

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 836 of 2019

Purushottam Lal Sahu S/o Late Shri G. L. Sahu, Aged About 49 Years,
Working As Assistant Grade III At Nagar Panchayat Sakri, Tahsil
Takhatpur, District- Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Nagariya Administration And Development, Mantralaya Indrawati Bhawan, Atal Nagar, Raipur, Chhattisgarh.
2. Nagar Panchayat Sakri Through Chief Municipal Officer Sakri, Tahsil- Takhatpur, District- Bilaspur, Chhattisgarh.
3. Director Nagriya Administration And Development, Mantralaya Indrawati Bhawan Atal Nagar, Raipur, Chhattisgarh.
4. Joint Director Nagariya Administration And Development, Bilaspur, District- Bilaspur, Chhattisgarh.
5. Chairman, District Selection Committee, Office Of Deputy Director, Bilaspur, Administration And Development, Bilaspur, Division, District- Bilaspur, Chhattisgarh.
6. Harish Shastri S/o Ashwani Shastri Posted At Nagar Panchayat Sakri, Tahsil Takhatpur, District- Bilaspur, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. A.K. Yadav, Advocate
For State	:	Mr. Arvind Dubey, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/02/2019

1. The challenge in the present writ petition is to the order Annexure P/1 whereby the petitioner has challenged the promotion of the respondent No. 6 on the post of Assistant Grade II from the Assistant Grade III cadre. According to the petitioner, the petitioner was initially appointed as a daily wage employee under the respondents and was discharging the duties of Assistant Grade III since 11/06/1997 onwards. Subsequently, the petitioner, when he was not being regularized, had approached this Court for a direction

to the respondents to consider the case of the petitioner for regularization and this Court vide order dated 14/07/2011 in WPS No. 3757 of 2011 disposed off the writ petition with a direction to decide the representation of the petitioner pending consideration before the department in respect of regularization.

2. The respondents, since they did not take a decision, filed a second writ petition i.e. WPS No. 1760 of 2012 which finally got disposed off on 18/12/2015 whereby this Court had directed the respondents to consider the claim of the petitioner for regularization in accordance with the law within a stipulated period of time. The record show that the petitioner, subsequently got regularized vide order dated 03/06/2016 (Annexure P-13).
3. The grievance of the petitioner is that respondent No. 6 who was directly appointed only on 18/04/2013 in the department has been promoted vide the impugned order (Annexure P-1) dated 14/12/2018. According to the petitioner, the respondent No. 6, since he was appointed for the first time in 2013, was apparently junior to the petitioner and therefore, the petitioner should have been considered for promotion ahead of respondent No. 6 and this has led to the filing of the present writ petition.
4. Having heard the contentions put forth by the counsel for the petitioner and on perusal of record, what is apparently clear is that the order of regularization of the petitioner dated 03/06/2016 does not show that the petitioner stands regularized from a retrospective date. Therefore, the regularization of the petitioner will only be considered to be prospective w.e.f. 03/06/2016. At the same time

perusal of record would show that the respondent No. 6, in fact, was not a daily wage employee, he is a direct appointee on 18/04/2013 and his seniority has been given from the date of his appointment of 2013 itself.

5. Given the aforesaid factual position, it is evidently clear that the respondent No. 6 became Assistant Grade III in the department being senior to the petitioner, as the petitioner was regularized only on 03/06/2016 and as such, he became Assistant Grade III on 03/06/2016 and the entire service rendered by the petitioner prior to 03/06/2016 was only as a daily wage employee which cannot be reckoned for the purpose of granting seniority unless specifically ordered. In view of the same, this Court does not find any strong case made out by the petitioner for interfering with the impugned order of promotion dated 14/12/2018.
6. The writ petition accordingly fails and is dismissed.

Sd/-
(P. Sam Koshy)
Judge

Harneet