

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 3664 of 2003

Sunil Kumar Agrawal S/o Shri Krishan Gopal Agrawal, Occupation service, presently posted as Agricultural Engineer, Deptt. of Agriculture, Telibandha, Raipur, Chhattisgarh.

---- Petitioner

Versus

State of Chhattisgarh, through the Secretary, Department of Agriculture, Mantralaya, Dau Kalyan Singh Bhawan, Raipur, Chhattisgarh.

---- Respondent

Writ Petition (S) No. 3053 of 2010

Sunil Kumar Agrawal, S/o Shri Krishna Gopal Agrawal, Occupation service, presently posted as Agricultural Engineer, Deptt. of Agriculture, Telibandha, Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Madhya Pradesh, Through Secretary, Agriculture Department, Vallabh Bhawan, Bhopal, Madhya Pradesh.
2. Shri K.N. Dubey, Joint Director of Agriculture (Engineering), Narmada Valley Development Authority, Narmada Bhawan, Tulsi Nagar, Bhopal, Madhya Pradesh.
3. Shri A.M. Vyas, Agricultural Engineer, Directorate of Agricultural Engineering, Office Complex 'B' Block Gautam Nagar, Bhopal, Madhya Pradesh.

---- Respondents

For Petitioner	:	Mr. Ashish Shrivastava, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/01/2019

1. These are two writ petitions filed by the same petitioner and practically for the same cause of action. The whole issue revolves

around the promotion granted by the respondents on the post of “Assistant Agricultural Engineers” in excess to the quota fixed under the rules.

2. The facts relevant for the adjudication of the dispute in the present writ petitions are that the petitioner was appointed on the post of Assistant Agricultural Engineer on 10/05/83 as a direct recruit. The rules governing the field at the time of his appointment was the Madhya Pradesh Agricultural Services (Gazetted) Recruitment Rules, 1966. So far as the State of Chhattisgarh is concerned, it is the Chhattisgarh Agricultural (Gazetted) Service Recruitment Rules, 2011. The difficulty and complication arose when the respondents in excess of the 8 posts to be filled from the promotion quota, gave promotion to certain officers in excess to the ratio fixed to be filled up by way of promotion. That is to say that 5 - 6 persons were given promotion on the post of Assistant Agricultural Engineer in excess of the 8 posts which were otherwise to be filled up by way of promotion.
3. As a consequence of such complication created by the respondents, the petitioner and similarly placed direct recruits who on completion of their minimum required service period were not considered for promotion to the next promotional post of Agricultural Engineer as the persons who were earlier granted promotion in excess of the quota of 50% were considered and treated as seniors to the petitioner and other similarly placed direct recruits. Further, these persons were being considered for promotion on the promotional post of Agricultural Engineer and also to the next subsequent promotional post denying the claim of the petitioner.

4. According to the petitioner, the respondents themselves, have subsequently granted confirmation to the petitioner vide order dated 28/07/97 w.e.f. 01/04/86.
5. At this juncture, it would be relevant to take note of the fact that an identically placed person on an earlier occasion, had approached the State Administrative Tribunal vide O.A. no. 2949 of 1989 raising the same grievance. The said O.A. stood decided on 06/05/99. The order passed by the Tribunal was not further challenged by the State Government rather the State Government took a decision to comply with the order and necessary orders were passed granting relief to the applicant therein.
6. As a consequence, the date of confirmation originally given to the private respondents was cancelled and their date of confirmation was refixed placing them below the applicant therein. According to the counsel for the petitioner, since the date of confirmation of the private respondents in the OA has been refixed by the Department, the petitioner in the present writ petition would become senior to the private respondents and he should also have been considered for further promotional avenues as per the seniority list.
7. It would be relevant, at this juncture, to refer to the order Annexure P-9 dated 27/03/2000 and P-10 dated 25/04/2000 whereby the private respondents have been shown to have been confirmed from 01/05/1987 and 01/10/1987 whereas the present petitioner has been given confirmation from 01/04/1986. Counsel for the petitioner prays that the respondents may be directed to rearrange the seniority list in a manner in which the petitioner gets the benefit of promotional post as

per the seniority list ahead of his immediate juniors with all consequential benefits.

8. State Counsel, at this juncture, tried to oppose the petition on the ground that the ratio on which the Tribunal has given finding does not seem to be proper and justified. He further tried to submit that the State Government had ample powers under the Rules to relax certain provisions and invoking those powers if the State Government had granted promotion to certain persons in excess of the quota for promotees, the same cannot be said to be bad in law or in any manner arbitrary. Moreover, according to the State counsel, the private respondents, in fact, had been granted promotion much before the petitioner came in service of the State. He further submits that the present petitioner has not challenged the original promotion order and for these reasons, the writ petition deserves to be rejected.
9. Having heard the contentions put forth on either side and on perusal of record, particularly, taking note of the fact that the petitioner in the instant case stands identically placed to the applicant who had filed O.A. No. 2949 of 1989 which stood decided on 06/05/1999 except for the fact that the present petitioner had been appointed on a later date, the rest of the facts, grievances and reliefs sought for are all similar.
10. Since the respondent State have already acted upon the order passed by the Tribunal and granted the consequential benefits to the applicant therein namely Rajendra Kumar Bahre, this Court does not find any good reason why the same should not be extended to the present petitioner as well.
11. If the entire facts and factual matrix of the case remains same and out of two persons, in the case of one of the persons i.e. in the

case of Rajendra Kumar Bahre, the State has already granted the benefit coupled with the fact that there is already a judicial pronouncement against the respondent State as regards granting of promotion excess to the quota on which they were entitled for. So far as the private respondents are concerned, the position even as on date stands same as the State Government has not challenged the order of the Tribunal holding so.

12. Further, what cannot be lost sight of is the fact that as a consequence of the implementation of the order of the Tribunal dated 06/05/1999, the State Government vide its order dated 25/04/2000 has granted confirmation to the private respondents w.e.f. 01/05/1987 and 01/10/1987 whereas the petitioner has been confirmed from 01/04/1986. Accordingly, the respondent State is directed to ensure that the seniority list is revised and the petitioner is given proper seniority taking into consideration his date of confirmation. He would also be entitled for all consequential benefits.

13. Given the aforesaid facts and circumstances of the case, this Court is inclined to allow the present writ petitions also in similar terms i.e. in terms of the order dated 06/05/1999 passed in O.A. No. 2949 of 1989 and the petitioner herein also would be entitled for all consequential benefits including that of promotion and placing him over and above his immediate junior.

14. With the aforesaid direction, both the writ petitions stand allowed and disposed of.

**Sd/-
(P. Sam Koshy)
Judge**