service of the Lecturers, who have been promoted from the post of Head Master, Middle School (Post Graduate) will be taken from the date of their appointment as Head Master, Middle School (Post Graduate). In other words, their experience as Head Master, Middle School (Post Graduate) will be taken into account.”

We are in agreement with the view taken by the Division Bench and accordingly, we hold that Explanation to Rule 15 (1) of the Rules of 2019 is discriminatory in nature and accordingly, it is hereby declared *ultra vires* to the Constitution.

63. The State Government has pleaded that Head Masters, who were earlier promoted to the post of Lecturer, against their names their seniority in the cadre of Head Master has also been taken care of and in no way they will be in disadvantageous position while being considered for further promotion and interest of petitioners has been taken care of.

64. As we have held Explanation to Rule 15 (1) of the Rules of 2019 to be discriminatory and *ultra vires* to the Constitution, therefore, till fresh explanation / rule is framed by the State Government, the



qualifying service of the Lecturer, who have been promoted from the post of Head Master (Middle School) (post-graduate) shall be taken from the date of their appointment as Head Master (Middle School) (post-graduate).

65. In view of the above, WPS No.3286/21, 3432/2021, 3437/2021, 4603/2021 & 3441/2021 are allowed in part to the extent indicated above.

66. In WPS No.3518/2022 & 5911/2022 petitioners have sought relief that Rule 15 of the Rules of 2019 and Remark in Entry-18 of Schedule-II of the Rules of 2019 be declared unconstitutional.

Petitioners of these writ petitions, were absorbed in the School Education Department vide order dated 30.6.2018. They accepted terms of absorption without any protest and demur and thereafter enjoyed the benefits as are given to employees of School Education Department. In Clause (4) of the absorption order it is specifically mentioned that for all benefits, counting of service will be from the date of absorption i.e. from 1.7.2018. Counting of period of service for all purposes has been very specifically mentioned to be counted from the date of absorption and therefore, petitioners cannot be permitted to seek relief of a direction to the respondent State to frame rules benefiting them. Writ of mandamus cannot be issued to frame rules or regulations as it would amount to trespassing into forbidden territory, as the Constitution recognizes a broad division of powers between the legislative and judicial activity.

67. In the case of **Manuelsons Hotels Pvt. Ltd. v. State of Kerala**,



reported **(2016) 6 SCC 766**, Hon'ble Supreme Court observed thus:-

“22. However, some of the judgments of this Court have held that a Writ of Mandamus cannot be issued to the executive to frame rules or regulations which are in the nature of subordinate legislation. (See: [State of Jammu & Kashmir v. A.R. Zakki & Ors.](#) 1992 Supp. (1) SCC 548 at paragraphs 10 and 15, and [State of Uttar Pradesh and Ors. v. Mahindra and Mahindra Limited](#) (2011) 13 SCC 77 at 81). This is for the reason that a court would then trespass into forbidden territory, as our Constitution recognizes a broad division of powers between legislative and judicial activity.

23. However, though the power to grant exemption under a statutory provision may amount to subordinate legislation in a given case, but being in the domain of exercise of discretionary power, is subject to the same tests in administrative law, as is executive or administrative action, as to its validity – one of these tests being the well-known Wednesbury principle under which a court may strike down an abuse of such discretionary power on grounds that irrelevant circumstances have been taken into account or relevant circumstances have not been taken into account (for example).....”

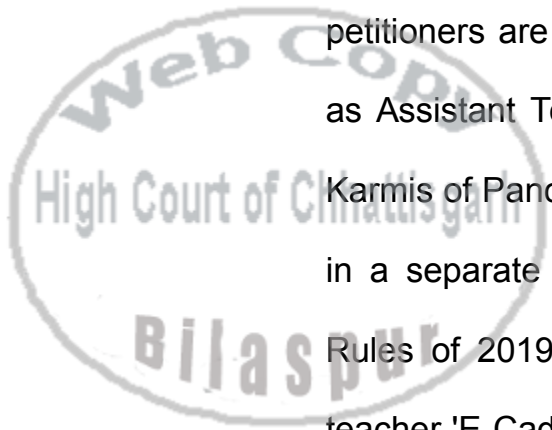
68. In above circumstance, after absorption petitioners cannot say that their promotional avenues are closed. In fact, they are having different channels of promotion within specified quota under Rules of 2019. Chance of promotion is not a legal or fundamental right. Specification of quota under peculiar facts of case where services of petitioners were absorbed in the School Education Department,





cannot be said to be arbitrary or unreasonable. WPS Nos.3518/2022 & 5911/2022 are accordingly dismissed.

69. In WPS No.1275/2022, the petitioners, who are the employees of the School Education Department since their initial date of appointment, are aggrieved with division of promotion between the Teachers of 'E-Cadre' and Teachers of 'E(LB) Cadre' and further their grievance is with regard to the direction issued by the Divisional Joint Director, Education Division Raipur mentioning that the seniority of absorbed Shiksha Karmis will not be counted from the date of their absorption in the School Education Department. The petitioners are placed in a separate cadre under the Rules of 2019 as Assistant Teacher and Teacher 'E Cadre'. Absorbed Shiksha Karmis of Panchayat and Urban Administration Department were put in a separate cadre as Teacher (LB). Under Schedule-II of the Rules of 2019 separate quotas have been fixed for promotion of teacher 'E-Cadre' and teacher 'E-LB Cadre'. Pleading of petitioners in this writ petition that seniority of Teachers (E-LB) be counted from the date of their contractual appointment, is misconstrued. Document dated 22.1.2022 (Annexure P-7) mentions that seniority of the teachers working on contract and the teachers working under Shiksha Guarantee Scheme is to be counted from the date of their absorption as Shiksha Karmis. It does not talk about fixing of seniority of absorbed Shiksha Karmis in the School Education Department. The order of absorption of Teachers working in Panchayat Department and Local Bodies clearly mentions that





period of service for granting benefit to Teachers (LB) cadre is to be counted from the date of absorption, 1.7.2018. Absorption of Teachers with Panchayat Department and Local Bodies in the School Education Department is a policy decision by the State Government and to protect interest of the employees of all departments after their absorption in the School Education Department, separate cadres have been created providing separate promotional avenues. Petitioners have neither pleaded nor argued the grounds under which the Rules framed by the State Government in exercise of power conferred by proviso to Article 309 of the Constitution is ultra vires.

In view of the above facts and the decision of Hon'ble Supreme Court that chance of promotion is not the constitutional or legal right, we do not find any merit in WPS No.1275/2022, the same is liable to be and is accordingly dismissed.

70. In WPS No.2280/2021, petitioners have sought relief of declaring remark with respect to Principal in Entry-17 under Schedule II of the Rules of 2019 to be *ultra vires* and further directing the State to consider petitioners as eligible for promotion to the post of Block Education Officer and fill-up 75% posts of Block Education Officer through Lecturer. Petitioners in this writ petition are holding post of Lecturer. Assistant Block Education Officer is an administrative post and it is to be filled-up by way of direct recruitment. Post of Block Education Officer appearing in Entry-17 under Schedule-II of the Rules of 2019 is to be filled-up by way of promotion and transfer/



deputation of person from other service. 25% posts are to be filled up by way of promotion. Out of total available posts for promotion, only 25% posts are to be filled-up from Assistant Block Education Officers and 75% posts from Principals having five years experience. Post of Principal is also an administrative post and promotional post for the Lecturers in Schedule –IV of the Rules of 2019. As petitioners are holding post of Lecturer, which is lower in rank from Principal, therefore, petitioners cannot be permitted to claim to be considered in parity with post of Principal. The Court cannot direct the State to make particular law or provision. Further, the petitioners are having promotional avenues for their promotion to the post of Principal after completing requisite period of service in their cadre. Therefore, we do not find any arbitrariness or unreasonableness in making provisions for promotion to the post of Block Education Officer through Assistant Block Education Officer and Principal. Writ Petition (S) No.2280/2021 being bereft of merit is liable to be and is hereby dismissed.

71. In writ appeals, petitioners/appellants were appointed under the Panchayat and Rural Development Department as Shiksha Karmi Grade-I under the Madhya Pradesh Panchayat Shiksha Karmis (Recruitment and Condition of Service) Rules, 1997 and their services continued to be governed under the Rules framed in exercise of the powers conferred under Section 53 (2) read with Section 71 of the Panchayat Raj Adhiniyam. Lastly, they were governed under the Chhattisgarh Teachers (Panchayat) Cadre



(Recruitment and Condition of service) Rules, 2012 and Shiksha Karmi Grade-I were nomenclatured as Lecturer (Panchayat). Their services were absorbed by the policy decision taken by the State Government in the School Education Department vide order dated 30.6.2018 w.e.f. 1.7.2018. The absorption was under the conditions mentioned in the order. One of the conditions in the order of absorption is that for all benefits to the Teachers (LB) cadre, the calculation of period of service will be from the date of absorption i.e. 1.7.2018. Grievance of petitioners/appellants that the respondent authorities have called list of Lecturers for their promotion to the post of Principal who have completed five years of their service on their post and due to requirement of service in feeder cadre of five years, they will not be considered for promotion and names would be processed only of the Lecturer E-Cadre. The Order of absorption was not put to challenge by the petitioners and they have accepted all the terms and conditions mentioned in the order of absorption. Promotion of an employee to a higher post is to be considered in accordance with the Rules of 2019, which is not challenged in writ petitions, but they have only sought quashment of letter issued by the authorities calling names of the Lecturers and Head Masters who have completed five years of service on their post for considering their names for promotion. Learned Single Judge taking note of order of absorption, provisions under the Rules of 2019; relying *inter alia* on decisions of Hon'ble Supreme Court on the issue in **R. Prabha Devi & ors Vs. Government of India, through**



Secretary Ministry of Personnel & Training, Administrative Reforms & ors, reported in (1988) 2 SCC 233; **R.S. Garg v. State of UP**, reported in (2006) 6 SCC 430; **Ram Saran V. State of Punjab**, reported in (1991) 2 SCC 253; as also considering submissions of learned counsel for petitioners therein relying on Rule 12 (2) (c) of the Chhattisgarh Civil Services (General Conditions of Services) Rules, 1961 had observed thus;-

“32. The rule-making authority is competent to frame rules laying down eligibility condition for promotion to a higher post. Similarly, the prescribing of an eligibility condition for entitlement for consideration for promotion is within the competence of the rule-making authority. This eligibility condition has to be fulfilled by the person seeking promotion in higher post in order to be eligible for being considered for promotion. When qualifications for appointment to a post in a particular cadre are prescribed, the same have to be satisfied before a person can be considered for appointment. Seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfills the eligibility condition prescribed by the relevant rules. A person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion. Seniority will be relevant only amongst persons eligible. Seniority cannot be substituted for eligibility nor it can override it in the matter of promotion to the next higher post. {See R. Prabha Devi (supra).}

33. Reverting to the facts of the case in the light of the





aforesaid legal position, the argument based on Rule 12(2)(c) of the Rules of 1961 is of no advantage to the learned counsel for the petitioners as it relates W.P.(S)No.4341/2020 and other connected cases to seniority of a transferee as by virtue Rule 12(2)(c) relevant seniority of persons appointed by transfer from one department to another department of the State Government shall be determined in accordance with the order of their selection for transfer and Rule 12(2) (c) deals with one of the contingencies i.e. transfer on deputation to another department and absorption in that department. As such, seniority is not an issue in this batch of writ petitions, therefore, the argument based on Rule 12(2)(c) is not relevant as held by their Lordships of the Supreme Court in R. Prabha Devi (supra) wherein it was held that a person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion, seniority will be relevant only amongst persons eligible and seniority cannot be substituted for eligibility. It has already been held that the petitioners are ineligible as per S.No.9 of Schedule-IV enacted under Rules 14 and 15 of the Rules of 2019 according to which minimum five years teaching experience on the post of Lecturer (LB) is quite essential being the feeder post for claiming promotion on the post Principal. Admittedly, the petitioners did not have the said eligibility qualification in terms of five years experience on the post of Lecturer (LB), they are not entitled to be considered for





promotion and Rule 12 (2)(c) of the Rules of 1961 would not confer any benefit to the petitioners. No other argument has been pressed into service.

34. In that view of the matter, the decisions of the M.P. High Court in Hemchandra Pandey (Dr.) (supra), Chhogalal (supra), K.M. Mishra's case (supra) and that of the Supreme Court in Deepak Sood's case (supra), relied upon by learned counsel for the petitioners, are also clearly distinguishable and not applicable to the facts of the present W.P. (S) No.4341/2020 and other connected cases case.”

72. In the case of **R. Prabha Devi (supra)**, Hon'ble Supreme Court held as under:-

“15. The rule-making authority is competent to frame rules laying down eligibility condition for promotion to a higher post. When such an eligibility condition has been laid down by service rules, it cannot be said that a direct recruit who is senior to the promotees is not required to comply with the eligibility condition and he is entitled to be considered for promotion to the higher post merely on the basis of his seniority. The amended rule in question has specified a period of eight years' approved service in the grade of Section Officer as a condition of eligibility for being considered for promotion to Grade I post of CSS. This rule is equally applicable to both the direct recruit Section Officers as well as the promotee Section Officers. The submission that a senior Section Officer has a right to be considered for promotion to Grade I post when his juniors who have fulfilled the eligibility condition are being considered for promotion to the higher post, Grade I, is wholly unsustainable. The prescribing of an eligibility





condition for entitlement for consideration for promotion is within the competence of the rule-making authority. This eligibility condition has to be fulfilled by the Section Officers including senior direct recruits in order to be eligible for being considered for promotion. When qualifications for appointment to a post in a particular cadre are prescribed, the same have to be satisfied before a person can be considered for appointment. Seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfills the eligibility condition prescribed by the relevant rules. A person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion. Seniority will be relevant only amongst persons eligible. Seniority cannot be substituted for eligibility nor it can override it in the matter of promotion to the next higher post. The rule in question which prescribes an uniform period of qualified service cannot be said to be arbitrary or unjust violative of [Article 14](#) or 16 of the Constitution. It has been rightly held by the Tribunal:

"When certain length of service in a particular cadre can validly be prescribed and is so prescribed, unless a person possesses that qualification, he cannot be considered eligible for appointment. There is no law which lays down that a senior in service would automatically be eligible for promotion. Seniority by itself does not outweigh experience."

73. In the case of **Ram Saran (supra)**, the Hon'ble Supreme Court has held thus;-



“21. If the government employee was on deputation or holding a post in another cadre, the lien shall revive as soon as he ceased to hold the post in another cadre. There is no revival of the lien during the period the employee continues to hold a post in another cadre. Therefore, during the period the suspension is operative, the employee cannot claim that he had been continuing in the post in the parent cadre and gaining experience. When the rule is clear and specific that for the purpose of promotion from the cadre of Superintendents, Assistant, Accountants, Senior Scale Stenographers to the post of Excise and Taxation Officers, the eligibility qualification is "experience of working 'as such' for five years", the employee is not entitled to claim the experience in the ex- cadre as experience of working in the ministerial cadre.”

74. In view of the above, we are of the considered view that the finding arrived at by learned Single Judge is based on proper appreciation of facts and the rules governing the field. There is no infirmity in the decision of learned Single Judge in respective writ petitions, which are subject matter of writ appeals. Writ appeals being devoid of substance are liable to be and are hereby dismissed.

75. Conclusion of above discussions is as under:-

- Writ Petition (S) Nos. 502/2022, 557/2022, 892/2022, 1702/2022, 2436/2022, 2742/2022, 598/2022, 599/2022 are dismissed.
- Writ Petition (S) Nos. 3286/2021, 3432/2021, 3437/2021, 4603/2021 & 3441/2021 are allowed in part and it is



declared that explanation to Rule 15 (1) of the Rules of 2019 is discriminatory and ultra vires to the Constitution and therefore, till fresh Explanation under Rule 15 (1) of the Rules of 2019 is framed, qualifying service of promoted Lecturers from the post of Head Master (Middle School) (Post-Graduate) shall be taken from their appointment as Head Master (Middle School) (Post-Graduate).

- Writ Petition (S) Nos.1569/2022, 2240/2022, 3431/2021 3518/2022, 4409/2021, 4627/2019 & 5911/2022 are dismissed.
- Writ Petition (S) No.2280/2021 is dismissed.
- Writ Petition (S) No.1275/2022 is dismissed.
- Writ Appeal Nos.196/2022, 212/2022 & 324/2022 are dismissed.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-