

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4614 of 2015**

- Ram Sanehi Rathore S/o Late Shri Hanuman Prasad Rathore, Aged About 56 Years Occupation Service Presently Posted As Sub Divisional Officer Rural Engineering Services Sub Division Tamnar, Thana & Tahsil Tamnar, Civil & Revenue District Raigarh Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Rural Engineering Services, Secretariat Mantralaya, Mahanadi Bhawan, Capital Complex New Raipur, District Raipur Chhattisgarh
2. Joint Secretary, Panchayat And Rural Development Department, Mantralaya, Mahandi Bhawan, Capital Complex New Raipur, District Raipur Chhattisgarh
3. Chief Engineer, Development Commissioner Office, Civil Lines Raipur, P.S. Civil Lines, Civil & Revenue District Raipur Chhattisgarh

---- Respondents

For Petitioner : Shri Sunil Sahu, Advocate.

For Respondents/State : Shri Y.S. Thakur, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****04/12/2015**

Heard.

(1) The petitioner was considered for promotional post of Assistant Engineer on 31.12.2012 and he was granted promotion on the said post. The petitioner herein filed writ petition No. 2791/2014 stating that his case ought to have been considered for promotional post from the year 2007. This writ petition was disposed of directing the respondents authorities to consider the representation of the petitioner.

(2) The State Government, by its order dated 18.09.2015, has rejected the application holding that as on 01.01.2007 post was not vacant and one year

was not completed for the sanctioned 84 posts on that day as the said 84 posts were sanctioned on 26.04.2006 and, as such, petitioner is not entitled for promotion with effect from 2007.

(3) Fact remains that petitioner was granted promotion with effect from 31.12.2012 and prior to 31.12.2012 he never raised any dispute claiming promotion with effect from 2007 and only after grant of promotion on 31.12.2012, he has filed writ petition claiming promotion with effect from 2007, the said writ petition was disposed of directing the respondent authorities to decide the representation of the petitioner, pursuant to which, the State Government has held that on 03.04.2007 DPC was convened for promotion and 84 posts were not available for promotion on that day as one year was not completed for the sanctioned 84 posts and, therefore, petitioner is not entitled for promotion with effect from 2007.

(4) In the matter of **S.S. Moghe & othres Vs. Union of India & others**¹, Their Lordships of the Supreme Court have held that the delay in claiming promotion is a valid ground to deny the claim of promotion. Paragraph 23 of the report states as under:

“At this stage, it will be convenient to first dispose of the contentions urged by the petitioners against the validity of the promotions given to respondents Nos. 8 to 67 during the period between 1968 and 1975. In our opinion, the challenge raised by the petitioners against those promotions is liable to be rejected on the preliminary ground that it is most highly belated. No valid explanation is forthcoming from the petitioners as to why they did not approach this Court within a reasonable time after those promotions were made, in case they really did feel aggrieved by the said action of the Department. This writ petition has been filed only in the year 1979, and after such a long lapse of time the petitioners cannot be permitted to assail before this Court the promotions that were effected during the years 1968 to 1975. A party seeking the intervention and aid of this Court under Article 32 of the Constitution for enforcement of his fundamental rights should exercise due diligence and approach this Court within a reasonable time after the cause of action arises and if there has been undue delay or laches on his part, this Court has the undoubted discretion to deny him relief.

1 AIR 1981 SC 1945

[See Rabindra Nath Bose v. Union of India (1970) 2
SCR 697 : (AIR 1970 SC 470)]”

(5) Applying the ratio of law laid down by the Supreme Court in the above referred case (supra) in the facts of the present case, it is quite vivid that petitioner has filed writ petition for the first time on 20.06.2014 claiming promotion with effect from 2007 and there is no explanation for delay in filing the writ petition in addition to the fact that the State Government has clearly held that no such post was available for being considered on the post of Assistant Teacher and, therefore, I do not find any illegality in the order impugned warranting interference by this Court in the instant writ petition.

(6) Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-