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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3742 of 2015**

- 1.Union of India, Through General Manager, SEC Railways, Bilaspur, Bilaspur, District Chhattisgarh Pin 495004
- 2.Chief Personnel Manager, SEC Railways, Bilaspur Division, Bilaspur Chhattisgarh 495004
- 3.Sr. Personnel Officer, SEC Railways, Bilaspur Division Bilaspur Chhattisgarh 495004

---- Petitioners**Versus**

Suresh S/o Shri Raju, aged about 24 years, R/o Qtr. No. 2-C, Street No. 21, Zone I, Sector 11, Bhilai, Durg, Chhattisgarh, 490011

---- Respondent**Writ Petition (S) No. 3746 of 2015**

- 1.Union of India, Through General Manager, SEC Railways, Bilaspur, Bilaspur, District Chhattisgarh Pin 495004
- 2.Chief Personnel Manager, SEC Railways, Bilaspur Division, Bilaspur Chhattisgarh 495004
- 3.Sr. Personnel Officer, SEC Railways, Bilaspur Division Bilaspur Chhattisgarh 495004

---- Petitioners**Versus**

M. Krishna S/o Shri M. Prakash Rao, Aged about 24 years, R/o Qtr. No. 7-B, Street No. 15, Sector 5, Bhilai Durg, Chhattisgarh, 490001

Writ Petition (S) No. 3749 of 2015

- 1.Union of India, Through General Manager, SEC Railways, Bilaspur, Bilaspur, District Chhattisgarh Pin 495004
- 2.Chief Personnel Manager, SEC Railways, Bilaspur Division, Bilaspur Chhattisgarh 495004
- 3.Sr. Personnel Officer, SEC Railways, Bilaspur Division Bilaspur Chhattisgarh 495004

---- Petitioners**Versus**

Sumit Prasad S/o Shri Dherendra Prasad, aged about 24 years, R/o H. 3/227, 1100 Quarters, Area Colony, Bhopal, District Bhopal, Madhya Pradesh, 462016

---- Respondent

Writ Petition (S) No. 3753 of 2015

1. Union of India, Through General Manager, SEC Railways, Bilaspur, Bilaspur, District Chhattisgarh Pin 495004
2. Chief Personnel Manager, SEC Railways, Bilaspur Division, Bilaspur Chhattisgarh 495004
3. Sr. Personnel Officer, SEC Railways, Bilaspur Division Bilaspur Chhattisgarh 495004

---- Petitioners

Versus

Siddharth Singh Chouhan S/o Shri N.S.Chouhan, aged about 21 years, R/o House No. 259, Vallabh Nagar, Ujjain, District Ujjain, Madhya Pradesh 456010

---- Respondent

For Petitioners	:	Shri Abhishek Sinha, Advocate.
For Respondents	:	Shri K.R.Nair, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board

Per Navin Sinha, Chief Justice

15/10/2015

1. The two writ petitions viz. W.P.(S) No. 3742 of 2015 and 3746 of 2015 arise from order dated 14.5.2015 in Original Applications No. 664 of 2013 and 663 of 2013, respectively passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting at Bilaspur (hereinafter called 'the Tribunal').
2. The Tribunal held that any official delay in issuing appointment orders to the Respondents selected against sports quota could not visit them with the consequences because the period of one month for which the panel remained valid expired due to the lapses of the Petitioners. Directions have been given to appoint the Respondents.
3. Since the issues involved are common, they have been heard together and are being disposed by a common order.

4. Learned Counsel for the Petitioners submit that the discipline of boxing for considering appointment against sports quota was earmarked for the year 2011 only. The extension of time beyond one month had been sought from the Railway Board which was declined. In the year 2012-2013, there was no post in the sports quota in the discipline of boxing. The Respondents could therefore legitimately not be considered against the sports quota vacancy for the year 2012-2013. They did not question their non appointment pursuant to empanelment in 2011. The Tribunal therefore erred in taking the clock back to the earlier selection process in the facts of the case when discipline of boxing did not exist in the next selection process. Distinguishing our earlier order in Writ Petition (S) No. 3651 of 2015 (Union of India v. K. Vipin Kumar) it was submitted that it was a case where the candidate concerned was selected twice and on both occasions he lost out only because of delay due to official procedures in issuance of appointment order leading to expiry of one month period. The case was completely distinguishable on its own facts.

5. Learned Counsel for the Respondents submitted that at least on the next occasion when the appointments are made from the sports quota, discipline of boxing should be included and the Respondents should be considered for the same in accordance with law.

6. We have considered the submissions and are satisfied that the facts of the present case are substantially distinguishable to that in Writ Petition (S) No. 3651 of 2015. The latter was based more on the dictum that there can be a mistake once and there cannot be repeated mistakes.

7. The Respondents had no indefeasible right to appointment by empanelment. The validity of the panel expired before they could be appointed as no extension was granted by the Railway Board. They raised no protest. In the subsequent selection process for the year 2012-2013, the discipline of boxing was not included and hence there was no occasion for the Respondents to be considered. The Tribunal at this stage could not have gone

back to the selection process of 2011.

8. Whether the discipline of boxing should be included in the subsequent selection of the sports quota is a matter of executive policy decision and it is not possible for us to issue any mandamus with regard to the same. If the discipline of boxing is included in the next selection process and the Respondents apply in response to the same, their case shall be considered in accordance with law and it is also expected that the Petitioners shall act with utmost expeditiousness in accordance with its own time line so that the selection process is brought to a conclusion in accordance with law.

9. The orders of the Tribunal dated 14.5.2015 in both the writ petitions are set aside. The writ petitions are allowed.

Writ Petition (S) No. 3749 of 2015

10. The only distinction in the present case is that the Respondent was an applicant for the sports quota against the discipline of basketball. He was selected against the process of 2012-2013 for which again the time for appointment ran out due to procedural delays.

11. For the same reasons as discussed above with regard to the difference between a mistake and repeated mistakes, the order of the Tribunal is held to be not sustainable. This shall again be without prejudice to the rights of the Respondent to participate in accordance with law if in the fresh selection process discipline of basketball is included incorporating like direction for the Petitioners as aforesaid.

12. The order dated 14.5.2015 of the Tribunal is likewise set aside. The writ petition is allowed.

Writ Petition (S) No. 3753 of 2015

13. In the present case, the Respondent was selected against sports quota in the discipline of basketball during the process of 2012-2013. Before appointment orders could be issued period of one month for which

recommendation was valid ran out. In a different selection process, the Respondent was selected for a Grade 'D' post which he joined . The Tribunal has directed that giving him continuity, the Respondent should be now appointed on Grade 'C' post pursuant to the earlier selection.

14. The order of the Tribunal is clearly unsustainable. There was no indefeasible right in the Respondent to appointment. Once he had accepted Grade 'D' post it amounts to waiver of his claims in selection against the sports quota.

15. The order dated 14.5.2015 of the Tribunal is likewise set aside. The writ petition is allowed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE