

HIGH COURT OF CHHATTISGARH AT BILASPURWP No. 4137 of 2004

Rajesh Prasad Soni S/o Punnilal Soni, aged about 43 years, By Post Moharior, Municipal Corporation, Bilaspur, R/o New Sarkanda, Jabada-Para, Gali No.2, At present Gound Para, Near Kanjee House, Tahsil Bilaspur, District Bilaspur (C.G.).

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Local Self Department, D.K.S. Mantralaya Bhavan, Raipur, District Raipur (C.G.).
2. The Director, Local Self Department, D.K.S. Mantralaya Bhavan, Raipur, District Raipur (C.G.).
3. The Municipal Corporation, Bilaspur, Through the Commissioner, Municipal Corporation, Bilaspur, District Bilaspur (C.G.).

---Respondents

For petitioner	:	Shri Jameel Akhtar Lohani, Advocate.
For resp.No.3	:	Shri Ashutosh Singh Kachhawaha and Shri B.L.Sahu, Advocates.
For State	:	Shri Salim Kazi, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/01/2019.

1. The relief sought for in the instant Writ Petition is as under:-

“(i) That the Respondents may kindly be directed to give the Departmental Promotion dues to the present Petitioner, since the Petitioner is the regular employee working since 1987 and therefore the Committee & the Corporation should consider the case of the Petitioner for promotion to the Post of Revenue-Inspector with the effect from the date when the Promotion of the Petitioner fell due.

(ii) That this Hon'ble Court may kindly be pleased to pursue the entire records pertaining to 293 employees working on the various Post on adhoc-basis, out of which some of them are being Promoted to the Post-belonging to the Regular-Employees.

(iii) And further, allow this Writ-Petition and Pass Direction to the Municipal Corporation Bilaspur, to submit the reply as well as the record pertaining to the case-regarding the reason for not preparing the Seniority List of the Employees as per the Act & the rules framed by the Govt. and beside these had passed various order of Promotion to the adhoc-employees out of the 293 employees, and some employees out of 293, had been promoted to the Post belonging for the Regular Employees."

2. Perusal of the aforesaid relief itself would reveal that, the petitioner is seeking for promotion on the post of Revenue-Inspector with effect from 01/08/1997 onwards.

3. The substantial ground which the petitioner is claiming promotion is on the ground that, in the gradation list, the persons whose name appear at Sr.No. 4 to 21 are persons whose appointment was illegal and yet later on they have been granted promotion illegally, ignoring the claim of the petitioner whose name appear at Sr.No.22.

4. According to the counsel for the petitioner, it is only the appointment of the petitioner which is a regular appointment whereas the persons whose names reflect at Sr. No. 4 to 21 are not legal and that their services had already been terminated by the department on 10/02/1986 and the

termination also was affirmed by the High Court of Madhya Pradesh in Misc. Petition No. 782/1987 decided on 25/08/1987.

5. Perusal of record also show that, the very same persons whose petition had been dismissed by the High Court of Madhya Pradesh on 25/08/1987 have later on been promoted by the Municipal Corporation vide order dated 16/07/1997 (Annexure-P/6).

6. The instant Writ Petition has been filed in the year 2004 i.e. after about 7 years from the date on which the so called illegal appointees were promoted in July-1997.

7. From 1997 till 2004, there does not seem to be any grievance on part of the petitioner in respect of the promotion given to those persons. The petitioner also has not questioned their promotion before any Higher Authorities at any point of time except for the filing of the present Writ Petition in the year 2004.

8. Moreover, from the record it also does not reveal that, the petitioner at any point of time had questioned the continuation of the services of those persons names appear at Sr. No. 4 to 21 in between 1987 i.e. the year in which their Writ Petition got dismissed as it reveals that they were still continued in employment.

9. To add further from the perusal of the Writ Petition it reveals that, the petitioner in the present Writ Petition has not made any of those persons party to the present petition who according to the petitioner have been illegally granted promotion.

10. It also reveals from the relief clause that the order by which these persons have been promoted i.e. the order dated 16/07/1997 also has not been challenged by the petitioner in the present Writ Petition.

11. Given the aforesaid lapses in the Writ Petition this Court finds it difficult to entertain the Writ Petition and consider his claim for promotion over and above the persons who have already been granted promotion way back in the year 1997.

12. The Writ Petition for this reason alone deserve to be and is accordingly dismissed.

13. Dismissal of the instant Writ Petition would not preclude the petitioner for claiming his regular promotion in accordance with rule with the respondents on administrative side.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit