

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2319 of 2017**

- Udhaw Kumar Sahu S/o Nathu Ram Sahu, Aged About 39 Years R/o In Front Of K K Dhaba, Raipur Road, Tahsil & Police Station Bemetara, District Bemetara (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Panchayat & Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. The Chief Executive Officer, District Panchayat, Bemetara, District Bemetara Chhattisgarh.
3. The Chief Executive Officer, Janpad Panchayat, Sahaslohara, Bemetara (Chhattisgarh)

---- Respondent

For Petitioner	:	Shri Varun Sharma, Advocate
For Respondents-State	:	Shri Rajendra Tripathi, PL for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****18/05/2017**

1. On 18.01.2017, the petitioner was promoted from the post of Teacher (Panchayat) to the post of Lecturer (Panchayat), however, the said promotion order has been canceled by the impugned order dated 06.05.2017 for the reason that the criteria of seniority-cum-suitability was not followed in accordance with the norms fixed by the Government.
2. Learned counsel for the petitioner would submit that the petitioner was not at fault if the criteria was wrongly applied and more over the petitioner has not been afforded opportunity of hearing before passing

the impugned order, therefore, there is violation of principles of natural justice.

3. Learned State counsel would submit that if wrong criteria was followed, the promotion order is *non est*, therefore, it can be recalled at any point of time.
4. Having considered the rival submissions, this Court is of the considered view that instead of keeping this writ petition pending, ends of justice would be served if the writ petition is disposed of with following direction:-
 - (i) The Zila Panchayat, Bemetara shall convene review DPC for consideration of promotion from the post of Teacher (Panchayat) to Lecturer (Panchayat) within a period of two months from today and consider the cases of all eligible and suitable candidates who are coming within the zone of consideration by applying the criteria of seniority-cum-suitability in accordance with the norms laid down by the State Government.
 - (ii) On the basis of recommendation made by the DPC, the Zila Panchayat shall pass necessary order of promotion and if the petitioner is included in the fresh list also, necessary orders shall be issued. It is made clear, if the petitioner is not found suitable for promotion in the review DPC, he shall have no right to occupy the promotion post.

5. Till the compliance of the above directions are made by the Zila Panchayat or for a period of three months, whichever is earlier, the petitioner shall be allowed to continue on the promotion post.
6. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent authorities shall decide the matter, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

Sd/-

Judge

Prashant Kumar Mishra

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