

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 7092 OF 2008**

Dr. N.P. Dixit, aged about 60 years, S/o Shri Bhagwan Prasad Dixit,
Principal, Govt. V.Y.T.P.G. Autonomous College, Durg (CG), R/o F-2/17, Five
Building, Durg (CG) **... Petitioner**

versus

State of Chhattisgarh, through: the Secretary, Higher Education Department,
Mantralaya, D.K.S. Bhawan, Raipur (CG) **... Respondents**

For Petitioner	:	Mr. P.K.C. Tiwary, Senior Advocate, assisted by Mr. Shashi Bhushan Tiwary, Advocate.
For Respondent	:	Mr. Dheeraj Wankhede, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****29/08/2018**

1. The present writ petition has been filed seeking for a relief from the respondents to consider the case of the petitioner for promotion on the post of Principal, Post Graduate College, and to pay all consequential benefits from the date the immediate junior to the petitioner, namely, Dr. (Smt.) Kamal Mukherjee, has been granted the benefit.

2. Brief facts of the case are that the petitioner substantively was posted as Supervisor in the erstwhile Government Art and Science College, Durg. In due course of time, vide Annexure P-4, 14.10.2005, the petitioner stood promoted on the post of Principal, Degree College and was posted at the Government Girls College, Durg. However, since the regular Principal posted there had filed a writ petition before the High Court challenging his transfer and he was able to get some interim order, the petitioner could not be relieved from the College where he was earlier promoted. The petitioner was permitted to work at Government Science College, Durg. Meanwhile, the regular Principal at Government Science College stood retired and thereafter the petitioner was made In-charge Principal.

3. Meanwhile, vide Annexure P-11, dated 20.3.2008, the respondents amended the earlier order of promotion dated 14.10.2005 to the extent of determining the place of posting of the petitioner and modified the place of posting instead of Government Girls College, Durg to Government Arts and Commerce College, Durg which was earlier known as Government Science College and the said Government Arts and Commerce College later on became a Post Graduate College and the petitioner discharged the duties of Principal till the age of his retirement i.e. 31.3.2010.

4. It is the contention of the petitioner that the petitioner though was eligible for the next promotion to the post of Principal of Post Graduate College but for some reason he was not considered and his name was also not included in the gradation list and in the process the immediate junior to the petitioner namely Dr. (Smt.) Kamal Mukherjee got promoted on 30.5.2009. According to the petitioner, he was entitled for promotion along with his immediate juniors as there was no impediment in any manner with which his promotion on the post of Principal of Post Graduate College could have been refused or denied by the respondents. The petitioner has filed the present writ petition only claiming this relief that the case of the petitioner be considered for promotion to the post of Principal of Post Graduate College and for grant of all consequential benefits including the retiral dues on the pay scale of the Principal of Post Graduate College.

5. The respondents though have filed their return but in the entire return no averment has been made as to the entitlement of the petitioner for promotion to the post of Principal of Post Graduate College neither has there been any averment made in the return to show, as to why the petitioner was not considered for promotion and was denied for certain specific reasons.

6. In view of the aforesaid facts and circumstances of the case, this Court is of the opinion that the claim of the petitioner seems to be justified for the reason that once when the petitioner has been promoted on the post of Principal of Degree College vide order dated 14.10.2005, for all practical purposes, the petitioner has to be treated as Principal of Degree College and his seniority also has to be counted from 14.10.2005 onwards. It is not a case where the petitioner had deliberately or willfully not accepted the promotion or the place of posting as per the order dated 14.10.2005. It is on account of then prevailing circumstances and on the instructions of the authorities under the respondents that the petitioner continued at the Science College, Durg. Moreover, in due course of time, the petitioner has also been made In-charge Principal of the Science College, Durg and later on he was also made a regular Principal of the said college in 2008 vide Annexure P-11. Given the said facts, the petitioner unless he is disqualified or disentitled for any reason, could not have been refused for being considered for promotion to the post of Principal of Post Graduate College.

7. Accordingly, the writ petition to the limited extent deserves to be and is allowed. It is directed that the respondents shall consider the case of the petitioner for promotion to the post of Principal of Post Graduate College from the date his immediate junior Dr. (Smt.) Kamal Mukherjee and other juniors were promoted with effect from 30.5.2009 and all consequential benefits, if the petitioner is found eligible, be provided to him including the retiral dues. Let this exercise be done within a period of 90 days from today.

8. The writ petition stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge