

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5419 of 2008**

Padmalochan Chouhan, Aged about 61 years, S/o. Shambhuraam Chouhan, R/o. Nehru Nagar, Bhanupratappur, District Kanker, Chhattisgarh

---- Petitioner**Versus**

1. The State of Chhattisgarh, through: Secretary, Forest Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh.
2. Conservator of Forest, Kanker Forest Circle, Uttar Bastar, Kanker, Chhattisgarh
3. Divisional Forest Officer, East Bhanupratappur, Forest Division Bhanupratappur, District Uttar Bastar, Kanker, Chhattisgarh
4. Rai Singh Kuldeep, S/o. Shree Panch Ram Kuldeep, Aged about 54 years, Deputy Ranger, Narharpur, District Kanker, Chhattisgarh
5. Balduram Sonwani, S/o. Shree Aman Ram Sonwani, Aged about 55 years, Deputy Ranger, South Kondagaon, District Kanker, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24/08/2018**

1. The present writ petition has been filed assailing the order of promotion (Annexure P/2) dated 23.06.1997, as also the objection/appeal of the petitioner, which was rejected by the respondents vide order (Annexure P/9) dated 07.04.2007, whereby the objection was rejected only on the ground of the same having being filed at a belated stage.
2. The facts which lead to the filing of the present writ petition is that the petitioner was working as a Forest Guard with the respondents and the private respondents No.4 to 6 were also employees of the forest department, but all of them were juniors to the petitioner as

they were all appointed much after the petitioner was appointed with the respondents.

3. In 1997, there was an order of promotion issued vide Annexure P/2 dated 23.06.1997, whereby the private respondents, though inspite of the fact that they were juniors to the petitioner have been granted promotion from the post of Forest Guard to the post of Forester.
4. It appears that the case of the petitioner could not be considered as inadvertently in the service record, the caste status was reflected to be that of schedule tribe, whereas the petitioner belonged to the schedule caste.
5. The counsel for the petitioner submits that subsequently realizing the error, the respondents have treating the petitioner to be a candidate from the schedule caste category issued an order of promotion on 15.03.2002 (Annexure P/4), wherein the name of the petitioner appears at serial No.10.
6. The question now what remains to be considered is that once when the respondents have accepted the petitioner to be of a schedule caste category and granted him the promotion w.e.f. 15.03.2002, the only fact which now needs consideration is whether at the time of issuance of the promotion order in 1997 why was the case of the petitioner not considered inspite of the fact that the petitioner was senior to the private respondents No.4 to 6.
7. The petitioner and the private respondents have all crossed the age of superannuation. One of the private respondents has also meanwhile expired.

8. Once when it is undisputed that the petitioner was a schedule caste candidate and the private respondents also were belonging to the schedule caste category, there is no dispute, so far as the petitioner being senior to the private respondents, and that except for the ground of delay, the respondent/State has not been able to show any justified reason, why the petitioner was not entitled for promotion along with the private respondents when Annexure P/2 was passed on 23.06.1997.
9. The State counsel though referring to Annexure P/9 submitted that there appears to be an entry of the caste status of the petitioner as schedule tribe and therefore the petitioner was not considered for promotion, when the respondents No.4 to 6 were granted as they all belonged to the schedule caste category. According to the State counsel, the petitioner also did not promptly file an objection/appeal to the higher authorities against the order of promotion passed in June, 1997.
10. Once when there is no dispute now on the issue as regards the caste status of the petitioner and the fact that the petitioner is undisputedly senior to the private respondents, this Court does not find any good reason, why the petitioner should be denied of his rightful claim of promotion along with the persons, who have been granted the same ahead of the petitioner on 23.06.1997. The writ petition accordingly deserves to be and is allowed to the extent that let appropriate order be issued treating the petitioner also to be promoted on the post of Forester w.e.f. 23.06.1997 instead of 15.03.2002 and the petitioner be granted all retiral dues on the basis of the said amended status of the petitioner.

11. It is made clear that the benefit of promotion should be given w.e.f. 23.06.1997 to the petitioner by way of notional fixation and the actual monetary benefits would be given to the petitioner only on his retiral dues.
12. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved