

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2207 of 2011**

D.R. Thakur, Aged about 70 years, S/o. Late Shri Sajjan Singh Thakur, R/o. Anjali Niwas, Juniwapara, Tahsil and District Kanker, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through its Secretary Tribal Welfare Department, D.K.S. Bhawan, Raipur, Chhattisgarh
2. Collector, District Uttar Bastar Kanker, Chhattisgarh (Tribal Welfare Department)
3. Assistant Commissioner, Tribal Welfare, Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate
For State	:	Ms. Abhyunnati Singh, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/11/2019**

1. The present is a second round of litigation. The first round of litigation was WPS No. 5899/2008, which was disposed of on 22.10.2008. For ready reference, the operative part of the said order is reproduced herein under:

“In view of the aforesaid submissions of learned counsel for the parties, the instant petition is disposed of with liberty to the petitioner to file fresh representation, raising all his grievances, which have been raised in this petition and on such representation being made, the State shall decide the same after due verification on its own merits in accordance with law laid down in the matter of Arjun Singh Thakur (supra), expeditiously, preferably within a period of three months from the date of receipt of representation.”

2. Pursuant to the aforesaid directions, the petitioner made a representation and the respondents vide order dated 30.05.2009 (Annexure P/4) rejected the representation. The representation of the petitioner has been rejected on the ground that on verification of the last 5 years of ACRs of the petitioner, he did not obtain the

required marks which would have enabled him the benefit of granting of higher pay-scale/promotion. The solitary contention of the petitioner in the instant case is that the ACRs of the last 5 years were never communicated to the petitioner and he has never got an occasion for representing against the entries made in these ACRs and now those ACRs have been proved to be detrimental to the interest of the petitioner. The petitioner relies upon the judgment of the Hon'ble Supreme Court in the case of “**Dev Dutt v. Union of India and others**” reported in (2008) 8 SCC 725.

3. On perusal of the impugned order, this Court also finds that there is no reference of the entries/gradings which have been given to the petitioner in the last 5 years. The petitioner as such has never had an occasion of representing to the higher authorities for up-gradation of any of the entries/gradings made in the said ACRs.
4. Given the said facts, this Court is of the opinion that the principles laid down in the case of “**Dev Dutt**” (supra) would become applicable in the instant case also.
5. Keeping in view the observations and directives given by the Hon'ble Supreme Court in the case of “**Dev Dutt**” (supra), this Court is of the opinion that in the instant case also since the ACRs have not been communicated to the petitioner and the entries in the ACRs of the last 5 years have proved to be detrimental to the petitioner. The findings of the authorities outrightly rejecting the claim for grant of Kramonnati does not seem to be proper. Applying the analogy laid down in the case of “**Dev Dutt**” (supra), this Court is inclined to allow the present writ petition with a direction to the respondents to

provide the ACRs of last 5 years before his retirement to the petitioner and permitting the petitioner to make a representation to the higher authorities on the entries so made. Further that in the event, if the representations are decided in favour of the petitioner or the entries or gradings made in these ACRs and the same are upgraded, then the case of the petitioner be reconsidered for grant of Kramonnati and appropriate order be passed at the earliest.

6. Let the respondents provide a copy of the ACRs of the last 5 years before his retirement to the petitioner within a period of 90 days from the date of receipt of the copy of this order. The petitioner shall be entitled to make a representation against those ACRs within a further period of 45 days from the date of receipt of the ACRs by the Department and thereafter the authorities shall take a further decision within a further period of 90 days from the date of receipt of the representation.
7. With the aforesaid observations, the present writ petition stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved