

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 536 OF 2003

- Virendra Kumar Singh, S/o Shri I.D. Singh, aged about 34 years, Lab Assistant, Girls Hr. Sec. School, Ramanujganj, District Surguja (C.G.)

... Petitioner

Versus

1. The State of Chhattisgarh, through the Secretary, Tribal Development Department, Raipur (C.G.)
2. Pariyojana Prashashak, Ekikrit Adivasi, Vikas Pariyojna, Pal, Ramanujganj, District Surguja (C.G.)
3. Principal, Government Girls Hr. Sec. School, Ramanujganj, District Surguja (C.G.)

... Respondents

For Petitioner	:	Mr. A.K. Prasad, Advocate.
For Respondent-State	:	Mr. Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/04/2017

1. Challenge in the present Writ Petition is to Annexure P-13, dated 23.1.2003, whereby the Respondents have passed an order demoting the Petitioner from the post of Prayogshala Sahayak (Grade-III) to the post of Prayogshala Paricharak (Grade-IV).
2. Brief facts relevant for consideration are that, the Petitioner was working as a contingency Prayogshala Paricharak in the Government Girls Higher Secondary School, Ramanujganj. He continued in the said post till he was regularized on the post of Prayogshala Paricharak (Grade-IV) on 30.7.1994. By virtue of the Circular in force of the erstwhile State of Madhya Pradesh, dated 23/28.12.1976, wherein it was held that a person having passed higher secondary in the science stream would be entitled to be promoted to the post of Prayogshala Sahayak. The Petitioner was made Prayogshala Sahayak with effect from September, 1998, on which

post he continued to work till the impugned order dated 23.1.2003 was passed.

3. This Court while entertaining the present Writ Petition had granted an interim protection to the Petitioner vide its order dated 5.4.2003 and by virtue of the said post he continued to remain on the post of Prayogshala Sahayak and has also since further been promoted and as on date he is working on the post of Head Master.

4. Learned Counsel for the Petitioner challenging the impugned order dated 23.1.2003 (Annexure P-13) submits that it is a case where the Petitioner has been victimized by demoting him to the lower post by impugned order; whereas there are a large number of similarly placed persons who have been granted similar relief. In support of which the Petitioner has also enclosed Annexures P-14, P-15 and P-16 all of which reflect that similarly placed persons have been granted promotion like the Petitioner but the impugned order has been passed only in the case of the Petitioner and not any one else.

5. Learned Counsel for the Petitioner further submits that it is also not a case of the Respondents where the Circular dated 23/28.12.1976 has been revoked or recalled by the State Government at any point of time. He therefore submits that the Petitioner was entitled for the benefit that has been granted to him, invoking the conditions enumerated in the said Circular.

6. Learned Counsel for the Respondents supported the impugned order only on the ground that the Petitioner was only granted an order of promotion on the post of Prayogshala Sahayak and that the initial order of appointment of the Petitioner itself was in the year 1994 and therefore the earlier Circulars cannot be made applicable in the case of the Petitioner.

7. Both these grounds raised by the learned Counsel for the Respondents are not sustainable, for the simple reason that there are orders which have been enclosed with the Writ Petition showing that the said Circulars have been made applicable in respect of the similarly placed persons and also have been granted as late as in the year 2014. Further, learned Counsel for the Respondents has not been able to adduce any document by which it could be said that the earlier Circulars stood withdrawn.

8. In view of above, this Court is of the opinion that the issuance of the impugned order in respect of the Petitioner is not sustainable and the same is accordingly set aside/quashed. Consequences to flow.

9. The Writ Petition stands accordingly allowed. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge