

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 992 of 2005

N. K. Shrivastava S/o Late Shri N. L. Shrivastava Retd. Accountant, aged 59 years, Resident of Subhash Nagar, Durg.

---- **Petitioner**

Versus

1. Govt. of M.P. Through the Secretary, Govt. of M.P. Forest Deptt. Vallabh Bahvan, Bhopal..
2. Principal-in-Chief Conservator of Forests, Satpuda Bhavan, M.P. Bhopal.
3. Chief Conservator of Forest Administration (Non-Gazetted) Satpuda Bhavan, M.P., Bhopal.
4. Chief Conservator of Forests Social Forestry Van Bhavan, Tulsinagar, M.P. Bhopal.
5. Conservator of Forests, Durg Circle, Durg (M.P.)
6. Divisional Forest Officer, Social Forestry, Dn. Durg (M.P)

---- **Respondents**

For petitioners	:	Shri Vinod Kumar Sharma, Advocate.
For State	:	Shri Majid Ali, Dy. GA

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/12/2018

1. The petitioner has filed the writ petition seeking for the following relief :-
 "10.(I)Promote the petitioner in the post of Head Clerk from 14-1-1984 and to pay the arrears of pay increments, pension gratuity etc."

2. The contention of the petitioner is that the petitioner who was appointed as a Lower Division Clerk on 05/06/1956, was later on promoted as an Upper Division Clerk on 06/09/1969. Subsequently, he cleared the examination of Accounts Department examination course on 01/03/1985 and then he was granted the duties of an Accounts Clerk since November, 1970 onwards. He has discharging the duties of Head Clerk since 01/04/1984. He was already eligible and entitled for promotion and therefore the department ought to have issued orders promoting the petitioner w.e.f. 01/04/1984. Having not done so, an appropriate relief may be granted in this regard. He further submits that undisputedly the petitioner has discharged his duties during the said period as Head Clerk and hence even if he is not promoted atleast he may be paid

additional special pay for which he would be entitled for discharging his duties of an Head Clerk.

3. The respondents have filed their reply and it is in specific terms, they have categorically stated that for want of vacancies the petitioner could not be promoted and that for the duty of an Head Clerk which the petitioner has discharged, he has been paid an additional allowance he was entitled for and therefore nothing further could have been granted to the petitioner.

4. Having heard the contention put forth on either side of the parties and perusal of the records, there is a fair statement made by the petitioner himself that for want of vacancies the petitioner could not be promoted. Now coming to the return, the respondents have specifically stated that the petitioner has been paid an additional allowance that he was entitled for discharging the duties of a Head Clerk. To the reply filed by the respondent State, the petitioner has not rebutted in the form of rejoinder or any documents to show that the contention of the State being incorrect.

5. Given the said facts, this Court finds it difficult to grant the relief sought for by the petitioner mainly on two grounds, firstly, since there is a consensus on the pleading that there been no vacancy on the post of Head Clerk and secondly the contention of the respondents that the petitioner has been paid additional allowances for the period he was discharging the duties of Head Clerk.

6. Given the said facts, this Court does not find any merits in the case and the same deserves to be dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Rohit