

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(S)No. 3661 of 2015

- Mahipal Dev Sharma S/o Late Indramol Ram Dubey, Aged About 63 Years Retired Lecturer, R/o Village Salgawan (Kala), Post & Tahsil Sonhat, District Korea, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Scheduled Caste & Scheduled Tribe Development Department, Mantralaya, New Raipur, P.S. Rakhi, District Raipur, (Chhattisgarh)
2. The Assistant Commissioner, Tribal Development, Baikunthpur, District Korea, (Chhattisgarh)
3. The Collector, (Tribal Development), Baikunthpur, District Korea, (Chhattisgarh)

---- Respondent

And

W.P.(S) No.3663 of 2015

- Geeta Prasad Nema son of Late Shri Jamuna Prasad Nema, aged about 63 years, Retired Lecturer, resident of near High School, Ward No.6, School Para, Baikunthpur, District Korea (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Scheduled Caste & Scheduled Tribe Development Department, Mantralaya, New Raipur, P.S. Rakhi, District Raipur, (Chhattisgarh)
2. The Assistant Commissioner, Tribal Development, Baikunthpur, District Korea, (Chhattisgarh)
3. The Collector, (Tribal Development), Baikunthpur, District Korea, (Chhattisgarh)

---- Respondent

For Petitioners
For Respondent/State

Mr. D.N. Prajapati, Advocate
Mr. Dheeraj Wankhede, Government
Advocate

S.B.: Hon'bel Mr. Justice Prashant Kumar Mishra

Order on Board

9/10/2015

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

(2) The petitioners are retired Lecturers. They have preferred these writ petitions seeking a direction to the respondents to decide their representations, by which, they have prayed for grant of seniority and promotion from 21.01.1998.

(3) Nearly 17 years have elapsed from the date when the petitioners are claiming seniority and promotion. Moreover, both the petitioners have already retired from service on attaining the age of superannuation.

(4) After placing reliance upon various decisions, the Supreme Court in **Shiba Shankar Mohapatra and Others v. State of Orissa and Others**¹ held that a person aggrieved by an order promoting a junior over his head should approach the Court at least within 6 months or at the most a year of such promotion.

(5) In **S.S. Balu and Another v. State of Kerala and Others**² it has been held by the Supreme Court that even the relief is claimed on the principle of parity, the same is not admissible when the petition suffers from delay and laches.

(6) Delay has always been considered vital in service matters especially with regard to promotion. In **P.S. Sadasivaswamy v. State of Tamilnadu**³ the Supreme Court has held that it would be a sound and wise exercise of discretion under Article 226 that the Court should not entertain claims regarding seniority after an approximate period of six months from the date of cause of action to prevent clogging the

1 (2010) 12 SCC 471

2 (2009) 2 SCC 479

3 (1975) 1 SCC 152

dockets of the Court and which would impede the work of the Court in considering legitimate grievances timely.

(7) In the matter of Union of India and another vs. Ashok Kumar Aggarwal,⁴ the Supreme Court held thus in para 18 :

“18. A representation may be considered by the competent authority if it is so provided under the statutory provisions and the court should not pass an order directing any authority to decide the representation for the reason that many a time, unwarranted or time-barred claims are sought to be entertained before the authority. More so, once a representation has been decided, the question of making second representation on a similar issue is not allowed as it may also involve the issue of limitation etc. (*Vide Rabindranath Bose v. Union of India*,⁵ *ESI Corpn. v. All India ITDC Employees' Union*⁶, *A.P. SRTC v. G. Srinivas Reddy*,⁷ *Karnataka Power Corpn. Ltd. v. K. Thangappan*⁸, *Eastern Coalfields Ltd. v. Dugal Kumar*⁹ and *Udai Shankar Awasthi vs. State of U.P*¹⁰).

(8) In view of the foregoing, the petitioners' claim being stale, no direction for deciding the representations can be issued. The writ petitions are accordingly dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

Shyna

4 (2013) 16 SCC 147
5 AIR 1970 SC 470
6 (2006) 4 SCC 257
7 AIR 2006 SC 1465
8 (2006) 4 SCC 322
9 (2008) 14 SCC 295
10 (2013) 2 SCC 435