

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2823 of 2017

Rikeshwar Kumar Sahu S/o Shri Kanglu Ram, Aged About 36 Years R/o Village Dupchera, Post Darra, Tahsil Gurur District Balod Chhattisgarh., Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh, Chhattisgarh
2. Collector, Kanker, District Uttar Bastar, Kanker Chhattisgarh, District : Kanker, Chhattisgarh
3. Chief Executive Officer District Panchayat District Uttar Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh
4. Chief Executive Officer, District Panchayat Rajnandgaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Awadh Tripathi, Advocate
For State/Res. No. 1 & 2	:	Shri Majid Ali, Dy. Govt. Advocate
For Respondent No.3	:	Shri Suryakant Mishra, Advocate appears under instructions from Shri Ashish Shukla, Advocate
For Respondent No.4	:	None appears even in the second round

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/01/2018

Heard.

1. The only grievance of the petitioner is that the petitioner has been superseded and his juniors have been promoted on 15.6.2017.

The petitioner's case is that while the petitioner was posted within the jurisdiction of Uttar Bastar Kanker, he was transferred to jurisdiction of other Jila Panchyat, Rajnandgaon on 31.10.2015. This order was successfully

challenged before this Court and in Writ Petition (S) No.1273 of 2016 decided on 23.12.2016 along with similar petitions and the transfer order was quashed. Thereafter, the petitioner was allowed to join back in his original place of posting within the jurisdiction of Jila Panchayat, Uttar Bastar Kanker on 25.4.2017. In the meanwhile, Junior Assistant Teachers who were working within the jurisdiction of Jila Panchayat, Uttar Bastar Kanker were promoted. The petitioner's representation has been rejected on the ground that during that period when juniors were considered, the petitioner was not posted.

2. Learned counsel appearing for respondent No.3 submits that the petitioner could not be considered for promotion because at the time when seniority list was finalized and consideration took place, the petitioner was actually not within the jurisdiction of Jila Panchayat, Uttar Bastar Kanker.
3. The order of promotion came to be issued on 15.6.2017. May be that the proceedings towards consideration of cases of promotion were initiated much prior to the joining of the petitioner on 25.4.2017 after the judicial order of the Court, it appears that the petitioner's name was not included only because he was transferred to jurisdiction of another Jila Panchayat. That order was found illegal and set aside. The consequence, therefore, would be that if in the meanwhile, persons junior to the petitioner have been promoted, the petitioner's case should also be considered for promotion to the next higher post. If there are vacancies on the post of Teacher available, the petitioner may be considered and if found fit promoted from the date his juniors were promoted i.e. 15.6.2017. However, if the vacancies are not available, respondents would be required to either create supernumerary post or to pass appropriate order of reversion of the junior most Assistant Teacher who was promoted as Teacher.
4. The petition is accordingly allowed. Respondents are directed to consider petitioner's case for promotion to the post of Teacher within a period of 3 months and if found fit by DPC to grant him promotion with effect from the date his juniors were promoted i.e. 15.6.2017.

Sd/-
(Manindra Mohan Shrivastava)
Judge