

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4825 of 2017**

- Smt. Sunita Sharma W/o Shri Vivek Kumar Sharma, Aged About 38 Years Presently Working As Shikshak (Nagariya Nikayay) Arts Subject Posted At Government Pre Secondary School Changor Bhata, East, Nagar Nigam Raipur, Chhattisgarh R/o Vikas Coaching Centre, Opp. Azad Chowk Police Station Azad Chowk, Aamapara, Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Special Secretary, Department Of Urban Administration & Development, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The Director, Department Of Urban Administration & Development, Indravati Bhavan, New Raipur, Chhattisgarh.
3. The Commissioner, Municipal Corporation, Gandhi Chowk, Raipur, Chhattisgarh.

---- Respondents**And****WPS No. 4836 Of 2017**

- Smt. Purnesh Dadsena W/o Shri Tarun Kumar Dadsena, Aged About 36 Years Presently Working As Shikshak (Nagariya Nikay) Science Subject Posted At Government Pre Secondary School Changor Bhata, East, Nagar Nigam Raipur, Chhattisgarh, R/o Opposite Anand Hospital, Shanti Vihar Colony, P.S. Dindayal Upadhyaya Nagar, Daganiya, Raipur, Chhattisgarh

---- Petitioner**Vs**

1. State Of Chhattisgarh Through The Special Secretary Department Of Urban Administration & Development, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The Director, Department Of Urban Administration & Development, Indravati Bhavan, New Raipur, Chhattisgarh
3. The Commissioner, Municipal Corporation, Gandhi Chowk Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Sunil Kumar Soni, Advocate
For Respondent/State	:	Shri A. S. Kachhawaha, Additional AG

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

15/09/2017

Heard.

2. The aforesaid two writ petitions WPS Nos.4825 & 4836 of 2017 are being disposed off by a common order as these two petitions arise out of non-consideration of petitioner's cases for promotion to the next higher post of Lecturer (Nagriya Nikay) in accordance with Chhattisgarh Shikshak (Nagriya Nikay) Sanvarg (Bharti Tatha Seva Ki Sharte) Niyam, 2013 (In short "the Rules of 2013") and Chhattisgarh Public Service (Promotion) Rules, 2003 (In short "the Rules of 2003").

3. Learned counsel for respective petitioner submits that the petitioner-Smt. Sunita Sharma (WPS No.4825/2017) and petitioner- Smt. Purnesh Dadsena (WPS No.4836 of 2017) are placed at S.No.19 & 20 of the Seniority List of Teachers (Shiksha Karmi Grade II) of Municipal Corporation, Raipur. According to the petitioners information, approximately 1541 posts of Lecturer are lying vacant. However, the petitioners were not considered for promotion, because Departmental Promotion Committee is not being convened, which deprive the petitioners from their fundamental right of consideration for promotion to the next higher post.

4. A perusal of the provision contained in Rule 9 of the Rules of 2013 shows that in the matter of promotion, Chhattisgarh Public Service Promotion Rules, 2003 are applicable. It means that the respondents are under an obligation to convene Departmental Promotion Committee to fill up the vacant post every year. Rule 6(4) of the Rules of 2003 obliges holding of Departmental Promotion Committee, as under:-

6. Promotion on the basis of seniority subject to fitness-

(1) ---- xxx ---

(2) --- xxx ---

(3) --- xxx ----

(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. In view of the afore-stated legal position, I am of the considered opinion that the employer has to hold Departmental Promotion Committee every year. Taking into consideration the case of the petitioners, I am inclined to issue writ of mandamus to hold Departmental Promotion Committee. Accordingly, the respondent-Corporation is directed to hold Departmental Promotion Committee in the year 2017 itself to consider all eligible and qualified teachers including the petitioners for promotion against the available vacancies in accordance with applicable Rules.

4. In view of aforesaid direction, both the petitions are finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge