

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 6624 of 2018

1. Smt. Snehlata Minj D/o Karlus Minj, Aged About 35 Years, Presently Working As Staff Nurse, At Community Health Centre, Manora, District Jashpur Chhattisgarh.
2. Anju Baby Xalxo W/o Duryodhan Kumar, Aged About 34 Years, Presently Working As Staff Nurse, At Civil Hospital Paththalgaon, District Jashpur Chhattisgarh.
3. Ku. Nisha Aditya D/o Shri Ram Kumar Aditya, Aged About 30 Years, Presently Working As Statff Nurse, At Primary Health Centre, Chungadi, District Surajpur Chhattisgarh.
4. Smt. Rambha Mishra W/o Umesh Kumar Mishra, Aged About 42 Years, Presently Working As Staff Nurse At Community Health Centre, Bishrampur, District Surajpur Chhattisgarh.
5. Smt. Lalita Singh W/o Balbhadra Singh, Aged About 42 Years, Presently Working As Staff Nurse, At Primary Health Centre, Khadgawan, District Koriya Chhattisgarh.
6. Smt. Geeta Patwar W/o Ashok Patwar, Aged About 48 Years, Presently Working As Staff Nurse, At Primary Health Centre, Belbahara, District Koriya Chhattisgarh.
7. Smt. Sharda Kashi W/o Budhram, Aged About 50 Years, Presently Working As Staff Nurse, At District Hospital Baikunthpur, District Koriya Chhattisgarh.
8. Ku. Rukhmani Suryavanshi D/o Late Keju Ram Suryavanshi, Aged About 38 Years, Presently Working As Staff Nurse, At Primary Health Centar Podi, Bachra, District Koriya Chhattisgarh.
9. Smt. Elizabeth Kindo W/o Vonod Kujur, Aged About 35 Years, Presently Working As Staff Nurse, At Community Health Centre, Chirmiri, District Koriya Chhattisgarh.
10. Smt. Prem Mani Bhagat W/o Shri Shankar Bhagat, Aged About 43 Years, Presently Working As Staff Nurse, At Community Health Centre, Shankargarh, District Balrampur Chhattisgarh.
11. Smt. Ranjita Ekka W/o Shri Amit Kumar Minj, Aged About 32 Years, Presently Working As Staff Nurse, At Community Health Centre, Narmadapur, Maipant, District Surguja Chhattisgarh.

---Petitioners

Versus

1. State Of Chhattisgarh, Through The Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Commissioner, Health Services, Atal Nagar, Raipur, District Raipur Chhattisgarh.
3. Commissioner, Health Services, Atal Nagar, Raipur, District Raipur Chhattisgarh.
4. Divisional Joint Director, Health Services, Surguja Division, Ambikapur, District Surguja Chhattisgarh.

---Respondents

For petitioners	:	Shri C.J.K.Rao, Advocate.
For State	:	Shri Ratan Pusty, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/10/2018**

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 25/09/2018 whereby the promotion orders issued to the petitioners on 01/09/2016 and 31/08/2017 have been cancelled.
2. With the consent of the parties, the matter was heard finally.
3. The primary challenge of the petitioners is that, the promotion orders issued on 01/09/2016 and 31/08/2017 are in accordance with law and also the rules and regulations governing the field and that there is no illegality or error committed by the respondents while granting them promotion earlier and therefore the impugned order is bad in law.
4. The counsel for the petitioners submits that, the impugned order is also bad in law for the reason that, the same has been issued without granting an opportunity of hearing as no show cause, no any opportunity of explanation

was provided to the petitioners before cancelling the order of promotion thereby sending the petitioners to the lower post which they were holding about 2 years back. This apparently is in violation of the basic principles of natural justice and thus prayed for setting aside the same.

5. The State counsel tried to justify the decision of the State Government on the ground that, the respondents have found that the petitioners do not have the requisite qualification for promotion and thus when it was detected by the respondents, they have passed an order correcting the error of the erroneous promotion granted to the petitioners.

6. However, the State counsel does not dispute the fact that before issuance of the impugned order Annexure-P/1, the petitioner was not granted an opportunity of hearing.

7. In the given facts admittedly the petitioners had been enjoying the benefit of promotion right from 01/09/2016 and 31/08/2017 i.e. for about 2 years by few of the petitioners and for more than 1 year by rest of the petitioner yet in spite of abruptly vide the impugned order, the promotion order of the petitioners had been cancelled without granting an opportunity of hearing.

8. In the given facts, this Court need not reiterate the settled legal position that before issuance of any order which has an adverse civil consequence in respect of an employee, an opportunity of hearing is mandatory and which in the instant case having not been complied with, the impugned order to that extent is bad in law and not sustainable.

9. Thus, the impugned order dated 25/09/2018 being not sustainable is set-aside/quashed.

10. Reserving the right of the respondents to proceed further with the matter after grant of opportunity of hearing to the petitioners and ultimately if it is found that the petitioners are not entitled or do not qualify or do not fulfill the requisite eligibility criteria as per rules and regulations governing the field, the respondents would be at liberty for passing an appropriate order.

11. With the aforesaid observation, the instant Writ Petition stands allowed.

12. Consequences to follow.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit