

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 433 of 2016**

1. Hakam Singh Choudhary S/o Shri Lal Singh Choudhary, Aged About 59 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Ltd., District Office, Baloda Bazar And R/o C- 18, Vrindravan Coloney, Tilda Nevra, Police Station- Nevra, Raipur Chhattisgarh.
2. Krishna Kumar Uikey, S/o Roshan Lal Uikey, Aged About 48 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office Kanker And R/o Singar Bhat (Khuntapara), Kanker, District- Kanker Chhattisgarh.
3. Jyoti Lal Dadsena, S/o Ramsahay Dadsena, S/o J.P.L. Francis Aged About 53 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office- Raigarh And R/o Kotra Road, Railway Bangla Gali Raigarh, Police Station Civil Lines, District Raigarh Chhattisgarh.
4. Rajeshwar Singh Rathore, S/o Badri Singh Rathore, Aged About 52 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office Janjgir Chhattisgarh And R/o D- 14, Archana Vihar, Nehru Nagar Bilaspur, Police Station Civil Lines, Bilaspur Chhattisgarh.
5. Anantram Sahu, S/o Late Phulsai Sahu, Aged About 53 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office Baloda Bazar Chhattisgarh And R/o Village Naya Kharvey, Post And Tahsil Kasdol, Police Station Kasdol, District- Baloda Bazar Chhattisgarh.
6. Rajendra Kumar Yadu, S/o Abhay Ram Sahu, Aged About 55 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office Raipur, R/o Ward No. 44, Shikshak Colony, Daganiya, Police Station D. D. Nagar, Raipur Chhattisgarh.
7. Thanu Ram Anant, S/o Dukalu Ram Anant, Aged About 55 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office Raipur, R/o M- 15, Dubey Colony Raipur, Police Station Mova, Raipur Chhattisgarh.
8. Khushilal Verma, S/o Late G. P. Verma, Aged About 55 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office- Mungely Chhattisgarh And R/o Ambedkar Ward, Shikshak Nagar Mungeli, Police Station And District- Mungeli Chhattisgarh.
9. Pradeep Kumar Khampariya, S/o Late Awadh Kishore Khampariya, Aged About 47 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office Janjgir, R/o Through- Shri Ashok Kumar Ashawan, House No. 340, Ward No. 21, Opposite Church Kera Road, Janjgir, Police Station Janjgir, District- Janjgir-Champa Chhattisgarh.

---- Appellants**Versus**

1. Chhattisgarh State Civil Supplies Corporation Ltd. Through- Its Chairman Hitwad Parisar, Avanti Vihar Colony, Head Quarter Raipur Chhattisgarh, Pin- 492006
2. Board Of Directors, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad

Parisar, Avanti Vihar Colony, Head Quarter Raipur Chhattisgarh. Pin- 492006.

3. The Managing Director, Chhattisgarh State Civil Supplies Corporation Limited, Hitwad Parisar, Avanti Vihar Colony, Head Quarter, Raipur Chhattisgarh, Pin-492006
4. The General Manager, Chhattisgarh State Civil Supplies Corporation Limited, Hitwad Parisar, Avanti Vihar Colony Head Quarter Raipur Chhattisgarh, Pin-492006

---- Respondents

Writ Appeal No. 443 Of 2016

1. Panchram Patel S/o D. R. Patel, Aged About 50 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Ltd., Head Quarter Raipur And R/o Harshit Nagar, Kota, Police Station Amanaka, Raipur Chhattisgarh.
2. Indraman Singh, S/o B. R. Matiyara, Aged About 53 Years Working As Senior Assistant At- Chhattisgarh State Civil Supplies Corporation Ltd., Dist. Office Dhamtari And R/o Plot No. 04, Poorvanchal Nagar, Tikrapara, Police Station Tikrapara, Dist. Raipur Chhattisgarh.
3. Robin Hendry Francis, S/o J. P. L. Francis, Aged About 53 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Ltd., Dist. Officer Naandgaon & R/o Tulipur Ward No. 16, Near Railway Line, Police Station- Basantpur City, Rajnandgaon Chhattisgarh.
4. Surendra Kumar Chandrakar, S/o Shyamlal Chandrakar, Aged About 52 Years Working As Senior Assistant, At Chhattisgarh State Civil Supplies Corporation Ltd., Dist. Office Raipur & R/o Ward No. 65 Chandrashekhar Nagar, Police Station- Purani Basti, Raipur Chhattisgarh.
5. Tarun Kumar Yadu, S/o Late T. R. Yadu, Aged About 48 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Ltd., Dist. Officer Raipur & R/o M. I. G. (S) 176, Phase- I, Police Station Kabir Nagar, District- Raipur Chhattisgarh,

---- Appellants

Versus

1. Chhattisgarh State Civil Supplies Corporation Ltd. Through- Its Chairman Hitwad Parisar, Avanti Vihar Colony, Head Quarter Raipur Chhattisgarh, Pin- 492006
2. Board Of Directors, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Quarter Raipur Chhattisgarh. Pin- 492006.
3. The Managing Director, Chhattisgarh State Civil Supplies Corporation Limited, Hitwad Parisar, Avanti Vihar Colony, Head Quarter, Raipur Chhattisgarh, Pin-492006
4. The General Manager, Chhattisgarh State Civil Supplies Corporation Limited, Hitwad Parisar, Avanti Vihar Colony Head Quarter Raipur Chhattisgarh, Pin-492006

---- Respondents

Writ Appeal No. 442 Of 2016

1. Amar Das Bhaskar S/o Paras Ram Bhaskar, Aged About 47 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office, Mungeli Chhattisgarh, R/o Tulsi Chhaya, Satnam Nagar, Ameri, Bilaspur, District- Bilaspur Chhattisgarh.
2. Smt. Prem Lata Mishra, W/o Harnarayan Mishra, Aged About 50 Years Working As Senior Assistant At Chhattisgarh State Civil Supplies Corporation Limited, District Office- Korba Chhattisgarh, R/o M- 999, Adarsh Nagar, Chunchuniya Colony, Kusmunda, Korba, District- Korba Chhattisgarh.

---- Appellants

Versus

1. State Of Chhattisgarh Through- The Secretary, Department Of Food, Civil Supply & Consumer Protection, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. Chhattisgarh State Civil Supplies Corporation Limited, Through- Managing Director, H. Q. Hitavad Parisar,avanti Vihar, Raipur, District- Raipur Chhattisgarh.
3. The Managing Director, Chhattisgarh State Civil Supplies Corporation Limited, H. Q. Hitavad Parisar, Avanti Vihar, Raipur, District- Raipur Chhattisgarh.
4. M. N. Prasadrao, The General Manager, Chhattisgarh State Civil Supplies Corporation Limited, H. Q. Hitvad Parisar, Avanti Vihar, Raipur, District- Raipur Chhattisgarh.
5. Rajiv Kumar Jaiswal, Joint Director/enquiry Officer, Civil Supplies & Consumer Protection Directorate, Naya Raipur, District- Raipur Chhattisgarh.

---- Respondents

Writ Appeal No. 435 Of 2016

Santosh Kumar Agrawal S/o Shri Ghanshyam Agrawal, Aged About 38 Years R/o Behind Luckey, Bharat Garage, Pandari, Raipur, P.S. Civil Lines, Distt. Raipur, (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through: Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, (Chhattisgarh)
2. The Secretary, Food And Civil Supplies, Govt. Of Chhattisgarh, Mahanadi Bhawan, Mantralaya, New Raipur, Distt. Raipur, (Chhattisgarh)
3. Chhattisgarh State Civil Supplies Corporation Ltd., Through The Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
4. Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
5. Deputy Director, Food And Civil Supplies, Govt. Of Chhattisgarh, Raipur, Distt.

Raipur, (Chhattisgarh)

---- Respondents

Writ Appeal No. 436 Of 2016

Ms Alka Shukla D/o Shri S. K. Shukla, Aged About 28 Years R/o E- 406, Kailash Vihar, C.S.E.B. Colony Darri (West) Korba, P.S. Darri, District Korba, (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through: Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, New Raipur, Raipur, (Chhattisgarh)
2. Chhattisgarh State Civil Supplies Corporation Ltd., Through The Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
3. The Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
4. The General Manager, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar Avanti Vihar Colony, Head Office, Raipur, (Chhattisgarh)
5. Deputy Director, Food And Civil Supplies, Govt. Of Chhattisgarh, Raipur, Distt. Raipur, (Chhattisgarh)

---- Respondents

Writ Appeal No. 439 Of 2016

Vinod Budhicha S/o Shri Lachchhu Buchicha R/o Near Ram Talkies, Ward No. 10, Mahasamund, Police Station And District-Mahasamund, Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through: Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, Chhattisgarh.
2. The Secretary, Food And Civil Supplies Govt. Of Chhattisgarh Mahanadi Bhawan, Mantralaya New Raipur District-Raipur, Chhattisgarh.
3. Chhattisgarh State Civil Supplies Corporation Ltd. Through-Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur , District-Raipur, Chhattisgarh.
4. The Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd, Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur, District-Raipur, Chhattisgarh.
5. Deputy Director, Food and Civil Supplies, Govt. Of Chhattisgarh, Raipur, District-Raipur, Chhattisgarh.

---- Respondents

Writ Appeal No. 437 Of 2016

Nitin Dewan S/o Shri Deepak Dewan, Aged About 30 Years R/o Kranti Nagar, P.S. Tarbahar Distirct Bilaspur Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur Chhattisgarh
2. Chhattisgarh State Civil Supplies Corporation Ltd. Through The Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur, Dist. Raipur Chhattisgarh
3. The Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd. Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur Distirct Raipur Chhattisgarh
4. The General Manager, Chhattisgarh State Civil Supplies Corporaiton Ltd. Hitwad Parisar Avanti Vihar Colony, Head Office Raipur Chhattisgarh
5. Deputy Director, Food And Civil Supplies Govt. Of Chhattisgarh, Raipur District Raipur Chhattisgarh

---- Respondents

Writ Appeal No. 440 Of 2016

Deepika Sinha D/o Shri K. N. Sinha, Aged About 26 Years R/o Sanjay Nagar, Sandha Road, Kurud, P.S. Kurud, District Dhamtari, (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through: Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, New Raipur, Raipur, (Chhattisgarh)
2. Chhattisgarh State Civil Supplies Corporation Ltd., Through The Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
3. Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
4. The General Manager, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar Avanti Vihar Colony, Head Office, Raipur, (Chhattisgarh)
5. Deputy Director, Food And Civil Supplies, Govt. Of Chhattisgarh, Raipur, Distt. Raipur, (Chhattisgarh)

---- Respondents

Writ Appeal No. 441 Of 2016

Manoj Minj S/o Shri D.P. Minj, Aged About 34 Years R/o Jamchuwa, P.O. Kunjara, P.S. Duldula, District Jashpur Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Food And Civil Supplies Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh
2. The Secretary, Food And Civil Supplies, Govt. Of Chhattisgarh Mahandi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh
3. Chhattisgarh State Civil Supplies Corporation Ltd., Through The Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
4. The Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
5. Deputy Director, Food And Civil Supplies, Govt. Of Chhattisgarh, Raipur, Distt. Raipur, (Chhattisgarh)

---- Respondents**Writ Appeal No. 438 Of 2016**

Sameer Tirkey S/o Shri P.S. Tirkey, Aged About 28 Years R/o C- 99, Rama Life City, Bilaspur, P.S. Sakri, Distt. Bilaspur, (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through: Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, (Chhattisgarh)
2. The Secretary, Food And Civil Supplies, Govt. Of Chhattisgarh, Mahanadi Bhawan, Mantralaya, New Raipur, Distt. Raipur, (Chhattisgarh)
3. Chhattisgarh State Civil Supplies Corporation Ltd., Through The Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
4. The Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd. Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur Distirct Raipur Chhattisgarh
5. Deputy Director, Food And Civil Supplies Govt. Of Chhattisgarh, Raipur District Raipur Chhattisgarh

---- Respondents**Writ Appeal No. 477 Of 2016**

Akash Rahi S/o Late Shri Girdhari Lal Rahi, Aged About 35 Years R/o S-69, Sector-2, Avanti Vihar Raipur, Police Staiton Telibandha, District Raipur, (Chhattisgarh).....
Now Residing At- H-19, Sector-2, V I P City S A D D U, Near Housing Board Colony, P.S. Mowa, Tahsil & District Raipur, (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through: The Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
2. The Secretary, Food And Civil Supplies, Government Of Chhattisgarh, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
3. Chhattisgarh State Civil Supplies Corporation Ltd., Through The Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
4. The Managing Director, Chhattisgarh State Civil Supplies Corporation Limited, Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur, District Raipur, (Chhattisgarh)
5. Deputy Director, (Food Department), Raipur, (Chhattisgarh)

---- Respondents

Writ Appeal No. 478 Of 2016

Pramod Jangde S/o Shri S. P. Jangde, Aged About 31 Years R/o New Rishda, Bhadra Para, Badgarh Chowk, Balco Nagar, Korba, Police Station Balco Nagar, District Korba, (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through: Secretary, Food And Civil Supplies, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, (Chhattisgarh)
2. Chhattisgarh State Civil Supplies Corporation Ltd., Through- Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur, Distt. Raipur, (Chhattisgarh)
3. Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Office Raipur, Distt. Raipur, (Chhattisgarh)
4. The General Manager, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar Avanti Vihar Colony, Head Office, Raipur, District Raipur (Chhattisgarh)
5. The Deputy Director (Food), Mantralaya, New Raipur, (Chhattisgarh)

---- Respondents

Writ Appeal No. 482 Of 2016

Anita Soni D/o Shri R. S. Soni Aged About 25 Years Working As Assistant Manager, State Civil Supplies Corporation, Gariyaband, R/o C/o Ramkishan Gupta, Juna Bilaspur, Police Station City Kotwali, District Bilaspur (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through : Secretary, Food And Civil Supplies, Mahanadi Bhawan, Naya Raipur, Raipur (Chhattisgarh)
2. Chhattisgarh State Civil Supplies Corporation Limited, Through Chairman, Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur, Dist. Raipur,

Chhattisgarh.

3. Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur, Dist. Raipur Chhattisgarh.
4. The General Manager, Chhattisgarh State Civil Supplies Corporation Ltd., Hitwad Parisar, Avanti Vihar Colony, Head Office, Raipur, Dist. Raipur (Chhattisgarh)
5. Deputy Director, Food And Civil Supplies, Govt. Of Chhattisgarh, Raipur, Dist. Raipur (Chhattisgarh)

---- Respondents

For respective Appellants	: Smt. Sharmila Singhai, Shri R.K. Kesharwani, Shri Sourabh Dangi, Smt. Surya Kawalkal Dangi, Ms. Ruchi Nagar and Shri Bhaskar Payashi, Advocates.
For respective Respondents	: Shri Yashwant Singh Thakur, Additional Advocate General and Shri V.R. Tiwari, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Judgment on Board

Per Deepak Gupta, Chief Justice

09/11/2016

1. These 13 writ appeals are being disposed of by a common judgment since they arise out of one judgment dated 16.8.2016 delivered by a Learned Single Judge of this Court in Writ Petition (S) No.5549 of 2014 and 16 other analogous writ petitions.

2. Briefly stated facts of the cases are that the Chhattisgarh State Civil Supplies Corporation Limited (hereinafter called as 'Corporation') issued an advertisement on 30.7.2012 inviting applications for filling up 15 posts of Assistant Manager in the Corporation in which reservation for women was indicated only in the general category but was not indicated in the reserved categories like Scheduled Castes, Scheduled Tribes and Other Backward Classes. A large number of candidates applied for the said posts and 15 persons were selected. They were offered letter of appointment and all joined in the month of November, 2012. Thereafter, a complaint was made by one

Shri V.K. Das that these appointments were illegal as they were made without sanction or approval of the Government.

3. Thereafter an inquiry was ordered in this regard. The inquiry report is on record and as per the inquiry report, there is no finding with regard to the allegation of Shri Das that there was no proper approval/sanction by the State. However, in this inquiry report, it is mentioned that the rules framed by the State Government providing for 33% reservation for women across the board was violated inasmuch as no horizontal reservation for women was provided in the reserved categories. It is also mentioned in the inquiry report that the combined merit list belonging to general and reserved category candidates had not been prepared. Those unreserved candidates who had been selected on their own merit were wrongly shown as reserved candidates and therefore, a recommendation was made by the inquiry officer to redraw the merit list as per the rules. There was no proposal that the entire selection process be quashed and set aside.

4. Thereafter, the matter was placed before the Secretary, Food and Civil Supplies, Govt. of Chhattisgarh, who, vide his order dated 28.2.2014 held that the entire selection process was illegal and liable to be set aside. The first ground was that there were only 34 sanctioned vacant posts of Assistant Manager in the Corporation but more posts had been filled up. The second ground was that the posts of Assistant Manager were to be filled up by promotion but the same had wrongly been filled up by direct recruitment. The third ground was that the inquiry officer had found fault in the selection process because the reservation rules had not been followed and combined merit list was not prepared and therefore the Secretary held that the persons belonging to the reserved category had suffered serious loss due to this final selection.

The next ground taken by the Secretary, Food and Civil Supplies, Govt. of Chhattisgarh was that the Administration had asked for information from the Corporation and wrong information was supplied to the Administration. The last ground taken by him was that services of the four employees were discontinued because they were not found fit during their period of probation and this showed that the entire selection process was irregular.

5. Thereafter, the Appellants/writ Petitioners in Writ Appeal Nos.435 of 2016, 436 of 2016, 437 of 2016, 438 of 2016, 439 of 2016, 440 of 2016, 441 of 2016, 477 of 2016, 478 of 2016 and 482 of 2016, who had joined services filed the writ petitions apprehending that their services could be terminated. The said writ petitions were disposed of after recording the statement of the Learned Counsel for the Corporation that the services of these employees would not be dispensed with, except after following the due process of law. Thereafter, the Corporation issued notices to 15 persons/employees. Since the notices are identical, we may refer to one of the notices and in this notice, two allegations were levelled. The first allegation was that as per the rules of the Corporation, the post of Assistant Manager was a promotional post and direct recruitment could not be done against the said post. The second allegation was that the appointment had been made in violation of the reservation rules and therefore, the selection was not proper. Show cause notice was given to the candidates only with regard to these two aspects.

6. At the outset, we would like to mention that this is a very unusual show cause notice in which the employee was asked to show cause why his services be not terminated when the fact is that the alleged irregularity or illegality was committed by the employer-Corporation and not by the employee.

7. Be that as it may, the employees replied to the show cause notice and after the reply to the show cause notice was considered, their services were terminated only on the ground that the reservation rules had not been followed and no other ground was taken. In the meantime, the Corporation issued an advertisement on 10.10.2014 inviting fresh applications by way of direct recruitment for 11 posts.

8. Before the Learned Single Judge, 14 petitions were filed by the employees and 3 petitions were filed by the already existing employees of the Corporation working in the feeder category of Senior Assistant who prayed for a direction that the posts be filled up by way of promotion. All these petitions have been disposed of by a common judgment. It would be pertinent to mention that the Learned Single Judge divided the petitions into three groups. The first group was group 'A' comprising of 10 petitions filed by the employees whose services had been terminated on the ground that the reservation rules/procedure had not been followed. The second group was group 'B' comprising of 4 petitions related to those employees whose services were dispensed with during the period of probation. The third group was group 'C' comprising of 3 petitions filed by the departmental candidates seeking a direction that the higher post of Assistant Manager be filled only by promotion and also for quashment of the advertisement. The Learned Single Judge dismissed the petitions filed by the first two groups i.e. group 'A' & 'B'. As far as the third group 'C' is concerned, the Learned Single Judge disposed of the petitions with the observation that the Corporation shall first consider as to whether suitable persons are available in the feeder cadre and those who are found suitable may be dealt with in accordance with law and remaining posts can be filled up by way of direct recruitment depending upon the exigencies of the administration.

9. Aggrieved by this judgment, 10 writ appeals bearing Writ Appeal Nos.435 of 2016, 436 of 2016, 437 of 2016, 438 of 2016, 439 of 2016, 440 of 2016, 441 of 2016, 477 of 2016, 478 of 2016 and 482 of 2016 have been filed by the employees who form part of group 'A', whose writ petitions have been dismissed and other 3 writ appeals bearing Writ Appeal Nos. 433 of 2016, 442 of 2016 and 443 of 2016 have been filed by the existing employees of the Corporation who prayed that the Court should have given a direction that appointment should be made by way of promotion and not by direct recruitment. No appeals have been filed by the employees of group 'B'.

10. It is not disputed before us that the post of Assistant Manager in the year 2012 was a promotional post which was to be filled up by way of promotion. Rule 7(ii)(b) of the Chhattisgarh State Civil Supplies Corporation Limited Rules (hereinafter called as 'the Rules') provides as follows:-

“7. Method of Recruitment:-

*	*	*	*
*	*	*	*

(b) Vacancies shall be filled in by rotation according to the number of posts fixed for direct recruits of persons to be taken on deputation or re-appointment and promotees of deputations or re-appointment and the other three vacancies shall be filled in by promotees and soon;

Provided that if suitable persons are not available for promotion, the remaining posts against promotion quote, shall be filled in by direct recruitment or deputation or re-appointment.”

11. We shall deal with all the issues decided by the Learned Single Judge but before doing so, we deem it fit to observe that the services of the employees forming part of group 'A' were terminated only on the ground that

reservation rules had wrongly been applied. This point has not been dealt with by the Learned Single Judge at all. Before the Learned Single Judge, it appears that on behalf of the Corporation, this argument was not even raised at the time of hearing of the petitions. The issue raised before the Learned Single Judge was that since these posts were promotional posts, they could only be filled up by way of promotion and that too with the approval of the Board of the Governance. The second ground raised was that before filling up the post of Assistant Manager by direct recruitment, an assessment was to be made with regard to the suitability of the candidates available in the Corporation.

12. After referring to the Rule 7(ii)(b) of the Rules which we have quoted above, the Learned Single Judge held that the Rules enable the appointing authority to decide whether the exigencies of service require the filling up of the posts meant for promotion quota to be filled by direct recruitment. He however further held that before doing so it was to be seen as to whether any such decision was taken by the appointing authority before issuance of the advertisement and whether such decision satisfies the requirement of the Rules. After inspecting of the record, the Learned Single Judge found that there were 35 posts of Assistant Manager sanctioned out of which 30 posts were included in the staffing pattern by letter of the State Government dated 9.5.2005 and 4 posts were created on 19.10.2011. One post of Assistant Manager (Commercial) was subsequently created.

13. The Learned Single Judge relied heavily upon the fact that the file does not contain such note or resolution of approval prior to 30.7.2012, when the advertisement was issued. There was no decision taken by the appointing authority prior to 30.7.2012 that since suitable candidates were not available in

the feeder category, the post of Assistant Manager was required to be filled up by way of direct recruitment. However, the Learned Single Judge held that after issuance of advertisement on 30.7.2012, a note was written by the General Manager on 4.9.2012 for obtaining sanction of the recruitment process. Thereafter, the note was placed before the Managing Director, who remarked that if post of Assistant Manager are filled by direct recruitment, it will improve the quality of the officers at the district level. It would also be pertinent to mention that since on previous occasions also, direct recruitments had been restored to fill up the post of Assistant Managers, this note was approved by the Chairman and Secretary, Food and Civil Supplies, Govt. of Chhattisgarh on 7.9.2012 and 14.9.2012. It would be apposite to note that the Secretary of the Corporation who approved the decision on 14.9.2012 was none other than Shri Vikash Sheel, who has also signed the letter dated 28.2.2014 cancelling the entire recruitment process. We fail to understand how the same officer could take two diametrically opposite view. We need not say anything further in this regard.

14. The Learned Single Judge rightly held that since the Rules do not require prior approval, *ex post facto* of sanction may serve the purpose. We may also take note that the *ex post facto* sanction was accorded before appointments were made and even before the interviews were held. The Learned Single Judge relied upon the judgment of the Apex Court in *Union of India Vs. Vinod Kumar and Others*, (1996) 10 SCC 78 in this regard.

15. However, the Learned Single Judge relying upon the judgment of the Apex Court in *Meera Sahni Vs. Lieutenant Governor of Delhi and others*, (2008) 9 SCC 177, held that it is a settled proposition of the law that when an action to be taken in a particular manner as provided by a statute that action

must be taken, done or performed in the manner prescribed and in no other manner at all. According to the Learned Single Judge since the appointing authority has not assessed the suitability of the persons working in the Corporation, therefore, the decision had not been taken in the manner prescribed by the rules. With due respect to the Learned Single Judge, we are not at all in agreement with this view. The reason is that attention of the Learned Single Judge was not drawn to the fact that there were in fact no eligible candidates, in the feeder category available with the Corporation.

16. The question of assessing the suitability of the candidates would only arise if there are eligible candidates in the feeder category. When there were no eligible candidates, then there can be no assessment of their suitability. One cannot assess suitability of non-existing candidates. Since there were admittedly no departmental candidate eligible for promotion at the time when the advertisement was issued, the question of assessment of their being suitable or not does not arise.

17. Another aspect of the matter is that none of the departmental candidate including the Appellants in these 3 appeals i.e. Writ Appeal Nos. 433 of 2016, 442 of 2016 and 443 of 2016 ever challenged the process of advertisement in the year 2012. It is now urged by the Learned Counsel appearing for them that they could not have challenged the process of advertisement in the year 2012 because they were not eligible in that year. This only supports the view which we have taken that if there were no eligible candidate, then the question of assessment of suitability of the candidates does not arise. It would also be pertinent to mention that this was not a ground taken for termination of the services of the employees. No doubt in the notice issued to the Petitioners, this was one of the grounds set out but when the final

decision was taken, there was no finding by the appointing authority in this regard.

18. Reasons are the heart and soul of any order, whether judicial or quasi judicial in nature. An order without reasons is no order in the eyes of law. An order without reasons is an anathema, in our Constitutional jurisprudence, where the rule of law must prevail. The only reason given while terminating the services of group 'A' Petitioners was that the reservation rules had not been followed. There is no whisper in the termination order with regard to any other ground. However while supporting the action of the Corporation for terminating the services of the employees, before the Court, a new ground was set up that the appointments had been made by violating the rules inasmuch as promotional posts were filled up by way of direct recruitment. This, in our opinion, could not be done. No authority can be permitted to supplement and supplant its reasons at each and every stage of litigation just to support its order. In this regard, reference may be made to the judgment of the Apex Court in *Mohinder Singh Gill and another Vs. The Chief Election Commissioner New Delhi and others*, (1978) 1 SCC 405, wherein the Apex Court held as follows:-

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in *Commr. of Police, Bombay v. Gordhandas Bhanji* (AIR 1952 SC 16) :

Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders

made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Orders are not like old wine becoming better as they grow older.”

19. Even with regard to the rules of reservation, we have a grave doubt whether the entire selection process could be set aside. On this count, it would be pertinent to mention that the advertisement was issued by the Corporation and *ex post facto* approval was taken from the Board including the Secretary, Food and Civil Supplies, Govt. of Chhattisgarh for issuing the advertisement. This means that the Secretary, Food and Civil Supplies, Govt. of Chhattisgarh must have seen the advertisement before giving his approval. He was thus aware that no provision has been made in the advertisement for horizontal reservation for women in the reserved category. No doubt, this is in violation of the Chhattisgarh Civil Services (Special Provision for Appointment of Women) Rules, 1997 which clearly provided for 33% reservation for women across the board. The issue that arises is whether if the employer makes a mistake in issuing the advertisement, can the employer himself set aside the selection process when no person has come to the Court for challenging the selection process.

20. No complaint was made to the employer with regard to violation of the reservation rules. The complaint was that posts have been filled up without prior approval/sanction and without following the rules. That complaint was inquired and the inquiry officer only gave a report that there were some irregularities which could be rectified by re-drawing the combined merit list. This in our opinion, does not entitle the employer-Corporation or the Secretary, Food and Civil Supplies, Govt. of Chhattisgarh to set aside the entire selection

process. We may also in this regard mention that out of 15 posts for which the selection were made, 6 posts have been filled up by the women, therefore, the representation of the women is 40% i.e. more than 33%.

21. The next question is whether women who were appointed under the unreserved category should be counted against the seats reserved for women. We are leaving this question open at this stage but it has been held by the Apex Court in case of *Rajesh Kumar Daria Vs. Rajasthan Public Service Commission and others*, (2007) 8 SCC 785, that the women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women.

22. As far as the interpretation of the phrase “selected on merit within the vertical reservation quota” is concerned, we do not feel that this requires to be answered in this case for the reason that services of the four employees were dispensed with only on the ground that they were unfit to be continued in service and if there was any irregularity in the selection process that irregularity could be rectified by redrawing the seniority list and making more reservation by following the principle of “carry forward” without disturbing those who had already been appointed especially when no unsuccessful candidate had challenged the selection process.

23. The services of the petitioners who had worked for more than two years could not be terminated when they were not at fault. They had not committed any offence. Further, as pointed out by us, there is no merit in the contention that the posts could not be filled in by direct recruitment. As far as reservation for women is concerned, 40% of the selected candidates are women. Services of four of the selected candidates have been terminated. If the Corporation feels that the women were not given due representation, they

may make adequate reservation for women in the fresh recruitment to be conducted so as to fill up shortfall of women candidates, if any.

24. In this view of the matter, we are clearly of the view that services of group 'A' employees i.e. the Appellants in Writ Appeal Nos.435 of 2016, 436 of 2016, 437 of 2016, 438 of 2016, 439 of 2016, 440 of 2016, 441 of 2016, 477 of 2016, 478 of 2016 and 482 of 2016 were wrongly terminated. Consequently, the Writ Appeal Nos.435 of 2016, 436 of 2016, 437 of 2016, 438 of 2016, 439 of 2016, 440 of 2016, 441 of 2016, 477 of 2016, 478 of 2016 and 482 of 2016 are allowed. The said Appellants are directed to be reinstated in service. They shall also be entitled to 50% back wages, however, the entire period during which they were out of service shall be counted for the purpose of seniority, pension, fixation of pay, etc.

25. As far as the appeals being Writ Appeal Nos. 433 of 2016, 442 of 2016 and 443 of 2016 filed by group 'C' employees is concerned, the only direction which can be issued, in addition to the direction issued by the Learned Single Judge, is that the Corporation should fill up the remaining posts of Assistant Manager which are lying vacant after reinstating the Appellants in Writ Appeal Nos.435 of 2016, 436 of 2016, 437 of 2016, 438 of 2016, 439 of 2016, 440 of 2016, 441 of 2016, 477 of 2016, 478 of 2016 and 482 of 2016 in service by strictly following the recruitment rules.

26. With the aforesaid observation and directions, all writ appeals stand disposed of.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE