

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 545 of 2008**

- Chait Ram Gahire S/o Mangal Das, aged about 53 years, R/o I.T.I. Rampur-Korba, District-Korba (CG), Presently Working As Assistant Draftsman In The O/o The Sub Divisional Officer, PWD Sub Division, Korba, District-Korba (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh Through the Secretary, Public Works Department, DKS Bhawan, Raipur (C.G.)
2. Engineer -In-Chief, Public Works Department, Raipur (CG)
3. Chief Engineer, Public Works Department, Raipur Zone, Raipur (CG)
4. Superintending Engineer, Public Works Department, Bilaspur Circle, Bilaspur (CG)
5. Executive Engineer, PWD, Korba Division, Korba (CG)
6. M.R. Bhomna, aged about 57 years, Assistant Engineer, through office of Chief Engineer, Public Works Department (Setu Parikshetra), Raipur, District Raipur (C.G.)

---- Respondents

For Petitioner	:	Shri Ashish Surana, Advocate
For Respondents-State	:	Shri S. Majid Ali, PL for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****17/02/2016**

1. Petitioner has preferred this writ petition under Article 226 of the Constitution of India to direct the respondent authorities to correct the gradation list of Assistant Draftsman by placing him at the appropriate place in accordance with his seniority and promote him to the next higher post.

2. Petitioner was appointed as Tracer in the department of Public Works, Bilaspur on 4-3-75. In the gradation list of permanent/temporary Tracer working in the Bilaspur Division, Public Works Department as on 1-4-87, the petitioner was placed at serial No.8, whereas respondent No.6 was placed at serial No.15 in the list of temporary tracers, however, on this date respondent No.6 was already promoted on the post of Assistant Draftsman on 31-12-82. The petitioner was promoted as Assistant Draftsman in the year 1996.
3. It is contended by learned counsel for the petitioner that since respondent No.6 was appointed as tracer subsequent to the petitioner, he could not have been promoted as Assistant Draftsman earlier than the petitioner in the year 1982. He would submit that the petitioner is entitled to be promoted as Assistant Draftsman in the year 1982 and accordingly all subsequent promotion granted to respondent No.6 as Draftsman, Sub-Engineer and Assistant Engineer should also be made available to the petitioner.
4. Shri S. Majid Ali, learned State counsel would oppose the writ petition on the ground of delay and laches. He would submit that the right to sue accrued for the first time on 31-12-82 or at least in 1987 when despite being placed below the petitioner in the gradation list, respondent No.6 was earlier promoted as Assistant Draftsman.
5. Indisputably, respondent No.6 was promoted as Assistant Draftsman on 31-12-82, however, the petitioner was promoted as Assistant Draftsman in the year 1996. On this date respondent No.6 had already been promoted as Draftsman by virtue of promotion order dated 16-5-95. In para 4 of the writ petition, the petitioner has stated that there is no delay in filing the writ petition. In course of hearing Shri Surana, learned counsel for the petitioner

would explain that the petitioner being a lowly paid employee had submitted representation and was waiting for the years, however, when representations were not considered, he has preferred this writ petition. Mere filing of representation would not extend the period of limitation or would defer the accrual of cause of action, more so in matters concerning challenge to the gradation list or grant of promotion.

6. In the case at hand, the petitioner was 53 years of age in the year 2008, thus, he has already attained the age of superannuation. After filing of the writ petition, he has already been promoted as Draftsman by order dated 12-11-09.
7. 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.
8. 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.
9. 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

1 (2010) 12 SCC 471

2 (2009) 2 SCC 479

3 (1975) 1 SCC 152

of cause of action to prevent clogging the dockets of the Court and which would impede the work of the Court in considering legitimate grievances timely.

10. In view of the above principles laid down by the Supreme Court, it is crystal clear that in matters concerning challenge to the gradation list or denial of promotion or supersession, the writ petition should be filed with quite promptitude.

11. For the foregoing, this Court is of the considered opinion that the writ petition suffers from unexplained delay and laches. Accordingly, it deserves to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

ashu