

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5135 of 2017

1. Hemant Kumar Sonwani S/o Shri Bhonda Das Sonwani, Aged About 46 Years Post Shiksha Karmi Grade - II, Under The Government Middle School, Paras Nagar, Raipur, District Raipur Chhattisgarh.
2. Dr. Akash Mohan Jha, S/o Shri Subhash Dutta Jha, Aged About 42 Years Post Shiksha Karmi Grade - II, Under The Professor J. N. Pandey, Government Multipurpose Higher Secondary School, Nalghar Chowk, P. S. Civil Line Raipur, District Raipur Chhattisgarh.
3. Smt. Kiran Shukla, W/o Shri Narendra Shukla, Aged About 44 Years Post Shiksha Karmi Grade - II, Under The Government Middle School, Kabir Nagar, Tatibandh, Raipur, District Raipur Chhattisgarh.
4. Smt. Preeti Tiwari, W/o Late Shri Sumeet Tiwari, Aged About 50 Years Post Shiksha Karmi Grade - II, Under The Government Middle School, Kota, P. S. Saraswati Nagar, Raipur, District Raipur Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (Chhattisgarh)
2. The Director, Directorate Of Urban Administration And Development Department, Indravati Bhawan, D- Block 4th Floor, New Mantralaya, District Raipur (Chhattisgarh)
3. The Collector, Raipur, District Raipur, Chhattisgarh
4. The Commissioner, Municipal Corporation, Raipur, District Raipur (Chhattisgarh)
5. The District Education Officer, Raipur, District Raipur, Chhattisgarh
6. The Block Education Officer, Block Dharsiwa, Raipur District Raipur, Chhattisgarh

---- Respondents

Shri S.K.Thomas, counsel for the petitioner/s.
Shri S.P.Kale, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/09/2017

The petitioners, who are presently working as teachers of History, English and

Commerce in the school under the jurisdiction of respondent No.3, have filed this petition seeking a direction for consideration of their cases for promotion to the next higher post of Lecturer in their respective subjects on the pleadings that there are 16 vacancies of Lecturer History/ Political Science, 5 vacancies of Lecturer English and 3 vacancies of Lecturer Commerce available for being filled up by way of promotion. It is submitted that under the present scheme of promotion and direct recruitment to the post of Lecturer in various subjects, 50% of the vacancies are liable to be filled up by way of promotion.

2. According to the petitioners, they are enjoying a very high position in the establishment and even if the said quota is applied, many vacancies of respective subjects of promotion quota would be available as the petitioners are having eligibility for promotion as per rules. It is contended that the respondent / Corporation is obliged under the law to convene DPC to consider the case of promotion of eligible officers within the zone of consideration against the vacant posts of History, English and Commerce available to be filled up by way of promotion in accordance with the provisions of the Chhattisgarh Lok Seva (Padonnati) Niyam, 2003 (for short 'the Rules of 2003') made applicable by virtue of Rule 9 of the Chhattisgarh Shikshak (Nagariya Nikay) Sanvarg (Recruitment and Conditions of Service) Rules, 2013 (for short 'the Rules of 2013')

3. Once the vacancies are available for being filled up by way of promotion, the Rules of 2003 referred to above oblige the authority to hold DPC every year to consider cases of eligible employees for promotion against available vacancies. Rule 6 (4) of the Rules of 2003 provides as below -

“6. Promotion on the basis of seniority subject to fitness -

(1) xxxxxxxx

(2) xxxxxxxx

(3) xxxxxxxx

(4) The meeting of the Departmental Promotion Committee shall be held every year. It shall consider the suitability of the public servants for promotion separately with reference to the vacancies of each year starting with the earliest year onwards. The Departmental Promotion Committee shall consider the suitability of the public servants for promotion to fill up the unfilled vacancies of the earlier year or years separately and prepare the select list for the relevant year accordingly. Thereafter, the Departmental Promotion Committee shall consider the suitability of the public servants for promotion to fill up the existing and anticipated vacancies of the current year.

(5) xxxxxxxx”

4. In view of above obligation created under the law, I am inclined to issue a writ of mandamus to the respondent / Corporation to hold DPC in the year 2017 itself for promotion on the available vacancies of Lecturer in various subjects including subjects of History, English and Commerce and consider petitioners' and other eligible teachers in accordance with the rules. The petition is accordingly finally disposed off.

**Sd/-
(Manindra Mohan Shrivastava)
Judge**

Deepti