

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 2132 of 2008**

Prem Singh Rathore S/o Ajab Singh, 57 years, Forester South
Kondagaon, Forest Division, Kondagaon District Bastar, CG

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Forest Department
Mantralaya Raipur (CG)
2. The Chief Conservator of Forest, Aranya Bhawan, Medical College
Road, Raipur (CG)
3. The Conservator of Forest, Kanker Circle, Kanker (CG)
4. The Divisional Forest Officer, South Kondagaon, Forest Division,
Kondagaon, District Bastar (CG)
5. Nathu Ram Nishad, Deputy Ranger, South Kondagaon, Forest
Division, Kondagaon, District Bastar (CG)
6. Somaru Ram Sahu, Deputy Ranger, South Kondagaon, Forest
Division, Kondagaon, District Bastar (CG)
7. A. K. Sarkar, Deputy Ranger, South Kondagaon, Forest Division
Kondagaon, District Bastar (CG)

---- Respondents

For Petitioner	:	Shri Harshal Chauhan, Advocate
For Respondent/State	:	Shri D. Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22/11/2018**

The relief sought for in the present writ petition is for a direction
to the respondents to consider the case of the petitioner on the post of

Forester granting seniority to the petitioner over and above respondents 5 to 7. The relief is also for considering the case of the petitioner to the post of Dy. Ranger ahead of respondents 5 to 7.

2. The facts of the case are that the petitioner was initially appointed under the respondents as a Forest Guard in the year 1971. As per the rules, the next promotion was to the post of Forester and further promotion was to the post of Dy. Ranger. So far as the promotion to the post of Forester is concerned, it is 3 years of service after having undergone the training course or 12 years on continuous service as a untrained Forest Guard. The petitioner was sent for training in the year 1980 and he completed 12 years of service on 1983. the petitioner after being qualified for promotion as a trained Forest Guard should have been granted promotion in the year 1983. Even otherwise as an untrained Forest Guard, he became eligible for promotion as a Forester in the year 1983.

3. The respondent State has not promoted the petitioner for the reasons best known. No specific reason assigned for not considering the case of the petitioner for promotion on his fulfilling the eligibility criteria under the rules both as a trained Forester as well as as an untrained Forester as the case may be. Moreover, it is the contention of the counsel for the petitioner that the petitioner was in due course of time, in 1998 granted promotion on the post of Forester. He thereafter again was eligible for promotion to the post of Dy. Ranger on completion of 5 years of service as a Forester i.e. in the year 2003.

Again the claim of the petitioner for promotion has been denied and the persons junior to him have been promoted to Dy. Ranger which led to the filing of the writ petition.

4. In the reply which has been filed by the respondent State, the substantive ground opposing the petition is the technical ground of delay and laches. According to the State Counsel, the petitioner has not approached the Court promptly or within the reasonable period and now has filed the writ petition at a belated state and therefore the claim of the petitioner deserves to be rejected on this ground alone.

5. Perusal of the reply would show that the respondent State has not made any contention so far as the entitlement of the petitioner is concerned nor has the State give any plausible explanation as to why the petitioner has not been considered for promotion when he became entitled nor have they discussed anything so far as whether the petitioner was entitled for promotion or not. Given the said facts, the only course left for this Court is to decide whether the claim of the petitioner could be rejected on the ground of delay and laches.

6. So far as the promotional avenues are concerned, this Court is of the opinion that it is always the duty casted upon the employer to regularly hold the departmental Committees so that all eligible candidates and employees would get their promotion regularly. If the respondents do not act in the manner which is otherwise prescribed under the rules and regulations, the employees cannot be denied of their right which otherwise they should have got. In the instant case,

there does not seem to be any plausible explanation provided by the respondents on merits as to why the petitioner would not be entitled for promotion from the date he became eligible or from the date the similarly placed persons were considered and promoted. Moreover, perusal of the record would reveal that there is a correspondence made by the Additional Secretary, Forest Department dated 27.04.2007 (Annexure P-4) whereby there was a recommendation made in favour of the petitioner for being considered for promotion on the post of Dy. Ranger which again has not been acted upon by the respondents and no reason further has been assigned as to why this letter Annexure P-4 dated 27.04.2007 was not further acted upon. In the entire reply of the State Govt. they have not denied the entitlement of the petitioner regarding promotion except for opposing the petition on the ground of technicality of delay and laches.

7. Given the said facts and circumstances of the case, particularly taking into account Annexure P-4 dated 27.04.2007, this Court is of the opinion that as of now ends of justice would meet if the case of the petitioner is considered for promotion for the post of Dy. Ranger from the date he became eligible i.e. in the year 2003.

8. So far as the claim for benefit of promotion on the post of Forester is concerned, since the petitioner had never raised the claim within a reasonable period of time for promotion to the post of Forester even after he being promoted on the said post in the year 1998, this Court is of the opinion that no relief on that count can be granted to

the petitioner at this stage. However, the respondents State are directed to consider the case of the petitioner for promotion to the post of Dy. Ranger from the date it fell due to him as per the service regulations subject to the petitioner fulfilling the other eligibility criteria under the service regulations. Let the respondents State take a decision in this regard at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.

9. The writ petition accordingly stands partly allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**