

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 4443 OF 2008**

1. Saroj Gupta W/o Shri Mahendra Kumar Gupta, aged about 46 years, R/o C/o Shri SK Tiwari, Street No.4, Ashok Vihar Colony, Pandri, Raipur Distt. Raipur (CG).

...Petitioner(s)**Versus**

1. State Of Chhattisgarh through Secretary, Panchayat Department, DKS Bhawan, Raipur (CG).
2. Chief Executive Officer Zila Panchayat, Raipur, Distt. Raipur C.G.
3. Zila Panchayat Raipur Through The Chief Executive Officer, Distt. Raipur C.G.
4. Amit Kataria, Chief Executive Officer, Zila Panchayat Raipur, Distt. Raipur C.G.
5. Anil Kumar Singh Shiksha Karmi Grade-1, Govt. Higher Secondary School, Kanki, Tah. Tilda, Distt. Raipur C.G.

... Respondent(s)

For Petitioner	:	Shri Prateek Sharma and Shri Himanshu Sinha, Advocates.
For Respondents-Stae	:	Ms. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24.09.2018**

1. The challenge in this petition is to the order dated 06.08.2008 (Annexure P/1) whereby the promotion order issued to the petitioner has been cancelled. Challenge is also to the order dated 02.08.2008 (Annexure P/2) whereby the posting order of the petitioner after his promotion has been cancelled.
2. The facts of the case is that the petitioner was initially appointed as Shiksha Karmi Grade-II and by virtue of the seniority he was considered for promotion from Shiksha Karmi Grade II to Shiksha Karmi Grade-I vide order dated 15.07.2008 (Annexure P/3) and was considered for posting at Higher Secondary School, Kanki under

block Bilha. The petitioner immediately joined the place of posting also thereafter an order was passed on 02.08.2008 whereby posting order of the petitioner has been cancelled alleging that there was an error which has been crept in the seniority list which was published for counseling and it was also ordered that posting order on promotion of the petitioner shall be separately passed. Later on, the impugned order dated 06.08.2008 has been issued whereby on the same ground i.e. some error crept in the preparation of seniority list for counseling, the order of promotion issued to the petitioner has been cancelled. It is these two orders which are under challenge in the present writ petition.

3. This court while entertaining the petition had granted interim protection to the petitioner vide order dated 10.09.2008 and by virtue of the said interim protection the petitioner continued to work on the post of Shiksha Karmi Grade-I till the services of the petitioner stood merged with the School Education Department under the State Govt. and is presently working as Lecturer.
4. The contention of the petitioner is that firstly both the orders have been passed without affording proper opportunity of hearing to the petitioner and as such there is a blatant violation of the basic principles of natural justice and therefore the order deserves to be set aside. The impugned orders are also non speaking order in as much as it does not disclose as to on what ground and what was the error which has crept which led to, first cancel the posting order of the petitioner at Higher Secondary School Kanki and subsequently cancelling the order of promotion itself of the petitioner. He further

contends that the petitioner has a right to know the reasons why she was ineligible or incompetent for being promoted. After promotion the petitioner had also joined the place of posting on the promoted post and was discharging the duties till the impugned orders were passed.

5. The State counsel opposing the petition submits that it appears that the authorities concerned found some error in the preparation of the seniority list for the counseling and when this error was detected, they immediately recalled the posting order of the petitioner on 02.08.2008 and subsequently for the same reason had also cancelled the promotion order which was given to the petitioner.
6. Perusal of the reply of the State does not disclose any strong reason provided by the authorities which led to cancellation of the order or for that matter which led to cancellation of the posting of the petitioner to Kanki.
7. Given the aforesaid facts and circumstances of the case and on hearing the counsel appearing for the parties, the undisputed facts of the petition is that admittedly the petitioner was appointed in the year 1998 and by virtue of his length of service, the petitioner was promoted on 15.07.2008. It is this order which has been recalled/cancelled by the authorities vide order dated 06.08.2008. Before issuance of the said order, admittedly no opportunity of hearing much less any explanation was called from the petitioner nor any show cause notice was issued to her.
8. A plain reading of the impugned order would also reveal that except for the fact that the authorities concerned have made a mention of

there being an error in preparation of the seniority list for counseling, neither actual reason has been discussed nor revealed from the impugned order, nor is it reflected from the return filed by the State. Apart from this, the impugned order has been passed without affording any opportunity of hearing to the petitioner. The impugned order thus lacks reasons and also is in violation of natural justice and for which the same is not sustainable.

9. Given the aforesaid facts, this court is of the opinion that the impugned order is not sustainable on the aforesaid two grounds. The same deserves to be and accordingly set aside/quashed with consequence to follow reserving the right of the respondents to proceed in accordance with law.
10. The writ petition stands allowed.

Sd/-
(P. Sam Koshy
Judge

