

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2711 of 2014

1. Ramkumar Dhruw S/o Shri P.R. Dhruw Aged About 54 years
R/o Shankar Nagar Road, Raipur, Ps Civil Line, Distt Raipur,
Cg

---- Petitioner

Versus

1. Chhattisgarh Public Service Commission, Through The
Secretary, Shankar Nagar Road, Raipur, Dist Raipur, Cg
2. State Of Chhattisgarh, Through The Secretary, General
Administration Department, Mahanadi Bhawan, Mantralaya,
New Raipur, Cg

---- Respondent

For Petitioner	Shri Prateek Sharma, Advocate
For Respondent/PSC	Shri Ashish Shrivastava, Advocate
For Respondent/State	Shri Majid Ali, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

11/08/2015

Heard learned counsel for the parties.

1. Petitioner has preferred this writ petition seeking a direction to
the respondents to consider his case for promotion to the post
of Under Secretary from the date of completion of 5 years
service on 17-7-2010 with all consequential benefits, in
accordance with law.

2. The relief prayed for by the petitioner for granting promotion from retrospective date is not admissible unless the meeting of Departmental Promotion Committee (DPC) is convened. Merely because on some date the petitioner became eligible for promotion, the said date cannot be treated as the date on which the future promotion order would get effect.
3. At the same time, if the post of Under Secretary is lying vacant in the set up of the Public Service Commission (for short 'the PSC'), the PSC should take up steps for filling up the post.
4. Learned counsel appearing for the PSC would submit that out of two sanctioned posts of the Under Secretary one post is to be filled up by promotion and other post was to be filled up by deputation. One post is already occupied by a departmental promotee, therefore, for the second post DPC could not be convened, however, on 27-8-2013 the State Government has accorded sanction/permission to fill up the second post also by departmental promotion from such eligible persons who were working in the MP PSC and have been allocated in the services of the CG PSC. Learned counsel would further submit that in view of the State Government's permission/sanction, the PSC shall take steps in the matter expeditiously in accordance with the applicable promotion rules.

5. At this juncture, learned counsel for the petitioner would submit that the PSC has failed to take appropriate steps in the matter, despite sanction/permission granted by the State Government about two years back, therefore, PSC may be directed to do the needful within particular time frame.
6. Learned counsel for the petitioner would also submit that one Shri B.S. Dhruw, who is junior to the petitioner and belonging to the same caste to which the petitioner belongs, has been considered as a candidate belonging to reserved category, but the respondents are not treating the petitioner as a Scheduled Tribe candidate.
7. Considering the entire facts situation of the case, the writ petition is disposed of with a direction that in view of the State Government's order dated 27-8-2013, the PSC shall take steps for filling up the vacant post of Under Secretary by making promotion from the available departmental candidates who are eligible in terms of the State Government's order, in accordance with the applicable rules. If any other candidate belonging to the same caste has been considered as a candidate of Scheduled Tribe category, the petitioner should not apprehend that his case shall not be considered. Let the

entire exercise be completed within a period of six months from the date of submission of certified copy of this order.

8. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent PSC shall decide the matter, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

Sd/-

Judge

Prashant Kumar Mishra

Gowri