

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.2811 of 2017

- Ashok Kumar Deshmukh S/o Shri Anand Rao Deshmukh, Aged About 54 Years
Accountant Kosabadi Zone, Municipal Corporation Korba And R/o Korba
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban
Administration And Development, Mahanadi Bhawan, Mantralaya, Naya Raipur,
District Raipur (Chhattisgarh)
2. Municipal Corporation Korba, Through : Its Commissioner, Korba (Chhattisgarh)
3. Commissioner, Municipal Corporation Korba, District Korba, Chhattisgarh.

---- Respondents

For Petitioners	:	Dr. S. K. Shrivastava, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/10/2017

Heard.

2. By this petition, the petitioner is seeking consideration of his case for grant of promotion to the next higher post of Assistant Accounts Officer. Giving reference to the provisions contained in the Chhattisgarh Nagar Palik Nigam (Adhikariyon Tatha Sevakon ki Niyukti Tatha Sewa Ki Sharten) Niyam, 2007 (In short "the Niyam of 2007"), it is submitted that the post of Accountant is the feeder post for promotion to the post of Assistant Accounts Officer. It is submitted that the petitioner is possessed of seven years experience and is also having degree in Computer Training. Further submission is that in view of the provisions contained in Rule 10 of the Niyam of 2007, the petitioner's case ought to be considered for promotion to the next higher post of Assistant

Accounts Officer. The petitioner preferred number of representations and the government has also issued various directions for holding Departmental Promotion Committee (In short "DPC"), but no response has been received, hence, the petitioner has filed the instant petition.

3. A perusal of the Niyam of 2007 placed on record as Annexure P/6 would show that for promotion to the post of Assistant Accounts Officer, post of Accountant is the feeder post. Moreover, the Niyam of 2007 prescribes that an Accountant, in order to become eligible for being considered for promotion to the next higher post of Assistant Accounts Officer, must have completed seven years of service and successfully completed Accounts Training Examination. It appears that the petitioner is qualified and eligible for being considered for promotion to the next higher post. The petitioner has categorically averred in the petition that out of two posts of Assistant Accounts Officer, one post is lying vacant. The petitioner is only Accountant working in the Corporation.

4. Rule 10 of the Niyam of 2007 deals with promotion. Sub rule(2) of Rule 10 of the Niyam of 2007 provides, as below:-

10. Promotion. - (1) ----- xxx -----

(2) When a post to be filled by promotion falls vacant and in the opinion of the appointing authority the filling up the vacant post is necessary in the interest of the Corporation, then the Commissioner, shall prepare the seniority list of officers/employees shown in column (3) of Schedule III, their character rolls, the details of award/punishment given to such officers/employees and submit before the Committee specified in Schedule III."

----- xxx -----

5. A perusal of the aforesaid would show that once the appointing authority forms an opinion that filling up of vacant post is necessary in the interest of Corporation, the Commissioner is required to then proceed with the matter of promotion, DPC is required to be held and promotions to be made. The criteria

of promotion has already been stated in the Rules itself. Therefore, it is necessary for the appointing authority to first apply its mind and take decision as to whether filling up of vacant post of Assistant Accounts Officer is necessary in the interest of administration of the Corporation. Once such decision is taken, then it logically follows holding of DPC within a reasonable period from the date such decision is taken. The appointing authority shall examine the matter in the light of Rule 10(2) of the Niyam of 2007 within a period of two months. Case of the petitioner will have to be considered for grant of promotion to the next higher post of Assistant Accounts Officer and if the petitioner is found fit, appropriate orders may be passed.

6. With the aforesaid observation/direction, this petition is finally disposed off.

SD/-
(**Manindra Mohan Shrivastava**)
Judge