

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 261 of 2015**

1. M. K. Chandrakar, son of Late Shri Chaman Lal Chandrakar, aged About 61 years, presently posted as Managing Director, Seed Certification, Raipur, Chhattisgarh
2. S.R. Verma, son of Shri Kodu Ram Verma, aged about 58 years, presently posted as Joint Director, Beej Nigam, Raipur, Chhattisgarh
3. S.C. Padam, son of Late Shri Amrit Lal Padam, aged about 54 years, presently posted as Joint Director, Agriculture, Bilaspur, Chhattisgarh

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1. State Of Chhattisgarh, through the Secretary, Department of Agriculture, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh (previously D.K.S. Bhawan, Raipur, (Chhattisgarh)
2. Mahesh Kumar Garehwal, son of Late Shri Mannulal Garehwal, aged about 56 years, resident of House No. 11/587, Nayapara, Lakher Line, Near Ashok Market, Raipur, Chhattisgarh
3. P.K. Dave, son of Late Shri Ramakant Dave, aged about 58 years, presently posted as Joint Secretary, Department of Agriculture, Raipur, Chhattisgarh
4. C.N. Singh, presently posted as Joint Director, Agriculture, Bilaspur, Chhattisgarh

---- Respondents

For Appellants	: Mr.Amrto Das, Advocate
For Respondent No.1	: Mr.A.S.Kachhawaha, Add. Advocate General
For Respondent No.2	: Mr.Praveen Das, Advocate
For Respondents No.3 & 4:	Mr.Afroz Khan, Advocate

Hon'ble Shri Justice T. P. Sharma
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board by T.P.Sharma, J.

07/05/2015

1. By this writ appeal the appellants have challenged legality and propriety of the order dated 20.3.2015 passed by learned Acting Chief Justice in WPS No.3632 of 2007, whereby learned Acting Chief Justice has set aside the order dated 4.4.2007 rejecting the

representation of respondent No.2 and has directed for fresh consideration. Paras 8 and 9 of the order read thus:-

“8. The non-consideration of the Petitioner by the Departmental Promotion Committee when his juniors came to be considered and promoted, is, therefore held to be arbitrary and illegal contrary to Article 14 of the Constitution of India shutting the petitioner out from consideration altogether. The Petitioner is held entitled to be considered for promotion from the date that his juniors may have been promoted.

9. Let such consideration be done and appropriate final orders be passed within a maximum period of 8 weeks from the date of receipt and/or production of a copy of this order. The order dated 4-4-2007 rejecting the representation of the Petitioner is set aside.”

2. We have heard learned counsel for the parties.
3. Learned counsel for the appellants submits that while passing the order in question (Annexure A/1), proceeding of DPC dated 15.12.2006 (Annexure A/2) has not been considered, which clearly reveals that name of respondent No.2 has been considered, but he did not satisfy the required standard.
4. In the matter of **Dev Dutt v. Union of India and others** reported in **(2008) 8 SCC 725**, proper proceeding in case of such non-communication of ACR has been provided, which has not been observed by learned Single Judge while passing the order in question.
5. As per paras 4 and 5 of the order in question, undisputedly ACR, which was basis for denying the promotion of respondent No.2, has not been communicated to him and the present appellants are juniors to respondent No.2. Considering the aforesaid aspect, order in question has been passed.
6. On due consideration, we do not find any scope in the writ appeal. Consequently, the writ appeal being devoid of merit is liable to be and is hereby dismissed at the stage of admission itself. Concerned respondents are required to comply with the order in its letter and spirit as early as possible. No order as to costs.

JUDGE

JUDGE