

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2166 of 2010**

Aditya Mahapatra S/o Shri G.N.Mahapatra, Aged about 48 years, Bhairamganj Ward, Mahadev Ghat Road, Jagdalpur, District Bastar, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through the Secretary, Department of Scheduled Caste/Scheduled Tribe Development Department, DKS Bhawan Raipur, Chhattisgarh.
2. The Commissioner, Department of Scheduled Caste/Scheduled Tribe Development, Pt. Ravi Shankar Shukla University Campus, Raipur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Vinod Deshmukh, Advocate.
For Respondent/State	: Shri Jitendra Pali, Deputy Advocate General.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Order on Board****28/02/2019**

1. Heard learned counsel for the parties.
2. Admitted position is that the Petitioner was granted promotion by way of notification issued on 02.09.2009 on the post of Lecturer, Higher Secondary School/High School on a particular pay scale. It is the case of the Petitioner that in terms of such notification, he joined the post and started working but after couple of months, Annexure P/1 came to be issued on 20.04.2010 by virtue of which the order of promotion was taken away and then the writ application came to be filed.
3. When the matter was initially heard on 05.05.2010, an order of status quo as on that date, came to be passed. The order withdrawing the benefit of

promotion was issued on 20.04.2010 and the status quo order was passed on 05.05.2010 i.e. after 15 days.

4. A statement is made by learned counsel for the Petitioner that he has continued on the post by virtue of the interim order passed by the High Court and he is still holding that post.
5. If this be so, then in the peculiarity of the facts and circumstances keeping in mind that even though on 01.04.2008 when the seniority list on the basis of things as it stood then was prepared and the relevant mark-sheet was issued by the University on 21.05.2008 i.e. within a month but since the seniority list was notified on 04.03.2009 w.e.f. 01.04.2008, this fact should have been considered by the Respondents before issuing Annexure P/1 dated 20.04.2010.
6. Since the seniority list was issued on 04.03.2009 and by that time, the mark-sheet and final result of the Petitioner was already in public domain, therefore, the reason for withdrawing the order of promotion coupled with the fact that the Petitioner has continued to hold the post by virtue of the Court's order, the impugned order contained in Annexure P/1 dated 20.04.2010 is quashed.
7. The writ application is allowed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE