

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6221 of 2011**

1. Ganesh, S/o. Dayaram, Aged about 40 years, R/o. Siddharth Nagar, Durg Chhattisgarh
2. Lata Bai, W/o. Gorelal, R/o. Siddharth Nagar, Durg Chhattisgarh
3. Suraj Kumar S/o. Durga Prasad, R/o. Siddharth Nagar, Durg Chhattisgarh
4. Manju, D/o. Vishnu Soni, R/o. Siddharth Nagar, Durg Chhattisgarh
5. Satish Kumar, S/o. Kundan, R/o. Siddharth Nagar, Durg Chhattisgarh
6. Nikesh S/o. Ashok R/o. Siddharth Nagar, Durg Chhattisgarh
7. Pushpa, D/o. Nandu, R/o. Siddharth Nagar, Durg Chhattisgarh
8. Neelkamal, S/o. Lilaram, R/o. Siddharth Nagar, Durg Chhattisgarh
9. Pyarelal, S/o. Mishrilal R/o. Siddharth Nagar, Durg Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, Department of Urban Administration and Development, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Municipal Corporation, Durg, through: its Commissioner, Municipal Corporation, Durg Chhattisgarh

----Respondents

For Petitioners	:	Mr. Ajay Shrivastava, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer
For Respondent No.2	:	Mr. A.S. Kachhawaha, Advocate along with Mr. B.L. Sahu, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/09/2018**

1. The challenge in the present writ petition is to the order Annexure P/1 dated 30.06.2001, whereby the Commissioner, Municipal Corporation, Durg has ordered for cancellation of appointments issued in favour of the petitioners on 30.05.2001 and 31.05.2001.
2. The counsel for the petitioners submits that in the case of an identically placed person Sewak Ram son of Manik Ram this Court in W.P. No. 768/2002 has already considered the veracity of the

said impugned order dated 30.06.2001 and this Court has allowed the writ petition vide judgment dated 01.12.2005.

3. The counsel for the petitioners submits that since the case of the petitioners herein is also identical and the impugned order also remains the same, the present writ petition deserves to be allowed in similar terms and the impugned order be held as bad in law as has been done in W.P. No. 768/2002.
4. The counsel for the petitioners submits that though the respondents had vide impugned order dated 30.06.2001 ordered for cancellation of the appointment of the petitioners, but by virtue of an interim order granted by this Court on 21.08.2001, the petitioners are continuing in employment and till date they are working and as such they have already put in about 18 years of service.
5. The counsel appearing for the corporation however opposing the petition submits that the impugned order has been passed on the instructions, which the respondent No.2 had received from the State Government and that they were duty bound to comply with the directives given by the State Government. As a consequence of which the impugned order was passed and therefore the same cannot be said to be bad in law and prayed for rejection of the petition.
6. Having heard the contentions put forth on either side and on perusal of the record, this Court finds that Annexure P/2 dated 01.12.2005 is a judgment passed by this Court in WP No. 768/2002 and where the same order was under challenge, which is also subjected to challenge in the present writ petition. The High Court in paragraph No.15 referring to the same impugned order held as under:-

“15. In view of the facts and circumstances and the discussions made in the foregoing paragraphs, it is a case where great injustice has been done to the Safai Kamgars inasmuch as they were placed before the Board on the pretext that one of the family members would get employment and now after the person sought voluntary retirement and the family member got the job and appointment, the same has been cancelled without any show cause and without any enquiry and neither the original person is in job nor his nominee and the post is also lying vacant. The family is suffering from such atrocity. It is for the State to examine as to what extent it has caused atrocity on the family of Safai Kamgar. The impugned order Annexure P/1 dated 30.06.2001 passed by the respondent No.2 is illegal, in contravention of law and liable to be set-aside. The petitioner is entitled to be reinstated in service with all the consequential benefits.”

7. It has been informed by the counsel for the petitioners that the said impugned order has not been further challenged and has in due course of time attained finality. He further submits that the consequent of that order has also been given effect to the petitioner therein and later on the services of the petitioner therein has also been confirmed by the respondent No.2.
8. After the order of removal dated 30.06.2001 was passed, the petitioners had immediately filed a writ petition i.e. WP No. 1184/2001, where they had also obtained an interim protection and by virtue of the interim protection, the petitioners are still in continuous service.
9. Given the aforesaid factual submissions made by the counsel for the petitioners, this Court is of the opinion that the case of the

petitioners also being identically placed the same impugned order, which is under challenge in the present writ petition also and that once when this Court in an earlier round of litigation has already held the said order to be bad in law and which has already attained finality, this Court is inclined to take the same view and hold that the impugned order (Annexure P/1) as bad in law, illegal and liable to be set-aside/quashed and the same is accordingly set-aside/quashed.

10. Given the aforesaid facts, the impugned order stands set-aside/quashed with consequences to follow. The petitioners would be entitled for similar treatment as has been given to the similarly placed person i.e. Sewak Ram, the petitioner in WP No. 768/2002.
11. The writ petition thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved