

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 1566 of 1998**

1. K. Prakash Naidu S/o Shri K. Ramlingam, Aged About 43 Years
R/o Old C-35, M. P. E. B. Colony, Korba East, District Bilaspur
(now Korba), Chhattisgarh

---- Petitioner**Versus**

1. State of Madhya Pradesh (now Chhattisgarh) Through
Secretary, Department Of Environment, Government Of
Madhya Pradesh, Vallabh Bhawan, Bhopal, Madhya Pradesh.
2. Municipal Corporation Korba, Through Its Commissioner Korba
District Korba Chhattisgarh

---- Respondent

For Petitioner	Shri Manoj Paranjape & Shri Vikram Dixit, Advocates
For Respondent/State	Shri Shashank Thakur, Govt. Advocate
For Respondent No.2	Shri H.B. Agrawal, Sr. Advocate with Ms Deepali Dubey, Advocate

Order On Board**By****Prashant Kumar Mishra, J.****24/09/2018**

1. Petitioner is claiming promotion on the post of Divisional Accountant (Accounts Officer Grade II) in the establishment of the Municipal Corporation, Korba, the successor in interest of the erstwhile SADA, Korba (Special Area Development Authority).

2. Indisputably, the petitioner had earlier preferred WP No.4996 of 1997, which was disposed of by the High Court of Madhya Pradesh, Jabalpur, on 11-12-1997 in the following manner :

“Shri Sanjay K. Agrawal, counsel for the petitioner.

Head on the question of admission.

It is not necessary to issue notice to the respondents, for the reason, the grievance of the petitioner is that the respondent No.2 is not constituting Departmental Promotion Committee for promotion of the petitioner to the post of Divisional Accountant (Accounts Officer Grade II). The petitioner is being prejudiced on account of laxity and delay on the part of the respondent No.2.

It is, therefore, directed that, within three months from the date of receipt of copy of this order, the respondent No.2 shall constitute a regular Departmental Promotion Committee for consideration of eligibility of the petitioner for promotion to the post mentioned hereinabove. In case, the petitioner is found fit for being promoted to the post of Divisional Accountant (Accounts Officer Grade II), he shall be accordingly graded. In the alternative of non-promotion of the petitioner by the Departmental Promotion Committee, he is free to make a representation to the respondent No.2, in accordance with law.

With the aforesaid observations and directions, the petition is disposed of.

C.C. as per rules.”

3. The SADA, Korba, thereafter, considered the case of the petitioner and passed an order dated 7-3-1998 (Annexure – P/10) denying promotion to the petitioner on the ground that the post of Divisional Accountant is a State cadre post on which promotions are made by the State Government and even otherwise considering petitioner's position in the gradation list,

which he has already accepted without protest, he is not entitled to be promoted.

4. It is argued that if the post of Divisional Accountant was the State cadre post, the SADA, Korba, should not have rejected the application and the matter could have been referred by the said authority to the competent authority at the State level, who would have convened the meeting of the DPC (Departmental Promotion Committee) to consider the case of the petitioner.
5. In the earlier writ petition the entire thrust of allegation was against the SADA, Korba, which has since been abolished and merged in the Municipal Corporation, Korba. The petitioner was under the impression that it was the SADA, Korba, who is competent to promote the petitioner, but when the said authority examined the matter it was found that being the State level post, the SADA, Korba could not have promoted the petitioner and for the same reason the SADA, Korba, could not have convened the meeting of the DPC. There was no direction by the High Court in the earlier writ petition against the State Government to convene the meeting of the DPC nor there was a direction to the SADA, Korba, to refer the matter to the State Government, therefore, the High Court having desired the respondent No.2 to pass an order, the said respondent was within its jurisdiction to dispose of the petitioner's application.
6. In the meanwhile, the State of Chhattisgarh has been created w.e.f. 1-11-2000; and the SADA, Korba, has also been

abolished; moreover. the petitioner has already retired from the post on attaining the age of superannuation. In addition, it is not the case of the petitioner that he has been superseded in the matter of promotion by promoting any person who is junior or less meritorious to the petitioner.

7. For all the above stated reasons, the relief sought for in the writ petition has been rendered infructuous as on account of subsequent events it is not possible today to direct the authorities to convene the meeting of the DPC, which would be required to be convened by the State of Madhya Pradesh.
8. Accordingly, the writ petition is dismissed as having become infructuous. No order as to cost(s).

Sd/-

Judge
Prashant Kumar Mishra

Gowri