

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3620 of 2019

1. Pawan Kumar Agrawal S/o Late Tara Chand Agrawal Aged About 43 Years Presently Posted As Civil Judge Class - I, Raipur District Raipur Chhattisgarh.
2. Pankaj Dixit, S/o Shri N.D. Dixit, Aged About 48 Years Presently Posted As Civil Judge Class – I, Gunderdehi, District - Balod Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through Principal Secretary, Department of Law And Legislative Affairs, Mahanadi Bhawan Mantralaya, New Raipur District - Raipur Chhattisgarh.
2. Secretary, Chhattisgarh State Public Service Commission, Shankar Nagar Raipur District Raipur Chhattisgarh.
3. High Court of Chhattisgarh, Through - Registrar General, High Court of Chhattisgarh, Bodri Bilaspur Chhattisgarh.
4. Nidhi Sharma W/o Devesh Tiwari, Aged About 36 Years Currently Posted as ADJ Mahasamund, District Mahasamund (2006 Batch).
5. Anand Prakash Dixit, S/o B S Dixit, Aged About 33 Years Currently Posted as Chief Judicial Magistrate Raipur District Raipur Chhattisgarh. (2008 Batch).
6. Amit Jindal S/o Shri V. K. Jindal, Currently Posted as Civil Judge Class - I, Janjgir Chapa (2012 Batch).

---Respondents

For Petitioners	:	Smt. Surya Kawalkar Dangi, Advocate.
For State	:	Shri Arvind Dubey, Panel Lawyer.
For Respondent No.2	:	Shri Ashish Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/05/2019

1. The present writ petition has been filed seeking quashment of the order dated 24.06.2016 (Annexure P/1) i.e. rejection of the representation which the petitioners have made seeking for grant of seniority and consequential benefits in the gradation list of Civil Judge, Class-II.
2. The facts of the case is that, the petitioners appeared for selection as Civil Judge, Class-II in the cadre of Chhattisgarh Lower Judicial Service vide the advertisement published in the year, 2003. The petitioners were not found selected. Aggrieved by their non selection, the petitioners had filed a writ petition i.e. WP No.1827 of 2004. The grievance of the petitioners was

that, the horizontal reservation of 30 percent for women have not been correctly applied by the respondents and thereby the petitioners could not get selected.

3. The writ petition finally stood allowed on 02.05.2012 directing the respondents to grant appointment to the petitioners. However, while disposing of the writ petition, the Division Bench of this Court had made the following observations:

“The seniority of the petitioners will, however, be reckoned from the date of their appointment.”

4. Pursuant to the directions given by the Division Bench, the petitioners finally got their appointment orders issued on 08.07.2013. The petitioners without any objection immediately accepted the appointment and joined the service. Later on, the petitioners made a representation for grant of proper seniority claiming that subsequent to the selection that were made from the advertisement published in the year, 2003 in which the petitioners also have finally got selection, there were few more batches of Civil Judges appointed from the subsequent selection who had all joined their services. That, by virtue of the appointment order issued in the year, 2013 the petitioners have become junior to all these Civil Judges who had got appointed during the intervening period. The petitioners have prayed for grant of proper seniority by being placed in the batch of the Civil Judges appointed from the advertisement of the year, 2003.
5. The said representation of the petitioners stood rejected on 24.06.2016 i.e. the impugned order in the present writ petition.
6. After rejection of the representation, the petitioners thought it fit of filing an MCC seeking for clarification of the order dated 02.05.2012 passed in WP No.1827 of 2004. The said MCC was registered as MCC No.681 of 2016. The Division Bench of this Court vide its order dated 28.09.2016 rejected

the MCC also holding that the order dated 02.05.2012 does not suffer from any ambiguity. The petitioners thereafter did not further challenge the order dated 02.05.2012 or the order dated 28.09.2016, as such, the order dated 02.05.2012 attained its finality.

7. The petitioners now after a further period of three years have filed the present writ petition seeking for quashment of the order dated 24.06.2016.
8. Perusal of records, particularly the aforementioned factual matrix of the case would clearly reflect that the Division Bench of this Court while deciding WP No.1827 of 2004 had in a very categorical terms held that so far as the seniority of the petitioners are concerned, the same shall be reckoned from the date of appointment. The petitioners, if at all, if aggrieved by the said observation, ought to have challenged the same further at that point of time. The petitioners did not do so. Again in the year 2016 the petitioners had moved an MCC seeking clarification of the said observation of the Division Bench. The MCC also stood rejected on 28.09.2016. The petitioners even then did not thought it appropriate for challenging the same before the higher authorities.
9. In view of the same, the directions given by the Division Bench of this Court so far as seniority of the petitioners are concerned, the same has attained its finality. In the backdrop of such direction of the Division Bench of this Court in WP No.1827 of 2004, this court does not find any strong case made out by the petitioners calling for an interference with the impugned order of rejection of representation which has been rejected only on the ground of the direction given in the order dated 02.05.2012 in WP No.1827 of 2004.
10. The writ petition accordingly fails and is rejected.

Sd/-
(P. Sam Koshy)
Judge