

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.924 of 2016**

1. Man Singh Sahu son of Mahu Ram Sahu, aged about 33 years, R/o Sona Nagar, P.S. Sihava, District Dhamtari (CG)
2. Rajesh Tiwari, son of Ganesh Prasad Tiwari, aged about 42 years, R/o. Village Pandripani, P.S. Sihava, District Dhamtari (CG)

---Petitioners**Versus**

1. State of Chhattisgarh, through the Secretary, Panchayat and Rural Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (CG)
2. Collector, Dhamtari, District Dhamtari (CG)
3. Chief Executive Officer, Zila Panchayat, District Dhamtari (CG)
4. Block Education Officer, Nagri, District Dhamtari (CG)
5. Chief Executive Officer, Janpad Panchayat, Nagri, District Dhamtari (CG)

---Respondents

For Petitioner	:	Mr. Sanjeev Sahu, Advocate
For Res. No.1, 2 and 4	:	Mr. Neeraj Sharma, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****04/04/2016**

1. Invoking the writ jurisdiction under Article 226 of the Constitution of India, the petitioners herein call in question the legality, validity and correctness of the order dated 15.2.2016 (Annexure P/5), by which their representation has been partly rejected by respondent No.3/Chief Executive Officer, District Panchayat, Dhamtari.

- 2.** Case of the petitioners, in brief, is that the petitioners are working on the post of Assistant Teacher (Panchayat) since 18.7.2007 and 7.9.2007 respectively. It is further case of the petitioners that they are eligible to be considered for promotional post of Teacher (Panchayat), but they are not being considered. In earlier writ petition filed by the petitioners being WP(S) No.3045 of 2015, this Court directed the petitioners to make the representation under Rule 18 of the Chhattisgarh Panchayat Services (Discipline and Appeal) Rules, 1999. Thereafter, the petitioners filed the representation, which has partly been rejected by the impugned order.
- 3.** Mr.Neeraj Sharma, learned Deputy Government Advocate appearing for respondents No.1, 2 and 4/State, would submit that by impugned order dated 15.2.2016 (Annexure P/5) it has clearly been informed to the petitioners that information as to the vacant post of Teacher (Panchayat) has been requisitioned from the District Education Officer, Dhamtari and upon receipt of such information, case of the petitioners shall be considered for promotional post of Teacher Panchayat.
- 4.** Mr.Sanjeev Sahu, learned counsel appearing for the petitioners, would submit that the petitioners are eligible and they have wrongly been deprived on promotional post of Teacher (Panchayat) since 11.11.2014, they are entitled to be promoted on the post of Teacher (Panchayat) and as such, denial of consideration is violation of their

fundamental right guaranteed under the Constitution of India and as such, by way of this writ petition they have prayed from this Court to direct the respondent authorities to promote the petitioners from the post of Assistant Teacher (Panchayat) to that of Teacher (Panchayat) w.e.f. 11.11.2014.

- 5.** On the other hand, learned Deputy Government Advocate for respondents No.1, 2 and 4/State, would submit that the petitioners case will be considered for promotion upon information with regard to the vacant post is made available by the District Education Officer, Dhamtari. He would further submit that government servant has a right to consider objectionable and favourable for higher and promotional post, but no government servant has a fundamental right to be promoted. He would also submit that the petitioners sought relief in 10.1 of the relief clause that the respondent authorities be directed to promote the petitioners from the post of Assistant Teacher (Panchayat) to the post of Teacher (Panchayat) as it is well settled that this Court would only direct for consideration on the promotional post if the petitioners are found to be eligible and fit for promotional post.
- 6.** I have heard learned counsel appearing for the parties, also considered the rival submissions made therein and gone through the record of the case with utmost circumspection.
- 7.** It is well settled law that no government servant has a

fundamental right to be promoted on higher/promotional post. It is also well settled that if the government servant is found to be eligible this Court would direct the appointing authority to consider the case of a particular government servant in accordance with law, but no writ can be issued to the respondents to promote any person on higher post.

- 8.** The aforesaid determination would bring me to the factual score of the case. In the instant case, case of the petitioners is that they are not being considered on promotional post of Teacher (Panchayat), whereas it is case of the State that on account of unavailability of vacant post/information as to the vacant post, case of the petitioners could not be considered and upon receipt of information, further process for promotion will be initiated.
- 9.** Since the respondents have already requisitioned the information for vacant post and pursuant to the writ issued by this Court in WP (S) No.3045 of 2015 on 20.8.2015, the petitioners representation has been decided by respondent No.3 holding the petitioners case will be considered after receipt of information from the District Education Officer, Dhamtari. I do not find any merit in this writ petition.
- 10.** Consequently, the writ petition being without substance is liable to be and is hereby dismissed. However, dismissal of writ petition will not bar the respondent authorities from

considering the case of the petitioners for higher post if they are found to be eligible as per rules on availability of vacant post of Teacher (Panchayat). No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-