

P.R. No. 42416
Presented by Shri. Manish Kumar
dated 2/8/06

SINGLE BENCH
C.F. 1001

**IN THE HIGH COURT OF JUDICATURE CHHATTISGARH
AT BILASPUR**

W.P. (S) No. 4124/ 2006

Petitioner

: ✓ Hirendra Kumar Singh Rana,
S/o Late Shri Mahesh Singh Rana,
Aged about 43 years,
Assistant Grade-3,
Posted at Collector office (Land Revenue
Record Section), Surguja, Ambikapur,
Dist. Surguja (C.G.)

Versus

Respondents

- : ✓ 1. State of Chhattisgarh Through
The Secretary, Dept of Revenue, DKS
Bhawan, Raipur, Dist.: Raipur- (C.G.)
2. The Collector,
District- Surguja (CG)
3. Joint Director,
Treasury & Accounts,
Bilaspur, District- Bilaspur (C.G.)



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**WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA**

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WP No. 3854 of 2006

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S.P.Chaurasia **Versus** State Of Chhattisgarh & Ors.

WP 4124/2006, WP 4306/2006,

01/02/2017	Shri Manish Sharma, Advocate for the petitioners. Shri Ramakant Mishra, Dy. AG for the State. Heard. The Interlocutory Applications for taking additional documents on record in all the writ petitions are considered and allowed. List these cases tomorrow on top of the list for final disposal at motion stage. Sd/- Prashant Kumar Mishra Judge	
Ashu		



14/02/17

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NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 3854 of 2006

- S.P.Chaurasia

---- Petitioner

Versus

- State Of Chhattisgarh & Ors.

---- Respondent

And

WP No. 4124 Of 2006

- Hirendra Kumar Singh Rana

---- Petitioner

Vs

- State Of Chhattisgarh & Ors.

---- Respondent

And

WP No. 4306 Of 2006

- Dhruv Kumar Tiwari

---- Petitioner

Vs

- State Of Chhattisgarh & Ors.

---- Respondent

For Petitioners	:	Shri Maneesh Sharma, Advocate
For Respondents-State	:	Shri Ramakant Mishra, Dy. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra

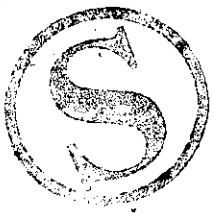
Order On Board



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02/02/2017

1. Petitioners would call in question the legality and validity of the order Annexure P-15 passed by the Collector, Surguja on 05.01.2006 directing that the petitioners, all compassionate appointees, will be entitled for annual increment after attaining the age of 40 years for the reason that they have not passed the Hindi Typing Examination.
2. There is no dispute about the fact that the petitioners were granted compassionate appointment on the post of LDC (SP Chourasia); Clerk Grade-II (Hirendra Kumar Singh Rana) and Clerk Grade-II(Dhruv Kumar Tiwari) in the establishment of District Collectorate, Surguja on 27.01.1987, 06.01.1988 and 11.10.1994 respectively. The petitioners were duly allowed annual increment after one year of successful service, however, by the impugned order, the Collector, Surguja has directed for fixation of pay on regular scale only after attaining the age of 40 years, therefore, as a sequence, the pay fixation and increment paid to the petitioners prior to the impugned order is sought to be recovered and they are brought back to the pay scale on which they were initially appointed.
3. Referring to Clause 20 of the circular dated 10.06.1994 (Annexure R-1) and Clause 3 of the circular dated 12.05.1993 which is referred in the impugned order also, it is argued that the respondents have wrongly applied the directions contained in the circular to withdraw the pay-scale or the increment because the circular itself speaks that the candidate shall be regularized after 40 years of age or from the date of passing the Hindi Typing Examination, but it nowhere provides for



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non-admissibility of annual increment prior to the said date. The respondents have unnecessarily equated the concept of regularization with grant of annual increment, which are two separate things.

4. Perusal of the clauses of the circular referred by learned counsel for the petitioners is clear in terms providing that the compassionate appointees or any other appointee who has not cleared the Hindi Typing Examination on the date of entry into the service as AG-III shall have to pass the Hindi Typing Examination for regularization of their services or they will be regularized only after attaining the age of 40 years but it nowhere provides for non-admissibility of annual increment or withdrawal of increment already granted to such appointees. Appointment of a person on compassionate ground on regular scale is not to be confused with non-regularization of appointment for not passing the Hindi Typing Examination and non payment of increment for the said period. In the impugned order itself it is mentioned that the petitioners who have not cleared Hindi Typing Examination shall be regularized after attaining the age of 40 years, therefore, there was no necessity of issuing further direction that they shall be granted regular pay scale together with increment only after said regularization.

5. Even otherwise, in the matter of **State of Punjab & others Vs. Rafiq Masih (Whitewasher)**¹, the Supreme Court has held that any amount paid to a lowly paid employee more than 5 years back need not be

¹ (2014) 8 SCC 883



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recovered. The petitioners were appointed in the year 1987, 1988 and 1994 respectively, therefore, as on the date of impugned order they had completed more than 11 years of service. Thus, applying the principle in the **Rafiq Masih** (*supra*) as also terms of the circular referred in the preceding paragraphs, the impugned order is not sustainable. It deserves to be and is hereby quashed.

6. Consequent upon the quashing of the impugned order, the petitioners' pay scale together with increment payable to them shall be re-fixed in accordance with law.

Sd/-
Prashant Kumar Mishra
Judge

Ashu