

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WA No. 165 of 2019**

- Vinod Kumar Kesharwani S/o Late Shri Janak Ram Keshrwani, Aged About 54 Years, Presently Working As Assistant Commissioner, Department Of Tribal Scheduled Caste Development, Pt. Ravishankar University Parisar, Raipur Chhattisgarh, R/o A/10, Revenue Colony, Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh, Through The Secretary Department Of Tribal And Scheduled Caste Development, D.K.S. Bhavan, Mantralaya, Raipur, District Raipur Chhattisgarh.
2. The Commissioner, Department Of Tribal And Scheduled Caste Development, Pt. Ravishankar University Parisar, Raipur Chhattisgarh.
3. B.L. Mishra, Project Administrator, Integrated Tribal Department Project Dharamjaigarh, District Raigarh Chhattisgarh.
4. T.K. Vaishnav, Joint Director, Tribal Research And Training Institute, Pt. Ravishankar University Parisar, Raipur Chhattisgarh.
5. Smt. Dipti Banarjee, Deputy Commissioner, O/o Commissioner, Department Of Tribal And Scheduled Caste Development, Pt. Ravishankar University Parisar, Raipur Chhattisgarh.

---- Respondents

For Appellant	:-	Shri Hemant Kesharwani, Advocate
For Respondent-State	:-	Shri Siddharth Dubey, Dy. G.A.

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ

Hon'ble Shri Parth Prateem Sahu, J.

Judgment on Board

By

Prashant Kumar Mishra, Ag. CJ

18/04/2019

I.A. No.1

1. This is an application condonation of delay in filing the appeal.
2. For the reasons mentioned in the application, the same is allowed and the delay of four days in filing the appeal is condoned.
3. Herd on admission.
4. Appellant's writ petition (henceforth 'the petitioner') claiming promotion to the post of Deputy Commissioner/Joint Director in the Department of Tribal Development has been dismissed by the learned Single Judge for the reason that as on the date of convening of Departmental Promotion Committee (D.P.C.) i.e. 17.01.2006, petitioner was undergoing a departmental enquiry as he was suspended in August, 2004 and a charge sheet was later issued in November, 2004 and eventually petitioner was inflicted minor punishment vide order dated 22.07.2011, therefore, even if petitioner's case would have been kept in sealed cover things would not improve so far as petitioner's claim for promotion is concerned.

5. We have heard learned counsel for the petitioner and perused the record.
6. Even if the D.P.C. proceeding would state that petitioner failed to achieve the required bench mark for promotion on the basis of merit-cum-seniority, it is an admitted fact that as on the date of convening D.P.C., departmental enquiry was pending against the petitioner. Thus, the reason assigned by the learned Single Judge while dismissing the writ petition is neither perverse nor contrary to any settled legal principle of law. The writ petitioner has already retired from services.
7. Considering the entirety of the facts and circumstances of the case, we do not find any substance in this appeal, accordingly it is dismissed.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Ankit