

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1868 of 2014

- Chandrika Prasad Sinha S/o Shri Jangal Ram Sinha Aged About 54 Years R/o Jai Stambh Chowk, Kalar Para, Ward No. 22, Rajnandgaon (C.G.), Presently Working As Office Assistant Grade III, Municipal Corporation, Rajnandgaon (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Urban Administration Department, Mahanadi Bhawan, Mantralaya, New Raipur, Distt Raipur (C.G.)
2. Commissioner Municipal Corporation, Rajnandgaon, Distt Rajnandgaon (C.G.)

---- Respondents

For Petitioner	Mr. N.K. Vyas, Advocate
For Respondent/State	Mr. Bhaskar Pyasi, Panel Lawyer
For Respondent No.2	Nr. Saurabh Sharma, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

28/9/2015

Heard finally with the consent of learned counsel for the parties.

(2) The petitioner is working as OA-III in the establishment of Municipal Corporation, Rajnandgaon. He has preferred this writ petition seeking quashment of the final gradation list of OA-III so far as it concerns with his inclusion therein and for direction to the respondent authorities to include his name in the gradation list of OA-II on the basis of the order dated 21.07.2006 (Annexure P/2), by which, the petitioner

was promoted as OA-II.

(3) On the previous dates of hearing, Mr. Saurabh Sharma, learned counsel for the respondent-Municipal Corporation had seriously disputed issuance of the order – Annexure P/2 promoting the petitioner and other persons mentioned therein on the post of OA-II. On such submission being made, this Court directed the Commissioner, Municipal Corporation, Rajnandgaon to file an affidavit to the said effect.

(4) The affidavit of Commissioner, Municipal Corporation, Rajnandgaon has been filed along with annexures. It is stated thus in para 1, 2 & 3 of the affidavit :

“1. That, I am the Commissioner of Municipal Corporation, Rajnandgaon and as such I am fully conversant with the facts of the case.

2. That, as per notesheet of Municipal Corporation Rajnandgaon and Records available in Establishment section, neither any DPC as mentioned in the document has ever taken place nor any resolution was ever passed by the Corporation promoting the persons mentioned in the Annexure P/2.

3. That the Abondent caution and the concerned department were also summonsed and there response is Annexed here with also w.e.r. DPC & resolution.”

(5) A Counter affidavit has been filed by the petitioner mentioning the following in para 2, 3 & 4 :

“2. That, as per Prevailing Rules and Practice in the Municipal Corporation the matter with regard to

promotion in the Education Department for post of Lecture, Principal, Employees were placed before Mayor In-Council. The Mayor-in-Council vide its Sankalop No.44 dated 17.05.2006 has passed a resolution and directed for grant of promotion and Time bond Promotion immediately to the above category of employees.

3. That in view of decision of Mayor-in-Council Departmental Promotion Committee meeting was held. It is humbly submitted that as far as Petitioner's information the Departmental Promotion Committee was consist of Members of Shsri P.N. Sahu the then Executive Engineer Municipal Corporation Rajnandgan as Chair Man of Committee Shri Deepak Joshi Assistant Engineer Municipal Corporation, Rajnandgaon, Shri U.S. Paliwal Principal/Secretary Education S.D.N.P. Nigam Higher Secondary School Rajnandgaon were member of the Committee, Smt. Jyotshna Thware In-charge Office Superintendent Municipal Corporation Rajnandgaon was Secretary of the Committee meet for consideration of case for promotion of the Petitioner.

4. That as per resolution of Mayor-in Council Minutes of meeting Power Conferred upon the Commissioner by the State Government vide its letter dated 26.10.1988 the then Commissioner Shri Alok Sur has issued promotion order dated 1.07.2006 promoting the Petitioner on the post of Officer Assistant Grade-II."

(6) It appears that on the one hand, the petitioner is straneously relying on Annexure P/2 to claim promotion on the post of OA-II and on the other hand, respondent – Corporation is stoutly denying holding of

any such DPC which resulted in promotion order – Annexure P/2.

(7) In the circumstances, this Court is left with no other option except to dispose of this writ petition with a direction to the Secretary, Directorate of Urban Administration and Development, Government of Chhattisgarh to conduct an enquiry into the matter. If at the end of enquiry, it is found that any DPC was held which led to issuance of the order dated 21.07.2006 (Annexure P/2), the petitioner would be entitled to promotion from the said date. The Secretary shall also initiate disciplinary action against the Commissioner, Municipal Corporation, Rajnandgaon, who has submitted the affidavit .

(8) On the contrary, if it is found that no DPC was ever held, wherein the order dated 21.07.2006 (Annexure P/2) was issued, the Secretary shall direct initiation of departmental proceedings against the petitioner.

(9) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)