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HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (S) No. 93 of 2016**

Brij Bhan Singh Parihar, aged about 53 years, S/o- Late Vishwanath Singh Parihar, Occupation-Service as Senior Horticulture Development Officer, R/o-Office of Deputy Director Horticulture Durg, Police Station Ganjpapa Durg, Police Station Ganjpara Durg, Tahsil & District Durg (C.G.), Civil & Revenue District – Durg (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary Department of Agriculture, Mahanadi Bhawan Mantralaya New Raipur, P.S. Rakhi, Tahsil & District – Raipur, Civil & Revenue District – Raipur (C.G.)
2. Director, Horticulture & Forestry, 4th Floor Indirawati Bhawan New Raipur, Police Station Rakhi, Tahsil & District – Raipur, Civil & Revenue District – Raipur (C.G.)
3. Lakhan Singh Narvariya, aged about 53 years, S/o- Parstam Singh, Occupation-Service as In-charge Assistant Director, Horticulture Raigarh, Police Station-Chakradhar Nagar, Raipur, Tahsil & District Raigarh (C.G.), Civil & Revenue District – Raigarh (C.G.)

---- RespondentsAnd**W.P. (S) No. 96 of 2016**

Ramkrishna Singh Kushwah, aged about 56 years, S/o Shri Gyan Singh Kushwaha, Occupation – Service as Senior Horticulture Development Officer, R/o – Office of Assistant Director Horticulture Gariyaband, Police Station & Tahsil Gariyaband, District – Gariyaband (C.G.), Civil & Revenue District – Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary Department of Agriculture, Mahanadi Bhawan Mantralaya New Raipur, P.S. Rakhi, Tahsil & District – Raipur, Civil & Revenue District – Raipur (C.G.)
2. Director, Horticulture & Forestry, 4th Floor Indirawati Bhawan New Raipur, Police Station Rakhi, Tahsil & District – Raipur, Civil & Revenue District – Raipur (C.G.)
3. Raghav Swaroop Verma, aged about 55 years, S/o-Mohan Swaroop Verma, Occupation-Service as In-charge Assistant Director Horticulture Mahasamund, Police Station, Tahsil & District – Mahasamund (CG), Civil & Revenue District- Mahasamund (C.G.)

---- Respondents

For Petitioner : Shri Ratnesh Kumar Agrawal,
Advocate.

For Respondents : Shri Om P. Sahu, Govt.
Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/01/2016

(1) W.P. (S) Nos. 93/2016 & 93/2016, involve common facts and common question of law and, as such, require consideration and disposal by the common order.

(1) Learned counsel appearing for the petitioners

would submit the petitioners are working on the post of Senior Horticulture Development Officer and the respondent No. 3 in both the writ petitions are also working of the post of Senior Horticulture Development Officer but they are junior to the petitioners and they have been given charge of Assistant Director, Horticulture, Raigarh, against which the petitioners have made representation to the State Government and, therefore, the same may be directed to be decided expeditiously.

(2) Prayer appears to be fair & reasonable.

(3) This Court in the matter of **Shrawan Kumar Singh Vs. State of Chhattisgarh & others**¹ has held as under:

“.....Therefore, if a senior person is available and there are no complaints or departmental enquiry pending against him and there is no other acute administrative exigency warranting deviation of the normal rule, senior person is entitled to current charge. Except that respondent No. 5 is graduate, no other reason has been stated by the State. Therefore, in the considered opinion of this Court, there is no proper consideration with regard to handling over current charge to a senior officer. Therefore, in the considered opinion of this Court, there is no proper consideration with regard to handling over current charge to a senior officer. Therefore, the impugned order (Annexure P/1) cannot be sustained and

1 W.P. (S) No.35/2013, decided on 28th June, 2013

is hereby set aside. The Executive Engineer, PHE, Sub-Division- Balrampur will consider the aspect of giving charge, strictly in accordance with the circulars dated 4.8.2011 (Annexure P/4) and 16/05/12 (Annexure-P/5) of the State Government and pass necessary orders in that regard.”

(3) Be that as it may, since the respondent No. 3, who is junior to the petitioners, has been given charge of Assistant Director, Horticulture, Raigarh, respondents No. 1 & 2 are directed to examine the case of the petitioners and decide the representation of the petitioner in accordance with law in light of circular dated 4.8.2011 passed by the State Government and keeping in mind the order dated 28th June, 2013 decided by this Court in W.P. (S) No.35/2013 in the matter of **Shrawan Kumar Singh** (supra) within a period of 45 days from the date of receipt of copy of this order.

(4) With the aforesaid observations, the writ petitions stand finally disposed of.

(5) It is made clear that this Court has not expressed any opinion on the merits of the case.

Sd/-

(Sanjay K. Agrawal)
Judge

