

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 46 of 2016**

Devendra Kumar Upadhyay S/o Shri Rewaram Upadhyay, Aged About 55 Years P. S. Mungeli, Working As Assistant Revenue Inspector, Kalimai Ward, Mungeli, Distt. Mungeli, (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through Secretary, Urban Administration And Development Department, Naya Raipur, Mantralay, Raipur, (Chhattisgarh)
2. Joint Director Urban Administration And Development Subhash Stadium Moti Bag, Raipur, Chhattisgarh
3. Chief Municipal Officer, Nagar Panchayat Pandariya, District Kabirdham, Chhattisgarh

-----Respondents

For Appellant:	Shri Vinod Deshmukh & Shri Lav Sharma, Advocates.
For Respondents/State:	Shri Raj Kumar Gupta, Deputy Advocate General.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Navin Sinha, Chief Justice****7/04/2016**

1. Heard Learned Counsel for the Appellant and the Respondents.
2. The present appeal arises from order dated 2.12.2015 dismissing Writ Petition (S) No.4556/2015 rejecting the claim of the Appellant to be considered for promotion in view of non-availability of the post of Revenue Sub-Inspector.
3. The grievance of the Appellant in the Writ Petition was that DPC was not being convened and therefore he was not being considered for promotion. The Learned Single Judge held that in absence of vacancy, there could be no

direction to consider for promotion.

4. According to the Appellant himself, he was at Serial No.2 of the list of eligible candidates to be considered for promotion to the post of Revenue Sub-Inspector. Above him was one Sandeep Bhattacharya. Therefore, even if there was one vacancy as contended on behalf of the Appellant, he has not been able to make out a case for a direction to consider him for promotion in absence of any material before us that the person at Serial No.1 was found ineligible.

5. Though the Writ Petition came to be disposed without a counter affidavit, in appeal the Respondents have filed a counter affidavit reiterating that there was no vacancy and according to rules, if a person was on deputation it could not be considered as a vacancy to promote another against the same.

6. We therefore find no reason to interfere with the order under appeal.

7. As and when vacancies are available, the Respondents are expected to consider the eligible for promotion in accordance with law.

8. The appeal is dismissed with the aforesaid observation.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE