

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (S) No. 2047 of 2015**

Savita Mandavi W/o Ranj Kumar Mandavi, Aged about 45 years,
Lecturer, High School, Bajrangpur, Nawagaon, District-Raj-
nandgaon (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, Through-Secretary, School Education De-
partment, Raipur (CG)
2. Director, Directorate of Public Education, Raipur (CG)
3. District Education Officer, Rajnandgaon (CG)

---- Respondents

And**WP (S) No. 2035 of 2015**

Smt.Manju Bala Singh, aged about 52 years, wife of Shri Lalit Ku-
mar Singh, Lecturer, Higher Secondary School, Lokholi, Raj-
nandgaon, resident of-132, Kilowat Sub Centre, CG Electricity
Board, G.E. Road, Rajnandgaon, Civil and Revenue District- Raj-
nandgaon (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of School
Education, New Raipur, Mahanadi Bhawan, Raipur (CG)
2. The Director, Directorate of Public Education, Chhattisgarh, Raipur,
Distt.Raipur (CG)
3. The Collector, Distt.Rajnandgaon (CG)
4. The District Education Officer, Distt.Rajnandgaon (CG)
5. The Principal, Government High School, Lakholi, Distt.Raj-
nandgaon (CG)

---- Respondents

For Petitioner	:	Mr.Anup Mazumdar, Advocate in WP(S) No.2047 of 2015
For Petitioner	:	Mr.P.K.C.Tiwari, Senior Advocate with Mr.Shashi Bhushan, Advocate in WP(S) No.2035 of 2015
For Respondents	:	Mr.Gary Mukhopadhyay, Dy.Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

02/11/2015

1. With the consent of learned counsel appearing for the parties, the matters are heard finally.
2. Since the above two writ petitions involve common question of law and fact, therefore, they are being considered and decided by this common order.
3. In a writ petition being WP(S) No.6295 of 2014 (Jagannath Sao v. State of Chhattisgarh and others), this Court directed the competent authority to consider the representation of Jagannath Sao and look into his grievance as to whether he is entitled to be promoted on the post of Lecturer (Hindi).
4. By order dated 30.4.2015 (Annexure P/1 in both cases), the respondent No.2 herein considered the case of Jagannath Sao and set aside the promotion orders of the petitioners dated 19.6.2012, by which the petitioners were promoted on the post of Lecturer holding the same to be erroneous.
5. Feeling dissatisfied against the said orders, these writ petitions have been filed by the petitioners stating inter-alia that orders of promotion have been set aside by the respondent No.2 without affording an opportunity of hearing to them. They were holding promoted post of lecturer w.e.f 19.6.2012.
6. In WP(S) No.2047 of 2015, return has been filed on behalf of the

State/respondents stating inter-alia that that upon direction of this Court, case has been considered and finding the promotion of the petitioners to be erroneous, impugned orders have been passed cancelling the promotion of the petitioners on the post of Lecturer. However, in WP(S) No.2035 of 2015, the respondents/State have not filed return though repeated opportunities have been provided to them.

7. Mr.P.K.C.Tiwari, learned Senior Advocate with Mr.Shashi Bhushan, learned counsel appearing for the petitioner in WP(S) No.2035 of 2015 and Mr.Anup Mazumdar, learned counsel appearing for the petitioner in WP(S) No.2047 of 2015 would submit that this Court has directed the respondent No.2 to consider the grievance of the writ petitioner of WP(S) No.6295 of 2014 in accordance with law and no observation was given on the merits of the case. The respondent No.2 without affording an opportunity of hearing cancelled the promotion orders of the petitioners which has serious impact on the service career of the petitioners as minimum opportunity of hearing has not even been afforded to them, therefore, the orders impugned may be set aside and the writ petitions may be allowed.
8. I have heard learned counsel appearing for the parties and perused the documents annexed with the petition with utmost circumspection.
9. It is not in dispute that the petitioners were granted promotion by

orders dated 19.6.2012 on the post of Lecturer and they were working on the said promoted post since the date of their joining pursuant to the orders of promotion. It is also not in dispute that no opportunity of hearing was granted to the petitioners before cancelling their order of promotion dated 19.6.2012 by order dated 30.4.2015.

10. It is well settled that there is duty to give opportunity of show-cause to adversely effected person before setting aside/quashing the administrative order passed in favour of a person so that he can meet with the show-cause notice and file his reply and defend himself properly.

11. In the matter of Gajanan L. Pernekar v. State of Goa and another¹, their Lordships of the Supreme Court held in paragraph 8 as under:-

“8.....That benefit could not have been taken away from the appellant without affording him any opportunity of hearing, even where the absorption as headmaster of the High School had been put in issue. The principles of natural justice have been respected in their breach. The order dated 21-1-1999/22-1-1999 was made by the respondents influenced by the observations contained in para 2 of the order of the High Court (supra), which observations, we have already found, were not at all called for. In the facts and circumstances of the case, the order dated 21-1-1999/22-1-1999 cannot be sustained and we

¹(1999) 8 SCC 378

5
accordingly set it aside.....”

12. In view of the law laid-down by the Supreme Court in above-stated case and in view of the admitted position that orders of promotion of the petitioners were set aside without giving an opportunity of hearing to them, the orders dated 30.4.2015 (Annexure P/1 in both cases) are hereby quashed. Matter is remanded to the respondent No.2. The respondent No.2 is directed to hear the effected parties/concerned parties and to pass the orders afresh in accordance with law expeditiously.
13. With the aforesaid observation, the writ petitions are allowed to the extent indicated hereinabove. No order as to cost (s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-