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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3238 of 2009**

Manoj Kumar Thakur S/o Late Bhaiya Lal, aged about 42 years working as Lower Division Clerk at Municipal Corporation, Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through its Secretary, Nagariya Prashasan Evam Vikas Vibhag, DKS Bhawan, Raipur, Chhattisgarh.
2. Municipal Corporation, Through its Commissioner, Municipal Corporation, Bilaspur, Chhattisgarh.
3. Rajendra Awasthi S/o Shri G.P.Awasthi, aged about 43 years, Working as Personal Secretary Commissioner, Municipal Corporation, Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Vinod Deshmukh, Advocate.
For Respondent/State	: Shri Jitendra Pali, Deputy Advocate General.
For Respondent/Corporation	: Shri A.S.Kachhwaha, Advocate.
For Respondent No. 3	: Shri Ashish Shrivastava, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Order on Board****08/02/2019**

1. Writ application came to be filed by the present Petitioner when the Respondent-Commissioner, Municipal Corporation, issued an order appointing Respondent No. 3 on the post of Private Secretary. The order in question dated 04.10.2008 is Annexure P/1.
2. The Petitioner claims that he was senior and more experienced than the private Respondent No. 3 and therefore, should have been considered for the post of Private Secretary because even in the past, he has worked in that capacity.
3. We do not get any light in any manner from the pleadings or the rules that the post of Private Secretary is a promotional post and the post on which the Petitioner has worked as a Clerk, now Assistant Grade III, is the feeder

cadre for the post of Private Secretary.

4. Both the Petitioner as well as the private Respondent No. 3, with large number of other employees were working as daily wagers at one time. Some of them got removed from service which generated a litigation which travelled upto the Hon'ble Apex Court and on the direction of the High Court and the Apex Court, a decision was taken to reinstate and regularise all such daily wagers. It seems that the regularisation has been done on the basis of vacancies available which were sanctioned vacant posts and as part of the said exercise, the Municipal Commissioner decided to regularise or appoint Respondent No.3 on the post of Private Secretary.
5. Since all the persons including the present Petitioner, especially the private Respondent No. 3 have never been appointed on the basis of any advertisement or exercise of selection but have entered the service as a daily wager and later their services came to be regularised, therefore, such adjustments were required to be made on the basis of ability, capability as well as sanctioned vacant posts available.
6. Besides, the post of Private Secretary which has certain sensitivity involved and the trust and faith of the head of the institution is of paramount consideration if he has the basic eligibility, no employee can claim as a matter of right that he has to be appointed as Private Secretary to the head of the institution specially when such post is not a promotional post from the feeder cadre, though, it can be from the pool of talent available in a particular cadre of Assistants etc.
7. In the above background and not being satisfied that any rule as such has been violated on assigning of responsibility upon Respondent No. 3 as a Private Secretary, the writ application has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE