

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5568 of 2018**

Shivnandan Singh Thakur S/o Late Shri Hari Shankar Thakur Aged About 65 Years R/o C/o Shri Hari Medical Stores, Mission Hospital Complex Police Station Seoni, District Seoni Madhya Pradesh

---- Petitioner**Versus**

Chhattisgarh Khadi Tatha Gramodyog Board, Through The Managing Director, Mahatma Gandhi Smriti Bhawan Kankali Para Road, Sports Complex Premises Raipur Chhattisgarh.

----Respondents

For Petitioner	:	Mr. N. Naha Roy, Advocate
For Respondent	:	Mr. R.S. Marhas, Advocate along with Ms. Anubhuti Marhas Advocate

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

1. Though the petitioner has retired and filed the present writ petition after retirement, but his grievance is that the petitioner while he is in service was working as an Inspector under the respondents the petitioner was issued with a charge sheet on 23.05.2008 contemplating a departmental enquiry and the departmental enquiry was also pending consideration. Meanwhile the department conducted a DPC on 12.03.2013 and in the said DPC also the petitioner was within the zone of consideration, but the petitioner's case was not considered on account of the pendency of the departmental enquiry. Thereafter again a review DPC was conducted on 09.05.2013, where again the petitioner was found not suitable for promotion on account of the pendency of the departmental enquiry.

2. It would be relevant at this juncture to mention that pending a departmental enquiry the only option available to the respondents was to scrutinize the case of the petitioner for promotion and keep the recommendation of the DPC in a sealed cover, which in the instant case has not been adopted.
3. Meanwhile the person immediate junior to the petitioner namely Anant Ram Pradhan has been granted promotion. The petitioner now submits that meanwhile the departmental enquiry has been concluded and he has been exonerated of all the charges which were leveled against him and as such the petitioner would be entitled for all the consequential benefits that would otherwise accrue to him, had he not been subjected to a departmental enquiry.
4. The petitioner in this regard has made couple of representations to the respondents, which till date has not been adjudicated upon. The law in this regard is well settled by now that it was incumbent upon the respondents to have considered the case of the petitioner after the departmental enquiry culminated in the exoneration of the petitioner, for promotion from the date his immediate junior was promoted.
5. Let the respondents take a decision on the representation of the petitioner on his claim for promotion with consequential benefits including revised retiral dues from the date his immediate junior was promoted i.e. on 17.05.2013 within a period of 60 days from today.
6. In addition, the petitioner would also be at liberty to file another representation in respect of his claim supported with all relevant

documents and the settled legal positions as laid down by the Hon'ble Supreme Court in this regard.

7. The writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved