

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1382 of 2013**

Sanjay Kumar Shukla S/o Sri Ghanshyam Shukla, Aged about 47 years, R/o Qtr. No. 14/2, Behind City Kotwali, Opposite Kalimandir, Telipara, Bilaspur, District Bilaspur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, Through The Secretary, Home (Police) Department, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
2. Director General of Police, Police Head Office, Raipur, District Raipur (CG)
3. Shri Harishchand Pandey, Posted as Dy. Superintendent of Police (Ministerial), Police Department, Mahanadi Bhawan, Naya Raipur, District Raipur (CG), R/o Near Police Officers Mess, Police Lines, Raipur (CG)

---- Respondents

For Petitioner	:	Shri Amrito Das, Advocate.
For Respondent/ State	:	Shri U.N.S. Deo, Government Advocate

HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P.SAM KOSHY, J.

Order On Board**Per NAVIN SINHA, C.J.****07/07/2015**

1. The Petitioner is aggrieved by the non-consideration of his candidature by the Departmental Promotion Committee (DPC) held on 19.3.2013 for promotion to the post of Deputy Superintendent of Police (Ministerial) under the Chhattisgarh Police Services (Gazetted) Service Conditions and Promotion Rules, 2005 (hereinafter referred to as the 'Rules') framed under Article 309 of the Constitution of India.

2. Learned Counsel for the Petitioner submits that in the definition

clause Rule 2(f), the word “Inspector” inter alia includes Inspector (Ministerial). The cadre of Inspector (Ministerial) comprises of Stenographers, Reporters of Special Branch who are appointed by direct recruitment and Inspector (Ministerial) Office Superintendent who are promoted from the post of Assistant Superintendent (Office). The next promotional post for Inspector (Ministerial) is Deputy Superintendent of Police (Ministerial). Schedule I of the Rules at serial 18 provides that there are two posts of Deputy Superintendent of Police (Ministerial). Schedule II at serial 8 provides that both the posts shall be filled up 100% by promotion only. Schedule IV at serial 8 provides that an Inspector (Ministerial) Office Superintendent, promoted from the post of Assistant Superintendent (Office) would become eligible to be considered for promotion to the post of Deputy Superintendent of Police (Ministerial) after he completes six years on the post of Inspector (Ministerial) Office Superintendent. Schedule VI at serial 1 provides that Inspector as defined under Section 2(f) would be the feeder cadre for promotion to different posts including Deputy Superintendent of Police. Serial 8 of Schedule VI provides that the two posts of Deputy Superintendent of Police (Ministerial) would be filled up from the rank of Inspector (Ministerial).

3. The Respondents in their counter affidavit do not deny the fact that the post of Inspector (Ministerial) includes Stenographers and Reporters of special branch and also Office Superintendents.

4. The interpretation of the Rules by the Respondents that under Schedule IV only Inspector (Ministerial) Office Superintendent are eligible to be considered for promotion as Deputy Superintendent of Police (Ministerial) is arbitrary and a complete violation of the other provisions of

the Rules giving it an interpretation that leads to absurdity by also denying all promotional avenues to Stenographers and Reporters of Special Branch. The Rules do not visualize any such situation and cannot do so as denial of avenues for promotion would itself amount to violation of Article 14 of the Constitution.

5. If the Petitioner holds the rank of Inspector (Ministerial), the artificial distinction sought to be drawn by persons in one rank based on the nature of duties contending that Office Superintendents were more beneficial and better suited for promotion as Deputy Superintendent of Police (Ministerial) considering the nature of duties discharged by them, leads to an interpretation of the Rules where the very existence of the Stenographers and Reporters of Special Branch as part of the cadre of Inspector (Ministerial) stands negated. The DPC held by the Respondents was required to consider the persons holding the rank of Stenographers and Reporters of Special Branch comprising Inspector (Ministerial) cadre also for promotion. Their complete exclusion from the arena of consideration was arbitrary, violative of Article 14 of the Constitution.

6. While a six years cap period is provided for Office Superintendent to be considered for promotion to the post of Deputy Superintendent of Police (Ministerial), there is no provision at all with regard to the acquisition of eligibility to be considered for promotion by Stenographers and Reporters of Special Branch. The Rules are completely silent and therefore the Respondents are required to make appropriate amendments in the Rules and then consider the persons eligible including the Petitioner in accordance with law in a manner as on the date DPC was held in 2013.

7. Learned Counsel for the Respondents does not dispute that

Inspector (Ministerial) is a cadre by itself consisting of Stenographers, Reporters of Special Branch and Office Superintendent. He submits that from the nature of duties discharged by Office Superintendents, they are more adept and better suited to discharge the nature of duties required to be done by the Deputy Superintendent of Police (Ministerial). Having come through the promotional channel and having worked in different capacities, they possess more experience. Stenographers and Reporters of Special Branch are protected against stagnation by grant of Selection Grade to Stenographers and rank of Senior Reporters respectively. The Schedule to the Rules make it evident that it is only Office Superintendents promoted from the ranks who are eligible to be considered for promotion to Inspector (Ministerial) after six years of service as Assistant Superintendent (office). Though, Stenographers and Reporters of Special Branch also constitute the cadre of Inspector (Ministerial), notwithstanding the same, they are not considered as belonging to the Inspector (Ministerial) for promotional purposes.

8. We have considered the submissions on behalf of the parties.

9. A cadre may consist of more than one post having a strength as may be provided for in the Rules. Appointments in a cadre may be from different sources such as direct recruitment and promotion as in the present case. But once they form a single cadre, there cannot be any discrimination between them in matters of promotion. Considering the sources from which the post came, there may be different criteria for promotion. But to provide promotional avenues to some in the cadre and to deny it completely to others will make it totally arbitrary.

10. The Respondents do not deny that Stenographers and Reporters

also constitute the Inspector (Ministerial) cadre along with Office Superintendents. We find it very difficult to appreciate the contention of the Respondents that Stenographers and Reporters shall be considered as Inspector (Ministerial) for certain purposes and shall not be considered as Inspector (Ministerial) for certain other purposes. This classification itself is illogical and irrational. If the contention of the Respondents is to be accepted, it will lead to complete denial of promotional avenues to Stenographers and Reporters which again will be violative of Article 14 of the Constitution. The provision for six years service as Office Superintendent in the Inspector (Ministerial) Service promoted from Assistant Superintendent (Office) is a valid classification as the former are direct recruits and form two different class.

11. The Rules for promotion also do not make any kind of artificial distinction as is sought to be drawn by the Respondents for purposes of promotion. Inspector (Ministerial) as a cadre constitute the feeder post for the rank of Deputy Superintendent of Police (Ministerial). It is difficult for us to appreciate and accept the submission that the Rules do not visualize any promotional avenues for Stenographers and Reporters.

12. There are two posts of Deputy Superintendent of Police (Ministerial) under the Rules. Rule 26 provides for a relaxation clause. We are therefore not inclined to interfere with the promotion granted to Respondent No. 3 by invoking the same before completion of six years.

13. But, we find that the Rules do not contain any provision with regard to when Stenographers and Reporters after direct recruitment will acquire eligibility to be considered for promotion to the rank of Inspector (Ministerial). It is a lacuna in the Rules which the Respondents are

required to fill in.

14. In conclusion, we hold that Stenographers and Reporters forming part of the cadre of Inspector (Ministerial) along with Office Superintendents are eligible to be considered for promotion to the post of Deputy Superintendent of Police (Ministerial). The Office Superintendents would acquire the eligibility after completion of six years on the post subject to the relaxation clause Rule 26. The Respondents are therefore required to make appropriate amendment in the Rules providing the right to be considered for promotion to the post of Deputy Superintendent of Police (Ministerial) from Stenographers and Reporters forming part of the Inspector (Ministerial) cadre. There is no prescription in the Rules that only those in the cadre could be considered who possessed working experience on subordinate posts.

15. After such amendments are made, let the Respondents consider the Petitioner and the others eligible from the ranks of Stenographers and Reporters for such promotion as on September, 2013, when the DPC was held.

16. Compliance to be done within six months.

17. The writ petition is allowed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE