

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1991 of 2008**

- Gariba Ram Kulhara, aged about 57 years S/o late A.R. Kulhara, Tahsildar, R/o Pakhanjur, Distt. Kanker.

---- **Petitioner****Versus**

1. State of Chhattisgarh through its Secretary, Revenue Department, DKS Bhawan, Raipur
2. Avar Secretary, General Administrative Department, D.K.S.Bhawan, Raipur.
3. Khageshwar Singh Mandavi, Land Acquisition Officer, Rajnandgaon.
4. Jagdish Ram Chourasiya, Deputy Collector, Dantewada.

---- **Respondents**

For Petitioner	Shri Parag Kotecha, Advocate.
For Respondent/State	Shri Bhupendra Singh, Panel

Hon'ble Shri Justice P.Sam Koshy**Order On Board****24/08/2015**

1. The Petitioner seeks to impugn the order dated 02.01.2008 whereby the petitioner's promotion from the post of Tehsildar to the post of Deputy Collector has not been considered due to operation of minor punishment.
2. Counsel for the Petitioner submits that the considering the facts that above imposition of punishment upon the Petitioner on 08.06.2006 by withholding two annual increments with non-cumulative which being a minor punishment, the State authority could not have denied promotion to the Petitioner as minor punishment would not come in way of

considering the case of employee for promotion under the service rules. He would also submit that it is a case where the authorities concerned have not even considered for promoting the Petitioner subsequent to operation of punishment order coming to an end.

3. The State counsel opposing the writ petition submits that in the present case the admitted fact is that Petitioner was imposed with stoppage of two annual increments with non-cumulative effect vide order dated 08.06.2006 and as such the effect of said order of punishment remained in operation till June, 2008. DPC in the instant case for further promotion from the post of Tehsildar to Deputy Collector wherein the case of Petitioner has not been considered took place on 08.01.2007 i.e. barely six months after punishment being imposed upon the Petitioner, and as such, the punishment was operational on the date when DPC was convened, and therefore, the Respondent authorities have rightly not considered the case of the Petitioner for promotion in the said DPC. The above given factual position is not disputed and is also an admitted position from the record that have been produced on either side and the rule provides that during the period when punishment is in operation, case for promotion would not be considered.
4. In the aforesaid factual background, this court is of the opinion that the Respondent authorities have not committed any illegality in not considering the case of Petitioner for promotion, and as such this petition does not warrant any interference so far as the said relief is concerned.
5. However, it is directed that subsequent to the operation of punishment being over, the Respondent authorities should have considered the case of Petitioner for promotion which from the records it does not appear to have been done. Accordingly, the Petitioner is granted liberty to

approach before the Respondent authorities by moving appropriate representation claiming for grant of promotion in the subsequent DPC which took place, if any, from the post of Tehsildar to the post of Deputy Collector subsequent to completion of the period of minor punishment against the Petitioner.

6. Needless to mention that in the event such representation is filed, the Respondent authorities shall consider and decide the same in accordance with rules as expeditiously as possible.
7. With the aforesaid direction, the writ petition is disposed.

Sd/-

(P.Sam Koshy)
Judge