

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No. 3951 of 2018

Smt. Manjulata Sharma, W/o. Shri Ajay Sharma, Aged About 46 Years,
Presently Working as Assistant Grade-II, Office Of District Collector Korba,
District Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, New Raipur, P.S. Rakhi, District Raipur Chhattisgarh.
2. State Of Chhattisgarh, Through Deputy Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, New Raipur, P.S. Rakhi, District Raipur Chhattisgarh.

---- Respondents

For Petitioner : Mr. R.S.Patel & Vikram Jaiswal, Advocates
For State : Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28.05.2018

Heard

1. The present petition is against the rejection of the representation dated 16.05.2018 by the respondent No.2.
2. The grievance of the petitioner in short is that the petitioner who is working as Clerk has appeared in the departmental examination which was meant for to be promoted to the post of Nayab Tahsildar. The cutoff mark to get the post of Nayab Tahsildar was 50% for the general category and the petitioner belongs to the general category. The grievance of the petitioner is that one more candidate Ku. Neeta who belonged to S.T. category though did not obtain the requisite cutoff mark of 45% which was meant for S.T. category but grace mark was given to her and she was made eligible for promotion to the post of Nayab Tahsildar. It is contended that when in one post relaxation has been given to the

particular candidate by State, no discrimination can be adopted in respect of the petitioner who stands in the queue of general candidate and similar relaxation should have been given to the petitioner to be promoted to the post of Nayab Tahsilar. It is contended that the petitioner obtained marks in Paper-I 43.158 and in Paper-II 54.082 marks, therefore, it is submitted that when still the posts are lying vacant, the petitioner can always be considered for promotion by giving similar relaxation to her.

3. Perused the petition as also the documents filed alongwith the petition. It appears that the representation made by the petitioner to give her grace marks stands canceled by an order dated 16.05.2018 by the Deputy Secretary, Department of Revenue & Disaster Management, State of Chhattisgarh. Perusal of the document filed with the petition would show that one more candidate named Neeta, belonged to S.T. category, she too did not procured the cutoff eligible marks for that category but she has been given the promotion by relaxation to the number by giving grace marks. Likewise, it appears that the petitioner who belongs to general category did not obtain requisite number of cutoff mark but parity has been claimed that since the benefit has been extended to the other candidate of a different category i.e. candidate named Neeta and 20% relaxation in 1st paper and 10% relaxation in 2nd paper was given and was promoted as Nayab Tahsildar, the similar relaxation may be given to her as only 2 marks relaxation is to be given in one paper alone.
4. The State has not disputed the fact that still post of Nayab Tahsildar is lying vacant. In the background of the facts, it is felt that the rejection of representation dated 16.05.2018 prima facie appears to be non-speaking as it purports of simple dismissal of

the representation without considering the fact that the similarly placed candidate has been considered for promotion by relaxation of marks.

5. In view of this, the rejection of representation dated 16.05.2018 is set aside. The petitioner is directed to file a detailed representation before the Respondent i.e. Secretary, Department of Revenue & Disaster Management with all the relevant documents and in such eventuality, the department shall reconsider the representation keeping in view the fact that other candidates were given the benefit by relaxation of the marks over and above the circulars so existing. The demand or legitimate expectation of the petitioner cannot be shelved by non-speaking order, therefore, it is directed that if the petitioner makes a representation within a period of 30 days, the department shall consider within a further period of 45 days and decide the same objectively without being influenced by the earlier rejection of the representation. It is made clear the orders have been passed particularly in facts of this case and would not be considered as a precedent for any other likewise issue.
6. Accordingly, the petition stands disposed of with aforesaid directions.

Ashok

Sd/-
(Goutam Bhaduri)
Vacation Judge