

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3222 of 2017**

Ku. Sarita Mishra D/o G. P. Mishra, Aged About 43 Years R/o House No. 9 A,
Street No. 3, Sector No. 2, Bhilai, Nagar, District Durg Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. State Of Chhattisgarh, Through Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
3. The Commissioner, Health Services, G. E. Road, Opposite To Tahsil Office Raipur, District Raipur (Chhattisgarh)
4. Regional Joint Director, Health Services, Raipur Division, Indrawati Bhawan, Thired Floor, Block 1, New Raipur District Raipur (Chhattisgarh)
5. Director, Health Services, Raipur Division, Indrawati Bhawan, Thired Floor, Block 1, New Raipur District Raipur (Chhattisgarh)

---- Respondents

Shri Jitendra Gupta, counsel for the petitioner/s.

Shri Satish Gupta, Govt. Advocate for the State / respondents on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****21/07/2017**

The grievance of the petitioner, as ventilated through this petition is that the petitioner, though having become eligible for being promoted to the next higher post of Personal Assistant in the establishment and as many as six posts of Personal Assistant are lying vacant (including four newly sanctioned posts), Departmental Promotion Committee is not being convened.

2. Learned counsel for the petitioner submits that the terms and conditions of the services of the petitioner are governed by the statutory rules of Chhattisgarh

Public Service (Promotion) Rules, 2003 (for short 'the Rules of 2003'), it being a public employment and therefore, there is corresponding obligation of the respondent authorities to comply with the statutory obligations cast on him to hold DPC regularly in the spirit of provisions contained in Rule 4. It is submitted that since last so many years, DPC has not been convened, therefore, appropriate directions may be issued to the respondent authorities to convene DPC.

3. On the other hand, learned State counsel submits that though, it is true that promotions are required to be made and if there is vacancy and eligible persons are available, before taking any steps, it would be necessary to verify availability of vacancy.

Rule 4 of the Chhattisgarh Public Service (Promotion) Rules, 2003 reads as under :-

“4. Determination of basis of promotion—(1) Promotion from Class IV to higher pay scale of Class IV, Class IV to Class III, Class III to higher pay scale of Class III, Class III to Class II, Class II to higher pay scale of Class II and Class II to Class I shall be made on the basis of “seniority subject to fitness”.

(2) Promotion from Class I to higher pay scale of Class I posts shall be made on the basis of “merit-cum-seniority”.

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. There is a clear statutory obligation on the appointing authority to hold DPC every year for the purpose of considering eligible employees for promotion to the next higher post, subject to the availability of vacancies. If the vacancies are there and eligible persons are available, the rule obliges the authority to hold DPC every year.

5. According to the learned counsel for the petitioner, since last several years DPC has not been held. Therefore, in these circumstances, it would be proper to dispose off the petition with a direction to respondent No.3 to identify the vacancies and if the vacancies of Personal Assistant are available under his control and establishment, to hold DPC to consider eligible Stenographers on the basis of criteria laid down in the Rules of 2003 in respect of the post of Personal Assistant. Taking into consideration the nature of exercise required to be undertaken, this Court would express hope that the entire exercise would be completed within a period of four months from the date of receipt of copy of this order.

6. With the aforesaid observations, this petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge