

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 4208 OF 2009**

- Pradeep Sharma, S/o Shri Late P.P. Sharma, aged about 50 years, posted as Senior Horticulture Development Officer at the office of Dy. Director, Horticulture, Bilaspur, District Bilaspur (C.G.) **... Petitioner**

versus

1. State of Chhattisgarh, through: its Secretary, Agriculture Department, Mantralaya, D.K.S. Bhawan Bhawan, Raipur, District Raipur (C.G.)
2. The Director, Horticulture and Farm Forestry, Chhattisgarh Government, Raipur (C.G.) **... Respondents**

For Petitioner	:	Mr. A.S. Rajput, Advocate.
For Respondent-State	:	Mr. Chandresh Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/07/2018**

1. The Petitioner is working on the post of Senior Horticulture Development Officer in the State of Chhattisgarh and is claiming seniority from the date of his initial appointment i.e. from 30.11.1985 whereas he has been granted seniority in the year 1989 i.e. the date of confirmation of services of the Petitioner.
2. Learned Counsel for the Petitioner submits that the Petitioner had made a representation to the authorities in the department for grant of seniority from the date of his initial appointment and the authorities concerned vide their letter dated 4.7.2003, Annexure P-4 with the writ petition, have categorically held that the decision in this regard so far as granting seniority from the date of initial appointment shall be decided after the decision is taken by the Department of Horticulture, State of Madhya Pradesh, pertaining to the employees of the State of Chhattisgarh who were appointed along with the Petitioner. Learned Counsel for the Petitioner further submits that later on in the year 2009, the Madhya Pradesh Government has taken a policy decision to grant seniority to the employees who have been appointed along with the Petitioner but were on date posted in the State of Madhya Pradesh be granted seniority from the date of initial appointment and not from the date of confirmation. This order has since been implemented. Petitioner prays that the present writ petition also be allowed on similar terms and he be treated at par with his counter-parts in the State of Madhya Pradesh giving the seniority from the date of his initial appointment.

3. Learned Counsel for the State however opposing the petition submits that it is a case where the another petitioner, namely, Ram Awadh Singh Bhadauriya, who was appointed along with the present Petitioner had filed a writ petition before this Court vide W.P. No. 5013/2004 which stood dismissed on 1.12.2006. The said order has further been affirmed in a writ appeal preferred by the said Ram Awadh Singh Bhadauriya in W.A. No. 63/2007 where the appeal stood dismissed on 1.2.2008 and later on special leave petition had also been preferred by the said Ram Awadh Singh Bhadauriya vide Civil Appeal No. 4268/2010 which also stood dismissed on 7.12.2016 thereby affirming the orders passed by the writ Court as well as by the writ appellate Court. In the light of the orders passed in the case of Ram Awadh Bhadoriya, learned State Counsel prays that since the issue involved is identical the present writ petition also deserves similar treatment and is liable to be dismissed.

4. Having heard the contentions put forth on either side and on perusal of record, what is undisputed is that the petition of Ram Awadh Singh Bhadauriya was originally decided by the writ Court on 1.12.2006. At that point of time, the order of the Madhya Pradesh Government was not in existence and it is subsequently that the Government of Madhya Pradesh has taken a policy decision on 14.1.2009 wherein they have decided to grant seniority to the persons who were appointed along with the Petitioner from the date of initial appointment and not from the date of confirmation and thus rectified the gradation list accordingly.

5. Given the facts and circumstances, particularly taking note of the fact that identically placed persons in the State of Madhya Pradesh who were appointed along with Petitioner have been granted the benefit of seniority from the date of initial appointment, the counter-parts in the State of Chhattisgarh should not be deprived of the same benefit only on account of the fact that they have been allocated to the State of Chhattisgarh by virtue of the Madhya Pradesh Reorganization Act, 2000. Had the Petitioner remained in the State of Madhya Pradesh he also would have got seniority from the date of his initial appointment as has been done in the case of other persons in the State of Madhya Pradesh. Moreover, the writ Court while dealing with the case of Ram Awadh Singh Bhadauriya, likewise the writ appellate Court as well as the Hon'ble Supreme Court, has not been apprised of the subsequent development that has been

occurred so far as similarly placed persons in the State of Madhya Pradesh is concerned. Moreover, the present writ petition has been filed subsequent to the decision taken by the Madhya Pradesh Government granting seniority from the date of initial appointment to similarly placed persons.

6. In the light of the aforesaid facts and circumstances, this Court is of the opinion that the withholding of the seniority of the Petitioner from the date of initial appointment and granting the same only from the date of confirmation is not just, legal and proper, neither can it be said to be justified as admittedly the counterparts of the Petitioner in the State of Madhya Pradesh have already been granted the benefit and the same stands extended to all persons in the State of Madhya Pradesh except those who have been sent to the State of Chhattisgarh by way of allocation between the two States.

7. The writ petition thus deserves to be and is accordingly allowed. The Respondents are directed to grant seniority to the Petitioner from the date of his initial appointment i.e. 30.11.1985 and to grant all consequential benefits. However, it is made clear that the consequential benefits have to be notionally fixed in the case of the Petitioner, inasmuch as he would not be entitled for any monetary benefits for the previous period except for proper fixation to be done and which shall be reckoned for practical purpose.

8. The writ petition stands allowed.

Sd/-
(P. Sam Koshy)
Judge