

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.4726 of 2008**

1. (Deleted) Sudarshanlal Dhruw (Dead) Petitioner No.1 Deleted As Per Court Order Dt. 26-07-2018
2. Mukesh Kumar Dhruw, S/o Shri Bhagwat Singh, Aged About 38 Years, Assistant Registrar, Co-Operative Societies, Kawardha, Distt. Kabirdham, C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary, Department of Co-Operative, D. K. S. Bhawan, Mantralaya, Raipur Chhattisgarh
2. Secretary, Department of General Administration, Mantralaya, D.K.S. Bhawan, Raipur, C.G.
3. Registrar, Co-Operative Societies, Raipur, C.G.
4. State Of Madhya Pradesh, Through Secretary, Department of Co-Operative, Vallabh Bhawan, Bhopal, M.P.
5. Shri C.L. Thakur, Aged About 51 Years, S/o Not Known To The Petitioners, Assistant Registrar, Co-Operative Societies, On Deputation At Chhattisgarh Rajya Laghu Vonopaj Evam Vyapar Sangh, Khamhardih, V.I.P. Estate, Vidhan Sabha Road, Raipur, C.G.
6. Shri Sandeep Kumar Gupta, Aged About 40 Years, S/o Not Known To The Petitioners, Assistant Registrar Audit, Co-Operative Societies, Rajnandgaon, C.G.
7. Shri Kamal Narayan Kandey, Aged About 44 Years, S/o Not Known To The Petitioners, Assistant Registrar, Co-Operative Societies, Ambikapur, C.G.

---- Respondents

For Petitioner	Shri Sharad Mishra, Advocate
For Respondent-State	Shri S. K. Mishra, PL
For Respondent Nos.5 to 7	Shri Rakesh Thakur, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra**Order On Board****04/07/2019**

1. This petition has been preferred for quashing of the gradation list of Assistant Registrars, Cooperative Societies and the order whereby the petitioner's representation for correction in the gradation list has been rejected.
2. This writ petition was preferred by Sudarshan Lal and Mukesh Kumar Dhruw, however, original petitioner No.1 Sudarshan Lal having died, now it survives for petitioner Mukesh Kumar Dhruw.
3. Admittedly, petitioner Mukesh Kumar Dhruw was directly recruited on the post of Assistant Registrar, Cooperative Societies on 23.06.1994, whereas respondent No.5 C. L. Thakur was appointed on 17.07.1992, respondent No.6 Sandeep Kumar Gupta was appointed on 11.01.1994 and respondent No.7 Kamal Narayan Kande was appointed on 21.02.1994. The appointment order in respect of petitioner Mukesh Kumar Dhruw has been filed as Annexure-P-1, whereas the appointment orders in respect of respondent Nos.5 to 7 have been filed by the State as Annexure-R-1/3 and R-1/4. Perusal of the appointment orders would indicate that the respondent Nos.5 to 7 were appointed on the subject post on the basis of their participation in the Madhya Pradesh Public Service Commission Examination held in 1991, whereas the petitioner was appointed on the basis of MPPSC Examination, 1992. Neither the petitioner nor the respondents were ever appointed on officiating basis. They were appointed on

temporary basis subject to successful completion of the probation period. However, the minutes of the meeting (Annexure-P-2) dated 24.05.1999 for considering confirmation of officiating Assistant Registrars would reflect the name of respondent Nos.5 to 7 in the list in which they were not found to be fit for confirmation.

4. Based on the minutes of the meeting and the document (Annexure-R-1/5) showing the respondent Nos.5 to 7 to have confirmed w.e.f 01.04.2008, it is argued that the petitioner having been confirmed w.e.f. 01.04.1997, he would be senior to the respondent Nos.5 to 7, who were confirmed later on 01.04.2008.
5. The papers available in the record would not throw much light as to why the persons directly recruited through PSC were treated as officiating Assistant Registrars and their cases were referred for confirmation by a DPC. If a directly recruited Assistant Registrar is on probation and was considered for confirmation but was not found fit for promotion, the natural consequence would be that the Assistant Registrar would have been discharged from service, but that did not happen and the respondent Nos.5 to 7 continued in service. It appears, the respondent Nos.5 to 7 were subsequently confirmed w.e.f. 01.04.2008 for regularizing their status but for all other purposes, they were treated as confirmed employee as they were never shown the doors if they were not found suitable for confirmation. There are no papers in the record as to what happened to their services after completion of the period of probation. The respondent State has not filed any

document to demonstrate as to whether any express order regarding successful completion of period of probation or an order extending their period of probation from time to time was ever passed in respect of respondent Nos.5 to 7.

6. It is also to be seen that the respondent Nos.5 to 7 were appointed after their appearance in the State PSC Examination, 1991, whereas the petitioner was appointed in the next State PSC Examination, 1992. Thus, the petitioner and the respondent Nos.5 to 7 belong to different batches, as is mentioned in their respective appointment orders. This aspect has also not been looked into by the Competent Authority.
7. Interestingly, when the respondent No.5 C. L. Thakur and respondent No.7 Kamal Narayan Kande moved representation in the year 2006 for correction of gradation list to place them above the petitioner Mukesh Kumar Dhruw, the said representation was rejected by the State Government and later on when they were placed above the petitioner, this time the representation was filed by the petitioner, but the same was also rejected vide Annexure-P-13. Thus, the State Government has passed two conflicting orders, one Annexure-P-4 rejecting the representation of the private respondents and the other one Annexure-P-13 while rejecting the representation filed by the petitioner.
8. In the light of what has been observed above, it appears, the respondents have not taken into consideration all the relevant aspects of the matter while deciding the representation filed by

the petitioner or the private respondents. Therefore, the petition is disposed of with direction to the concerned Secretary to examine the matter and decide the *inter se* seniority of the petitioner and the respondent Nos.5 to 7 by a reasoned order. The petitioner as well as the respondent Nos.5 to 7 shall file separate representation before the Secretary within a period of one month from today. The Secretary shall provide opportunity of hearing including personal hearing to all the parties and thereafter decide the same within next 3 months.

Sd/-
Prashant Kumar Mishra
Judge

Nirala