

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.159 of 2015**

1. Chhattisgarh State Power Holding Company Limited through its Managing Director Dangania, Raipur, District Raipur, Chhattisgarh
2. The Deputy General Manager (Human Resources), Chhattisgarh State Power Holding Company, Dangania, Raipur, District Raipur, Chhattisgarh
3. General Manager (Human Resources), Chhattisgarh State Power Holding Company, Dangania, Raipur, District Raipur, Chhattisgarh

---- Appellants**versus**

1. Ashwani Gopawar, son of Dr. K.L.Gopawar, aged about 44 years, Occupation Service, working as Executive Engineer, Presently posted at Chhattisgarh State Power Distribution Co. Ltd., Kanker C.S.E.B., R/o Ekta Vihar, MIG II, near Ring Road No.2, Puraina, P.S. Telibandha, Raipur, District Raipur, Chhattisgarh
2. Manoj Kumar Verma, son of R.P.Verma, aged about 41 years, Occupation Service, working as Executive Engineer, Presently posted at Chhattisgarh State Power Distribution Co. Ltd., C.S.E.B., Gariyaband, R/o Near Purani Boarding, Taptiyapara, P.S. Azad Chowk, Raipur, District Raipur, Chhattisgarh

---- Respondents

For Appellants	:	Shri Ashutosh Singh Gaharwar and Shri Syed Majid Ali, Advocates
For Respondents	:	Shri Prafull N. Bharat and Shri Manoj Paranjpe, Advocates

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Navin Sinha, Chief Justice****22/9/2015**

1. The present appeal against order dated 4.12.2014 in Writ Petition (S) No.4880 of 2012 is barred by delay of 31 days only. Considering the duration, I.A. No.1 of 2015 is allowed and delay is condoned.
2. In the nature of the order that we propose to pass it is not considered necessary to notice the entire facts of the case except to the extent

necessary for the purpose of the present order so as not to prejudice either party.

3. On 11.4.2012 the Respondents were granted notional seniority as Assistant Engineer (T&D) and placed in the gradation-list as on 1.4.2007 according to Circular No.01-13/34 dated 12.3.1991. It was put in abeyance until further orders with immediate effect on 12.10.2012. Aggrieved that, the latter order was passed without notice or opportunity to the Respondents, they came to Court in the writ petition from which the present appeal arises.

4. The Learned Single Judge noticed that the Appellants had not placed sufficient justification for the order dated 12.10.2012 to keep the earlier order dated 11.4.2012 in abeyance. The defence that the Appellants wanted to consider the claims of certain other persons who had approached this Court in Writ Petition (S) No.4162 of 2013 was also negated. The Appellants considered the claims of the Petitioners in Writ Petition (S) No.4162 of 2013 and rejected it by a speaking order on 31.1.2015. But soon thereafter on 14.8.2015, fresh orders were passed putting them in the gradation-list of Assistant Engineers (T&D) as on 1.4.2007. The justification pleaded by the Appellants is the fear of a non-existent contempt proceeding, when in fact the order in Writ Petition (S) No.4162 of 2013 to consider their representation, stood complied on 31.1.2015.

5. At this stage, Learned Counsel for the Appellants submits that since the writ petition was filed against an interim decision, keeping all other possibilities open, liberty may be given to withdraw the appeal for passing final orders in accordance with law. In our opinion, the Appellants have unnecessarily complicated issues by acting in haste at every step and also blowing hot and cold. The order dated 14.8.2015 itself recites that it would be subject to the outcome of the present appeal and would therefore also have to be reconsidered by the Appellants.

6. In the peculiar kind of imbroglio that the Appellants have created and for which there is no justification except acting in gross haste for reasons best known to themselves alone, we accede to the request for withdrawal of the appeal granting liberty to the Appellants to pass fresh appropriate orders with regard to the placement of the Respondents and other similarly situated in the gradation-list of Assistant Engineers (T&D) as on 1.4.2007 within a maximum period of eight weeks from the date of receipt and/or presentation of a copy of the present order. If the Appellants propose to affect the Respondents with regard to the order dated 11.4.2012 passed with regard to them, they are obliged to first give them show cause notices, consider the cause shown and then pass a reasoned and speaking order disclosing full application of mind to the grounds mentioned in the show cause notice and the reply furnished in the cause shown.

7. The order under appeal is set aside to the extent that it quashes the order dated 12.10.2012 giving finality to what was essentially an interim decision awaiting finality either way.

8. The appeal is disposed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE