

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5340 of 2017

1. Smt. T. Anjali Naykar W/o Shri Tyagraj Naykar, Aged About 47 Years Post Shiksha Karmi Grade-I I, Under The Government Middle School, Paras Nagar, Raipur, District Raipur, Chhattisgarh
2. Smt. Richa Sahu W/o Shri Rudramani Sahu, Aged About 46 Years Post Shiksha Karmi Grade-I I, Under The Government Higher Middle School, Kabir Nagar, Raipur, District Raipur, Chhattisgarh
3. Smt. Anju Dubey W/o Shri Ashok Kumar Dubey, Aged About 45 Years Post Shiksha Karmi Grade-I I, Under The Government Middle School, Gondwara, Raipur, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mahanadi Bhawan, New Mantralay, District Raipur, Chhattisgarh
2. The Director, Directorate Of Urban Administration And Development Department, Indrawati 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 Dharsinwa, Raipur, District Raipur, Chhattisgarh

---- Respondents

Shri Rajesh Kumar Sharma, counsel for the petitioner/s.
Shri Manish Nigam, Panel Lawyer for the State / respondents 1 to 3, 5 and 6 on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/10/2017

The petitioners, who are presently working as teachers of Hindi, English and Biology 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 19 vacancies of Lecturer Hindi, 5 vacancies of Lecturer English and 2 vacancies of Lecturer Biology 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 subjects of Hindi, English and Biology and consider case of the petitioners and other eligible teachers in accordance with the rules. The petition is accordingly finally disposed off.

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

Deepti