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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 202 of 2015**

Rajendra Kumar Singh S/o Shri Ranjit Singh Aged About 57
Years Presently Holding The Post Assistant Director
Agriculture, R/o Maharana Pratap Nagar, Tifra, Bilaspur
P.S. Sirgitti, Tahsil & District Bilaspur C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department
Of Agriculture Department Mantralaya Mahanadi Bhavan,
Naya Raipur C.G.
2. The Director, Agriculture, Labhandi, P.S. Labhandi, Tahsil &
District Raipur C.G.
3. The Joint Director Agriculture, Office At Nehru Chowk
Bilaspur, P.S. Civil Lines Tahsil & District Bilaspur C.G.

---- Respondents**And****WPS No. 426 Of 2010**

Mukesh Kumar Sahu S/o C.R. Sahu, Presently Posted As
Junior Engineer, Ambagarh Chowki, CSPDCL, R/o
Tulsipur, Rajnandgaon, Distt.-Rajnandgaon (Cg)

---- Petitioner**Vs**

1. The Union Of India, Through the Secretary, Ministry of
Power, Government of India, Shram Shakti Bhawan, New
Delhi -1
2. The Managing Director Chhattisgarh State Power Holding
Committee Limited, Danganiya, Raipur (Cg)

---- Respondents**And****WPS No. 2015 Of 2015**

Gyan Singh Kaushal S/o Shri A.R. Kaushal, Aged About 52
Years Presently Posted As- Additional Director, Agriculture,
R/o New Changorabhata Kushalpur, P.O. Sunder Nagar,

P.S. D.D. Nagar, Raipur, Tahsil & District Bilaspur,
(Chhattisgarh)

---- **Petitioner**

Vs

1. The State Of Chhattisgarh Through The Secretary
Agriculture Department, Mahanadi Bhawan, Mantralaya,
Naya Raipur, P.S. Rakhi, Tahsil & District Raipur,
(Chhattisgarh)
2. The Director, Agriculture, Labhandi, P.S. Labhandi, Tahsil &
District Raipur, (Chhattisgarh)
3. The Joint Director, Agriculture, Office At Nehru Chowk,
Bilaspur, P.S. Civil Lines, Tahsil & District Bilaspur,
(Chhattisgarh)

...**Respondents**

For Petitioners	:	Mr. S.C. Verma, Advocate
For State	:	Mr. Neeraj Sharma, Dy. G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order

08/01/2016

Heard.

1. In these aforesaid three petitions, the petitioners who claim to be persons suffering with disability, pray that they may be given the benefit of reservation in promotion in accordance with the mandate of provision contained in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short "the Act of 1995").

2. In WP(S) No.202 of 2015, the petitioner is working as Assistant Director, Agriculture and he has prayed *inter alia* that he should be given benefit under the provision of the Act of 1995, monetary compensation and other benefits.

In WP(S) No.2015/2015, the petitioner, who is working as

Additional Director, Agriculture, has also made a similar prayer as a WP(S) No.202 of 2015.

In WP(S) No. 426 of 2010, the petitioner is posted and working as Junior Engineer in Chhattisgarh State Power Holding Company Limited and he has prayed for relief *inter alia* that the respondents be directed to grant him promotion to the post of Assistant Engineer w.e.f. 1996, to the post of Executive Engineer w.e.f. 2001 and to the post of Superintending Engineer w.e.f. 2006 by extending benefit of promotion in compliance of the provision contained in the Act of 1995.

3. In the return filed in WP(S) No.202 of 2015, it has been stated that at the time of entering into service, the petitioner was not a disabled person. During the course of employment, he claims to suffer disability due to an accident. It has also been submitted that the petitioner's claim of benefit of a person suffering from disability, is a matter of consideration under the Government circular dated 27.09.2014 defining disability and the terms and conditions of circular dated 26.02.2014 with regard to the percentage of reservation in different categories including promotion and reservation.

In WP(S) No.2015/15, similar defence has been taken by the respondents and it has been submitted that in the matter of granting benefit of reservation to disabled and in the matter of promotion, Government's policy issued from time to time would be applicable.

In WP(S) No.426 of 2010, respondent No.2 has stated that it is not a department of the Government. Unless posts are identified for being reserved in different categories, promotions cannot be granted. It is also stated that there is no separate scheme of Rule for promotion of persons from disability.

4. As far as the petitions WP(S) No.202 of 2015 and WP(S) No.2015/2015 are concerned, the petitioners who are working as Assistant Director, Agriculture and Additional Director, Agriculture are claiming benefit of reservation under the provision of the Act of

1995 read with various Governments circular. From Government's circular dated 27.09.2014, Annexure R/3 [WP(S) No.202 of 2015], it is clear that policy decision has been taken to grant benefit of reservation not only at the time of entry but also in promotions as would be clear from clause 10 & 13. However, which posts are required to be identified for the purposes of reservation by the Government, there is no material on record to show that the promotional posts to which the petitioners are seeking promotion by giving them benefit of reservation as disabled, has been identified for the purposes of grant of benefit of reservation. Therefore, unless the higher post of Deputy Director is identified for the purposes of reservation for particular type of disability under the statutory scheme of the Act of 1995 read with circular dated 27.09.2014, referred to above, no specific direction can be issued for consideration of cases of promotion.

5. As even according to Government's policy dated 27.09.2014, the benefit of reservation to persons suffering from disability have to be extended not only in the initial stages of recruitment but also in promotions, the Government is required to consider petitioners' representation whether or not higher posts i.e. post of Deputy Director are to be identified for the purposes of granting reservation to disabled employees.

6. One of the communication of the respondent also shows that after submission of disability certificate, the cases may also be considered for promotions. However, the picture is not clear whether the higher post of Deputy Director has been identified for the purposes of reservation under the provision of the Act of 1995. Therefore, to that extent, a direction is issued to respondents to consider these aspect and take appropriate policy decision in the matter keeping in view, the beneficial scheme of the Act of 1995 and their circular dated 27.09.2014.

7. As far as WP(S) No.426 of 2010 is concerned, it is a case of Power Holding Company Limited, which is not department of the State Government, however, from Annexure R/2-1 filed by respondent No.2, it is found that benefit of reservation is available

to those suffering from disability in the matter of direct recruitment by defining 39 posts. However, the circular does not make any provision with regard to reservation in promotion. Therefore, in the absence of there being any specific provision of reservation in promotion, direction cannot be issued to consider the case of the petitioner for promotion to various posts by granting him benefit of reservation. The respondents may consider this aspect of identifying posts in various categories for granting benefit of reservation keeping in view the beneficent provision contained in the Act of 1995.

8. With the aforesaid directions, all the petitions are disposed off.

Sd/-

(Manindra Mohan Shrivastava)

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