

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.6861 of 2006

Ram Dulare Rathore, S/o Shri B.P. Rathore, aged about 47 years, Assistant Grade-III, Nagar Palika Parishad, Sakti District Janjgir-Champa(CG).

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Local Self Government (Nagariya Niyojan Vibhag) DKS Bhawan, Mantralaya, Raipur (CG).
2. The Director, Nagariya Niyojan Evam Vikas, Raipur (CG).
3. The Deputy Director, Nagariya Niyojan Evam Vikas Bilaspur (CG).
4. The Chief Municipal Officer, Nagar Palika Parishad, Sakti District Janjgir-Champa (CG).
5. The Chief Municipal Officer, Nagar Palika Parishad, Gourella, District Bilaspur (CG).
6. Santosh Kumar Vishwakarma, S/o Shri Vishwambharlal Vishwakarma, aged about 36 years, Assistant Grade-II, Nagar Palika Kharsiya, District Raigarh (CG).
7. Ishwar Prasad Soni, S/o Shri Virendra Nath Soni, aged about 46 years, Assistant Grade-II, Nagar Palika Gourella, District Bilaspur (CG).

--- Respondents

For Petitioner : Mr. Y.C. Sharma, Advocate
For State/Respondents : Mr. Gary Mukhopadhyay, Dy.G.A. and Mr. A.N. Bhakta, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

17/07/2017

(1) The petitioner was appointed as Assistant Grade-III (Lower Division Clerk) by respondent No.5-Chief Municipal Officer, Nagar Palika Parishad, Gourella, District Bilasur to which he has joined on 15.12.1983. Thereafter, he was transferred at his own cost under the control of

respondent No.4 vide order dated 15.07.1994 issued by respondent No.2 and he joined in the place of posting in the month of October, 1994 and thereafter, he has been promoted on the post of Assistant Grade-II vide order dated 07.02.2005 passed by respondent No.4-Chief Municipal Officer, Nagar Palika Parishad, Sakti. Against the order of promotion, respondent No.6 namely Mr. Santosh Kumar Vishwakarma herein filed a writ petition being Writ Petition No.1656/2005 before this Court challenging the order of promotion of the petitioner in which this Court by its order dated 29.04.2005 directed to respondent No.1 to consider the representation of the respondent No.6 in accordance with law within a period of two months. In compliance of the order passed by this Court on 29.04.2005, the respondent No.1 has passed the impugned order dated 20.09.2005 canceling the order of promotion of the petitioner on the post of Assistant Grade-II and promoting the respondent No.6 without affording any opportunity of hearing to him against which, this writ petition has been filed by the petitioner herein.

(2) Learned counsel appearing for the petitioner would submit that the respondent No.1 has cancelled the order of promotion of the petitioner by its impugned order dated 20.09.2005 without affording proper opportunity of hearing to him and promoted the respondent No.6 against that post and therefore, the impugned order deserves to be set-aside.

(3) On the other hand, learned counsel appearing for the respondents would oppose the submission made by the learned counsel for the petitioner and support the impugned order.

(4) I have learned counsel for the parties and perused the

impugned order with utmost circumspection.

(5) It is apparent on record that the petitioner was not given proper opportunity of hearing before cancelling his order of promotion and no show-cause notice was issued to him and his order of promotion was set-aside by granting the representation filed by Santosh Kumar Vishwakarma, therefore, it would be expedient to set- aside the impugned order dated 20.09.2005. Accordingly, the impugned order is set-aside and respondent No.1 is directed to hear the petitioner as well as respondent No.6 fresh strictly in accordance with law expeditiously preferably within a period of three months from the date of receipt of copy of this order.

(6) Consequently, the writ petition is allowed to the extent indicated herein-above. No order as to cost.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-