

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5103 of 2008

V.D. Rajoria, S/o Late Shri Harikishan Rajoria, aged about- 56 years, R/o I.T.I Daundilohara, District-Durg Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Secretary, Technical Education, Jan Shakti Niyojan, Science & Techonology, D.K.S. Bhavan, Raipur Chhattisgarh.
2. Director Chhattisgarh Employment & Training, Raipur Chattisgarh

---Respondents

For Petitioner	:	Mr. Akshay Uppal, Advocate
For State	:	Ms. Sunita Jain, Govt. Adv.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/07/2019

1. The substantial relief that the petitioner has prayed for in this petition is for a direction to the respondent to consider the case of the petitioner for promotion to the post of Training Superintendent from the post of Training Officer.
2. According to the petitioner, he has been appointed in the department in the year 1978. That in the gradation list of the Training Officers for the year 2006 and 2007 the name of the petitioner appears at serial No. 8 and serial No.2 respectively.
3. The grievance of the petitioner is that one, Shri R.K.S. Giri who was appointed in the department in the year 1982 that is much after the petitioner was appointed and whose name in the seniority list of 2006 and 2007 appeared at serial no. 11 and serial no. 03 respectively, has been granted promotion on 11.08.2008 ignoring the

claim of the petitioner. This has led to filing of the present writ petition.

4. Counsel for the respondent have entered appearance and filed their reply. Perusal of the reply would show that the same is a totally bald reply that the State Counsel could have filed with no specific details. The only objection and contention on the claim of the petitioner that the respondent has raised is that firstly, the petitioner has not impleaded his junior Mr. Giri as a necessary party and secondly, that the case of the petitioner was also considered by the DPC in which Shri Giri was promoted but the petitioner was found unfit, except of these two aspects that State Counsel has raised, there is no further details given in their reply.
5. The criteria for promotion from the post of training officer to the post of training Superintendent is "seniority-cum-merit". Under the said criteria seniority-cum-merit, the petitioner could have been found unfit only had there been a punishment in operation against the petitioner during the said period or there were serious adverse entries made in the ACR of petitioner in the preceding 5 years.
6. The reply of the respondent/State is totally silent of these two aspects. They have not given any specific details as to on what ground the petitioner was found unfit. The State also has not disputed the fact that of the petitioner being senior to Shri R.K.S. Giri.
7. In the aforesaid factual back drop of the case, this Court is compelled to draw an adverse inference from the pleading that the

state has made in their reply and is forced to allow the writ petition by directing the respondent to consider the case of the petitioner also for promotion with effect from the date his immediate junior Shri R.K.S. Giri has been promoted.

8. Pending the petition before this court, the petitioner has been crossed the age of superannuation. As such the only direction which this Court intends to provide at this juncture is that the petitioner should be granted notional promotion from the date his immediate junior was promoted till the date of the petitioners superannuation. Thereafter the actual benefit should be released to the petitioner by revising his pensionary benefit as also the retiral dues that he would have been entitled for as if he has retired from the post of training superintendent.
9. With the aforesaid direction, the writ petitions stands allowed.

Sd/-
(P. Sam Koshy)
Judge

Jyotijha