

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 681 of 2008**

Makhan Singh Dhruw S/o Shri Karan Singh, Aged about 47 years, Block Education Officer, Office of B.E.O. Charama (R/o H-2, Block Colony, Charama), District Kanker (C.G.).

**---Petitioner****Versus**

1. State Of Chhattisgarh, Through the Secretary, Scheduled Caste/Scheduled Tribe Development Department, Mantralaya - D.K.S. Bhawan, Chhattisgarh, Raipur.
2. Shri Yusuf Lakra, Assistant Project Administrator, Abujmad Development Authority, Narayanpur, District Narayanpur (C.G.).

**---Respondents**


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|---------------------|---|---------------------------------------------|
| For petitioner      | : | Shri S.K.Thomas, Advocate.                  |
| For respondent No.2 | : | Shri Pawan Shrivastava, Advocate.           |
| For State           | : | Shri Dheeraj Wankhede, Government Advocate. |

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**Hon'ble Shri Justice P. Sam Koshy**  
**Order on Board**

**25/09/2018**

1. The grievance of the petitioner in the instant Writ Petition is that, the respondent No.2 has been vide order Annexure-R/3 dated 13/11/2006 placed over and above the petitioner in the gradation list.
2. The Writ Petition has been filed only agitating this very action of the respondent.
3. The relevant facts for consideration in the present case is that, the petitioner was initially appointed as an Area Organizer on 18/03/1987. At the time of his appointment, admittedly, the respondent No.2 was senior to the petitioner. However, on 01/06/1998, a promotion list was published by the State Government Annexure-P/2 to the post of Chief Executive Officer and in the said promotion list, the name of the respondent No.2

was not reflected and the petitioner on his being promoted immediately assumed duty that of Chief Executive Officer since then.

4. According to him, the respondent No.2 was subsequently granted promotion on 05/06/1999 i.e. much after the petitioner had been promoted on the said post and therefore on the post of CEO, the petitioner should have been accepted as senior to the respondent No.2.

5. The grievance of the petitioner is that, subsequently, vide order dated 13/11/2006, the respondent No.2 has been granted seniority and ordered to be placed over and above the petitioner which led to the filing of the present Writ Petition.

6. Some of the admitted factual matrix of the case is that, the petitioner as well as the respondent No.2 both were appointed as an Area Organizer at the initial stage and on the post of Area Organizer the respondent No.2 is senior to the petitioner. It is also an admitted position that, the respondent No.2 was also eligible for promotion when the first promotion list was published on 01/06/1998, but for some reason best known, the respondent No.2 was not considered for the said promotion when the petitioner was granted the benefit.

7. Lateron, the petitioner was granted promotion vide order dated 05/06/1999. In the order of promotion itself it has been held that, the claim of the petitioner as regard seniority would be dealt separately.

8. Meanwhile, there has been a development of the bifurcation of the two States and the petitioner been allocated to the new State i.e. newly carved out State and in the process the

representation/objection of the petitioner stood decided vide the impugned action on the respondents on 13/11/2006 granting the respondent No.2 seniority and placing him over and above the petitioner.

9. On a query being put to the counsel for the petitioner he fairly admits that, admittedly, the respondent No.2 was senior to the petitioner on the post of Area Organizer. He further submits that, there was no disqualification or ineligibility in his knowledge so far as the respondent No.2 is concerned for his not been considered for promotion along with the petitioner on 01/06/1998.

10. This being the factual position it appears that on 01/06/1998 when the petitioner and others were granted promotion, the case of the respondent No.2 got left out for some reason not known to either of the parties and later on the respondent No.2 was found eligible and has been granted promotion from 05/06/1999 onwards. The respondent No.2 at the same time had also claimed for the seniority over and above his juniors and the dispute was pending consideration before the authorities. The authorities finally vide order dated 13/11/2006 has granted the seniority to the respondent No.2 over and above the petitioner.

11. If the respondent No.2 had been inadvertently or for some administrative reasons other than his disqualification or ineligibility for promotion and the respondents find the respondent No.2 eligible at a later stage and grants him promotion and since there was also no dispute so far as his entitlement is concerned as the position stood on 01/06/1998 when the petitioner was considered for promotion, this Court does not find any strong reason made out on part of the petitioner calling for an interference with the order

dated 13/11/2006 granting seniority to the respondent No.2 over and above the petitioner.

12. The impugned order also does not require indulgence from this Court for the reason that, it is also not a case of the State Government that the respondent No.2 on 01/06/1998 was ineligible or was found unfit for promotion.

13. If that be so, the respondent No.2 appears to have been left out promotion for some fault on part the State Government and which at a later stage the State Government itself has rectified the error so cropped up.

14. Given the said situation, this Court does not find any substantial material for interfering with the seniority granted to the respondent No.2 over and above the petitioner vide order dated 13/11/2006.

15. The Writ Petition thus fails and is accordingly dismissed.

16. Consequences to follow.

Sd/-

**(P. Sam Koshy)**  
**JUDGE**

Sumit