

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 1253 of 2010

Surendra Kumar Rawat S/o Shri Mehatter Ram Rawat, aged about 34 years, Sub-Engineer, Public Works Department, R/o Gram and Post – Sondh, Tehsil Berla, District Durg (C.G.).

---Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Public Works Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.).
2. Chief Engineer, Public Works Department, Sirpur Bhawan, Raipur (C.G.).
3. Superintendent Engineer, Public Works Department, Durg Mandal, Durg (C.G.).
4. Union of India, Through the Commander, HQ 752 BRTF (GREF), C/o 99 APO, Pin – 930 752.

---Respondents

For petitioner	:	Shri Mateen Siddiqui, Advocate.
For resp.No.4	:	Shri Rajkumar Gupta, Advocate.
For State	:	Ms. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/01/2019.

1. The instant Writ Petition has been filed seeking for the following two main reliefs:-

“(i) To kindly direct the respondent State to count the period of earlier services of the petitioner worked under Border Roads Task Force (BRTF) of General Reserve Engineer Force (GREF), such that from 25/02/2000, in the present post of Sub-Engineer, Public Works Department, State of Chhattisgarh.

(ii) To kindly direct the respondent State to consider the petitioner's seniority from the date appointment in the parent department, such that from 25/02/2000, and other consequential benefits in the present department or consider the petitioner's earlier service for promotional aspect.”

2. The facts of the case in nutshell is that, the petitioner originally was appointed with the Border Roads Organization under the Government of India on 25/02/2000. He continues to work on the said post till the year 2008. In the year 2007, an advertisement was issued by the State of Chhattisgarh for filling up of the post of Sub-Engineer in the Public Works Department. The said post of Sub-Engineer were to be filled up by way of direct recruitment. The petitioner applied for the said post and got selected and an order of appointment was issued on 20/05/2008 - Annexure-P/1. Subsequently, the petitioner is said to have obtained an No Objection Certificate (NOC) from the department for relieving him to join the services of the State Government.

3. The officer under the Border Roads Organization is said to have issued certain letters in favour of the petitioner like, issuing NOC for being relieved, then accepting the resignation of the petitioner as a technical resignation and in one of the correspondences i.e. in the Last Pay Certificate showing him to have been selected as Sub-Engineer on permanent transfer/absorption basis. It is based on these correspondences of the officers of the Border Road Organization, that the petitioner has filed the present Writ Petition seeking for the benefit of seniority on the basis of his

past service and also for the consequential benefit on the promotional front in the present department.

4. On a query being put to the counsel for the petitioner he fairly concedes that, there is no such rule position governing the service condition of the petitioner whereby he could avail the benefit that he is seeking through the present Writ Petition.

5. The counsel for the petitioner relied upon certain office memorandums and clarificatory orders of the Government of India, Ministry of Personnel Public grievances (DOPT) which refers to the consequences and benefits which an employee would be getting on technical resignation and which also deals with the lien protection.

6. However, perusal of record would clearly reflect that, all these instructions which have been referred to by the petitioner deals with the employees working under the Government of India and as such those circulars and office memorandums would not come to the aid of the petitioner for the purpose of granting the relief which he has sought of.

7. Moreover, what is relevant also to take note of is the fact that, the order Annexure-P/1 dated 20/05/2008 clearly reflect that, the appointment of the petitioner was made by way of direct recruitment. It was never required or envisaged in the advertisement that the people who were working with the Central Government Organization would be given any added advantage or protection in the event of there participating and being selected in the selection process.

8. The record would also show that, all the correspondences which the petitioner has obtained from his earlier employer i.e. the Border Road Organization the correspondences which he has obtained subsequent to the order of appointment being issued in favour of the petitioner on 20/05/2008.

9. So far as granting of the relief which the petitioner has sought for, this Court in exercise of its power under Article 226 of the Constitution of India would have to confine itself within the framework of the rules governing the service condition of the petitioner, neither the service rules under which the petitioner is presently employed, nor does the rules governing the service conditions of the previous employment permitted him to shift from the Central Government to the State Government with protection of his previous employment.

10. In the absence of any rules in respect of the claim that the petitioner has made this Court does not find any strong case made out by the counsel for the petitioner for issuance of any right in his favour.

11. The Writ Petition thus being devoid of merits deserve to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE