

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP No. 550 of 2006

P.K. Deepak, S/o. Shri Nanhelal Deepak, Aged about 52 years, Dy. Director, Panchayat, presently posted at Jagdalpur, District Bastar Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Social Welfare, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh,
2. State of Madhya Pradesh, through: Secretary, Department of Panchayat and Social Welfare, Vallabh Bhawan, Bhopal, Madhya Pradesh
3. N.P. Panthi, Joint Director, Panchayat, District Jagdalpur, Chhattisgarh
4. Shri R.R. Athia, Joint Director, Panchayat & Social Welfare, Raipur, Chhattisgarh
5. B.L. Dhruva, Joint Director, Panchayat & Social Welfare, Directorate, Raipur Chhattisgarh

---Respondents

For Petitioner	:	Mr. Sudeep Agrawal, Advocate
For State	:	Mr. Dheeraj Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/11/2018

1. The grievance of the petitioner substantively seems to be the inaction on the part of the respondents in not granting due promotion to him, that he was otherwise entitled for at par with his immediate junior.
2. The counsel for the petitioner submits that the petitioner has already agitated this matter before the State Administrative Tribunal vide O.A. No. 1019/1992. The Tribunal vide its order dated 29.02.2000 has allowed the same and had given the following directives:

“19. The case is disposed of with the direction that a review D.P.C. shall be held to consider the applicant's case for promotion to the level of Project Officer. The D.P.C. shall consider the CRs from 1978-79 to 1982-83. If the applicant is found fit for promotion, he should be given promotion w.e.f. the date of promotion of his juniors. He should be given all consequential benefits including payment of arrears of salary. This exercise should be completed within three months from the receipt of this order by respondents.

20. If he is promoted on the basis of the review D.P.C. then he should be considered for further promotion as Dy. Director on the basis of his revised seniority w.e.f. the date of promotion of respondent No.4. If he is found fit for promotion, he should be given all consequential benefits including payment of arrears of salary. This exercise should be completed within 6 months of the receipt of this order by respondents.”

3. The said order passed by the Administrative Tribunal has not been further challenged by any of the parties, more particularly the respondent-State Government and thus the same has attained its finality.
4. The reply of the State Government also would reveal that they have in fact complied with the order without further challenging the same. However while granting the relief, the petitioner has been granted relief from a different date, than from the date his juniors have been promoted.
5. It is relevant to mention at this juncture that the persons immediate junior to the petitioner were promoted on the post of Deputy Director

w.e.f. 22.12.1990, whereas in compliance of the order of the State Administrative Tribunal, the petitioner has been granted promotion vide order dated 16.09.2004 from a back date w.e.f. 25.10.1996. Thus the petitioner has not been granted seniority over and above the persons, who were promoted on 22.12.1990 as was directed by the State Administrative Tribunal vide Annex. P/7.

6. The respondents have, in the paragraph No.4 of the reply, have taken a stand that so far as the grant of promotion w.e.f. 1990, the same cannot be granted as it would have to be implemented by the State of Madhya Pradesh as the petitioner then was an employee under the erstwhile State of Madhya Pradesh. This stand of the respondent-State in their reply seems to be erroneous and, which cannot be accepted for the reason that in the same reply in paragraph No.3, the respondents have conceded the fact that the petitioner in compliance of the directives given by the State Administrative Tribunal was granted initially the promotion to the post of Project Officer/Assistant Director vide order dated 06.10.2003 from a back date w.e.f. 07.05.1982. The same State Government further had also considered the case of the petitioner for further promotion on the post of Deputy Director and vide order dated 16.09.2004 have promoted the petitioner from a back date i.e. from 25.10.1996.
7. Both these promotion orders dated 06.10.2003 and 16.09.2004 have been given effect to from a date, when the services of the petitioner was substantially under the unified State of Madhya Pradesh. If the respondents could have granted this benefit while passing the order dated 06.10.2003 and 16.09.2004, the subsequent stand of the

State that the petitioner cannot be granted benefit from 22.12.1990 only on the ground that it has to be implemented by the State of Madhya Pradesh is not acceptable at all and does not seem to be in any manner justified or legal.

8. So far as the further promotion to the post of Joint Director is concerned, the stand of the State Government was that the case of the petitioner could not be considered on account of the pendency of a departmental enquiry and a sealed cover procedure has been adopted by the department and subsequent to the conclusion of the departmental inquiry, the same would be opened and considered.
9. The counsel for the petitioner vide an application for taking additional document on record, has brought a document Annexure A/1 dated 07.02.2015, which shows that the departmental enquiry initiated against the petitioner has since been dropped. If that be so, the claim of the petitioner for promotion to the post of Joint Director has to be reconsidered by opening the sealed cover and to act upon the recommendation, that has been made by the DPC, while considering the case of the petitioner.
10. Given the aforesaid factual matrix of the case, in the opinion of this Court, the petition deserves to be allowed and it is therefore disposed off directing the respondents to reconsider the case of the petitioner for grant of promotion from a back date i.e. from 22.12.1990 (Annex. P/5), when his juniors were promoted to the posts of Deputy Directors and further the case of the petitioner be also considered for promotion to the post of Joint Director after opening the sealed cover in respect of the recommendation made by the DPC held for the same and the petitioner be granted promotion,

if he has been found fit by the DPC from the date his juniors have been promoted and the petitioner as has been ordered by the Tribunal would be entitled for all monetary consequential benefits attached to both the posts and his retiral dues also has to be revised accordingly.

11. The said exercise be completed within a period 4 months from the date of receipt of certified copy of this order.
12. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved