

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.782 of 2005

(Arising out of order dated 4-11-2004 of the learned Managing Director, Chhattisgarh State Agricultural Marketing Board, Raipur and orders dated 24-3-2002 and 15-9-2003 of the Chhattisgarh State Agricultural Marketing Board, Raipur)

Chhattisgarh Rajya Krishi Vipanan Board Karmchari Sangh, through its President Rakesh Gouraha, S/o K.C. Gouraha, aged about 42 years, Occupation Service, presently posted as Auditor in Chhattisgarh State Agricultural Marketing Board, Raipur, R/o Lakhe Nagar, Raipur (C.G.)

---- Petitioner

Versus

1. The Union of India, through the Secretary, Department of Personnel and Training Cell, New Delhi.
2. The State of Chhattisgarh, through Secretary, Department of Agricultural, Dau Kalyan Singh Bhawan, Raipur (C.G.)
3. Chhattisgarh State Agricultural Marketing Board, Raipur, through its Managing Director, Purani Basti, Ganjmandi Parishar, Raipur (C.G.)
4. Commissioner (Mandi), Chhattisgarh State Agricultural Marketing Board, Purani Basti, Ganjmandi Parishar, Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Rajeev Shrivastava, Advocate.

For Respondent No.2 / State: -

Mr. Ashish Surana, Panel Lawyer.

For Respondents No.3 and 4: -

Mr. Rahul Kumar, Advocate on behalf of Mr. R.S. Marhas, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/12/2017

1. Upon reorganisation of the State of Chhattisgarh with effect from 1-11-2000, the Madhya Pradesh State Agricultural Marketing Board was also reorganised and the Chhattisgarh State Agricultural Marketing Board was constituted which has been impleaded as respondent No.3

herein. Respondent No.3 herein in exercise of power conferred under Section 81-A of the Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 sanctioned new set up vide Annexures P-5 and P-6 and the posts of Chief Accounts Officers, Vehicle Supervisor, Daftari and Cleaner were came to be abolished.

2. The Chhattisgarh Rajya Krishi Vivanan Board Karmchari Sangh, who is the petitioner herein, claiming to be an Association for protection of the interest of the officers and employees working in the said Board has filed this writ petition calling in question Annexures P-5 and P-6 by which four posts have been abolished as well as challenging the order Annexure P-7 dated 4-11-2004.
3. Learned counsel for the petitioner would submit that by abolishing the posts of Chief Accounts Officers, Vehicle Supervisor, Daftari and Cleaner, the service conditions of the officers and employees who are members of the petitioner Association working with respondent No.3 are greatly affected as by virtue of the provisions of the M.P. Organisation Act, 2000, their service conditions cannot be changed unilaterally upon allocation to the State of Chhattisgarh.
4. Learned counsel appearing for respondents No.3 and 4 would support the impugned action.
5. Learned State counsel appearing for respondent No.2 would also support the State action.
6. It is correct to say that by Annexures P-5 and P-6, a new set up has been sanctioned for the Board and it is the case of the petitioner that the posts of Chief Accounts Officers, Vehicle Supervisor, Daftari and Cleaner have been abolished by the said orders. Creation and abolition of posts are exclusively executive function and this Court in

exercise of that function, would not interfere.

7. Respondents No.3 and 4 in return have clearly stated that according to the memorandum of understanding entered between respondent No.3 and the Madhya Pradesh State Agricultural Marketing Board, only 10% of total assets and liabilities have been transferred to respondent No.3 Board upon reorganisation of the State. Number of posts created by respondent No.3 is higher than the number of posts which has been received as per 10% share and list has been filed as Annexure R-3/2. Upon constitution of the Board, respondent No.3 is entitled to consider and create more posts or abolish the posts already created.
8. It is well settled law that no employee has a right of promotion, but he has only a right to be considered for promotion objectively and fairly according to the rules. Chances of promotion are not conditions of service as there is only a right to be considered for promotion, reduction in chances of promotion does not affect any right. (See **Ramchandra Shankar Deodhar and others v. The State of Maharashtra and others**¹.) Since chances of promotion are not conditions of service, therefore, the argument based on the provisions of the Madhya Pradesh Reorganisation Act, 2000, is not attracted.
9. Even otherwise, return has been filed clearly stating that chances of promotion of the members of the petitioner Association are more than the earlier existing and several instances have been given to demonstrate that chances of promotion are even enhanced. None of the members of the petitioner Association who are entitled to be promoted on the posts of Chief Accounts Officers, Vehicle Supervisor,

1 AIR 1974 SC 259

Daftari and Cleaner, have not filed writ petition and even not made as petitioners in the writ petition. Even it is not stated, as to who are the persons who are entitled to be promoted on the post of Chief Accounts Officers, Vehicle Supervisor, Daftari and Cleaner. Eligibility and entitlement for the said posts are not clear from the writ petition. It is a service dispute and service dispute ought to have been raised by individuals. The Association is though entitled to ventilate the grievances of service dispute, the individual grievance of employee cannot be ventilated by the Association.

10. In sum and substance, the petition on merits has no force, it deserves to be and is accordingly dismissed leaving the parties to bear their own costs.

Sd/-
(Sanjay K. Agrawal)
Judge