

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 6103 OF 2018**

D.K. Agrawal S/o Late Shri N. L. Agrawal Aged About 60 Years
Presently Posted As Project Director (ADB- Project, PWD), Sirpur
Bhawan, Civil Lines, Raipur, Chhattisgarh.

...**Petitioner(s)**

Versus

1. State Of Chhattisgarh Through Secretary, Public Works Department, Mahanadi Bhawan Mantralaya, New Raipur, District Raipur, Chhattisgarh.
2. Public Service Commission Through Its Secretary, Saheed Bhagat Singh Chowk, Shankar Nagar, Raipur, District Raipur, Chhattisgarh.

... **Respondent(s)**

For Petitioner	:	Shri Anup Majumdar, Advocate.
For Respondent-State	:	Shri SP Kale, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18.09.2018

1. Heard on admission.
2. The substantial relief which the petitioner has sought for in the present petition is what is envisaged in paragraph 10.2 and 10.3 of the writ petition which for ready reference is reproduced herein under:

“10.2. That the Hon'ble court may be kindly pleased to adjudicate and declare that the adverse entry recorded in the CR of the petitioner for the year, 1989 is illegal, non-est, void ab-initio and not liable to be considered.

10.3. That, this Hon'ble court may kindly be pleased to expunge the adverse entry made in the Annual Confidential Report of the year 1989 of the petitioner.”

3. From a plain reading of the aforementioned relief sought for it appears that the grievance of the petitioner is primarily the alleged adverse remarks made in his ACR for the year, 1989 which the

petitioner seeks to challenge at this juncture in the year, 2018 i.e. after a period of more than 29 years from the date the cause of action arose. Further reading from the contents of the writ petition it appears that the present writ petition has been filed apprehending action on the part of the State of Chhattisgarh while implementing the decision of the Madhya Pradesh High Court in WP No.3412 of 2015 decided on 16.07.2018. While disposing of the said writ petition, the Division Bench of MP High Court had ordered for redrawing of the seniority in accordance with law in the light of the decision rendered by the Supreme Court on the issue of seniority in the respondent-department.

4. At the same time, it is also an apprehension of the petitioner that in the course of redrawing of the seniority as ordered by the MP High Court, in all likelihood some of the officers under the respondents who are presently posted below the petitioner may get an advantage of seniority as ordered by the High Court of MP as also by the Supreme Court on the issue and in the process they could be placed over the above the petitioner. It is also an apprehension of the petitioner that it is not just a placement of the petitioner below some of his juniors as of now, there is also a likelihood of the petitioner losing the present status and position or the post that he is currently holding.
5. The further contention of the petitioner is that while redrawing the seniority and also considering the promotional prospects of other candidates and comparing the same with that of the petitioner, the ACR of the year, 1989 could become detrimental to the interest of

the petitioner and therefore, he has preferred the present writ petition assailing the ACR or the entries made in the ACR of the year, 1989 i.e. 29 years ago.

6. It is not a case of the petitioner that he was not aware of the ACR at any point of time. The petitioner all along was fully aware of the entries made in his ACR from time to time including that of the year, 1989 and the fact that the petitioner did not at any point of time during these 29 years challenged the same, this court is of the opinion that the petitioner has infact acquiesced of his right to challenge the same after a period of three decades.
7. Moreover, this court is of the view that as on date there does not appear to be any cause of action which has arisen for this court to entertain the writ petition for the reason that all the averments and contentions which the petitioner has raised is nothing but sheer apprehension without any action or decision taken by the State Govt. It appears that the present petition has been preferred more with an intention of stalling the implementation of the order passed by the Division Bench of MP High Court referred to in the preceding paragraph without substantially challenging the same before an appropriate forum.
8. In view of the same, this court is of the opinion that no strong case is made out at this juncture for either issuance of a notice to the respondents or for issuance of an appropriate writ to the respondents. Reserving the right of the petitioner to approach the court in the event of any action or order passed by the State detrimental to the interest of the petitioner, the present writ petition in

its present form being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy
Judge