

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1126 of 2019**

Vijay Pandey S/o Late Shri J. N. Pandey Aged About 34 Years Working As Constable At Police Line Kanker, P. S. Kanker, Chhattisgarh. R/o Purana Nakapara, Charama, District Uttar Bastar, Kanker, Chhattisgarh., District : Kanker, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Principal Secretary, Department Of Home, Mantralaya Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director General Of Police Chhattisgarh Police Head Quarter, Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. The Inspector Director General Of Police Bastar Rang, Jagdalpur, Bastar Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
4. The Superintendant Of Police Kanker, District Uttar Bastar Kanker, Chhattisgarh., District : Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Sunil Pillai, Advocate
For State	:	Mr. Arvind Dubey, PL

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/02/2019**

1. The limited relief which the petitioner has sought for in the present writ petition is for direction to consider the case of the petitioner for promotion from the post of Constable to Head Constable.
2. The fact of the case is that the petitioner while working as Constable on an earlier occasion was inflicted with a punishment of being brought down to a minimum of the scale of Constable for a period of three years and the punishment would have a cumulative effect. The said order was challenged in an appeal. The appeal also was

rejected on 28/02/2013. Thereafter, a writ petition has been filed challenging the punishment order and the Appellate Authority's order in WPS No. 966/2013 which is still pending consideration before this Court.

3. The contention of the counsel for the petitioner is that the rigor of the punishment has come to an end on completion of five years of time that is 31/12/2017 onwards. The petitioner would thereafter be entitled for being considered for promotion. The further contention of the petitioner is that the respondents were apprehensive in granting promotion to the petitioner on account of the pendency of the WPS No. 966/2013. So far as the said writ petition WPS No. 966/2013 is concerned, this Court is of the opinion that the said writ petition would be confined only to test the veracity of the order of punishment dated 31/12/2012 and the Appellate Authority's order dated 28/02/2013. Pendency of the said writ petition should not come in the way of the petitioner for being considered for promotion, after the rigor of the said punishment order has come to an end that is on December, 2017. The petitioner further submits he has also been making repeated representations to the Department for considering him for promotion but the authorities concerned have till date not taken a decision.
4. Given the aforesaid facts and circumstances of the case particularly taking note of the fact that the rigor of a punishment order would be for specific period unless it is a capital punishment and in the instant case punishment was only confined to being brought down to the minimum of the scale for a period of three years. The fact of that punishment order comes to an end either on completion of three

years or five years period as may be the rules, thereafter the petitioner would have to be considered for promotion for the next post in accordance with the law. The petitioner's claim for promotion cannot be withheld or stalled by the department only on account of pendency of the writ petition where the challenge is only to the punishment imposed.

5. In view of the aforesaid facts and circumstances of the case the present writ petition stands disposed off with direction to respondents No. 2 & 3 to consider the claim of the petitioner for promotion from the period the rigor of the punishment has come to an end as per the service conditions governing the petitioner.
6. Needless to mention that, if the authorities find that the petitioner is entitled for promotion, then an appropriate order be passed in accordance with the rules granting him the relief of promotion.
7. The writ petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rohit