

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2943 of 2015

Subhash Jain S/o. Late H C Jain Aged About 50 Years R/o. G- 30, Panchsheel Nagar, P. S. Civil Lines, Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Culture And Archaeology, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh
2. Director, Culture And Archaeology, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri N. Naha Roy, Advocate
For State	:	Shri Ramakant Mishra, Dy. A.G.

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

Order On Board

26/04/2018

Heard.

1. Grievance of the petitioner is that despite availability of the post and the petitioner being eligible and entitled to be considered for promotion under the Chhattisgarh Archaeology, Archives and Museums (Gazetted) Service Recruitment Rules, 1998 (in short "*the Rules*"), instead of considering him for promotion, post of Assistant Engineer is being filled-up by way of deputation.
2. Learned counsel for the State would submit that the post is to be filled-up by way of deputation and as and when eligible person is available, consideration for promotion shall take place.
3. The Rules are very clear in the matter of promotion to the post of Assistant Engineers. In Column No. (2) at Sr. No. (6) of Schedule-II appended to the Rules, it has been clearly recorded that these posts are to be filled-up hundred

percent by promotion and in the remark, it has been said that if the eligible person is not available for promotion, then only the mode of deputation or transfer would be taken recourse to.

4. There is no dispute with regard to eligibility of the petitioner. This Court fails to understand why the respondents are not holding DPC and filling the post only by way of deputation and entering into unnecessarily and uncalled for communications.
5. Where Rules provide filling up of the posts by way of promotion, right to be considered for promotion according to the Rules has been recognized as a fundamental right which cannot be denied. Let the petitioner's case be considered for promotion according to the Rules and no further deputation exercise shall be undertaken by the respondents by avoiding to consider promotions in accordance with the Rules. The DPC is required to be held in the present year itself in view of statutory mandate enumerated under Rule 13 (2) of the Rules, which obliges the authority to hold DPC every year.
6. The petition is accordingly disposed off with the observation and direction as above.

Sd/-
(Manindra Mohan Shrivastava)
Judge