

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3424 of 2019

Krishna Kumar Pandey S/o Late Shri R. S. Pandey, Aged About 50 Years, Presently Posted As Grade III At State Urban Development Agency, Indrawati Bhavan, New Raipur, District Raipur Chhattisgarh. R/o KVT - 116, Kabir Nagar, Police Station - Kabir Nagar, Raipur, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Transport, Mahanadi Bhavan, Village - Rakhi, New Raipur, District Raipur Chhattisgarh
2. Secretary, Department Of Urban Administration And Development, Mahanadi Bhavan, Village - Rakhi, New Raipur, District Raipur Chhattisgarh
3. Municipal Corporation, Birgaon, Through Its Commissioner, Birgaon, District Raipur, Chhattisgarh
4. The Commissioner, Municipal Corporation, Birgaon, Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Yogesh Pandey, Advocate
For State	:	Mr. Ishan Verma, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/05/2019

1. With the consent of the parties the matter was heard finally at the motion stage.
2. The Challenge in the present writ petition is to the order Annexure P-10 dated 20.02.2019. Vide the said order the respondents have changed

the date from which the petitioner would be entitled for seniority and have granted the benefit of seniority to the petitioner from the date of absorption in the department which previously was granted to the petitioner from the date he had been sent on deputation i.e. w.e.f. 03.09.2004.

3. The facts of the case are that the petitioner was substantively an employee of the erstwhile MPSRTC and subsequent to the formation of the State of Chhattisgarh, the employees, assets and liabilities of MPSRTC lying within the State of CG were handed over to the nodal agency of the Chhattisgarh Infrastructure Development Corporation (in short "CIDC"). Subsequently, the CIDC sent the petitioner on deputation to respondent no.3 Municipal Council Birgaon on deputation w.e.f. 03.09.2004. Working on the said post on deputation from 2004 the services of the petitioner finally stood absorbed on 27.11.2015. Initially, the petitioner was granted seniority from the date he was sent on deputation to respondent no.3 i.e. from 03.09.2004 onwards. However, vide impugned order dated 20.02.2019, the department seems to have taken a different stand and now have passed the impugned order holding that the petitioner would be entitled for seniority only from the date of absorption under respondent no.3 and not from the date the petitioner was sent on deputation to respondent no.3.
4. At this juncture, it would be relevant to reproduce Rule 12 (2) (c) of the Chhattisgarh Civil Services (General Conditions of Services) Rules, 1961 which is as under:

“In the case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for 'transfer on deputation/transfer") his seniority in the grade in which he is absorbed will normally be counted from the date of

absorption. If he has however been holding already (on the date of absorption) the same or equivalent grade on regular basis, in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority, from the date he has been holding the post on deputation or the date from which he has been appointed on a regular basis to the same or equivalent grade in his present department whichever is later.”

5. A plain reading of the aforesaid rule provision itself would make it clear that in a given case where an employee is initially sent on deputation and he subsequently stands absorbed to the same department, his seniority would be counted from the date he is sent on deputation which in the instant case is 03.09.2004.
6. Given the aforesaid factual matrix of the case, the impugned order Annexure P-10 is apparently without any basis and does not seem to be a reasoned order so as to appreciate as to the circumstances which compelled the respondent authorities to pass such an order.
7. Given the aforesaid rule position as it stands and also taking note of the fact that the petitioner had been earlier granted seniority from the date he was sent on deputation, the impugned order is not sustainable and the same deserves to be and is accordingly set aside/quashed directing the respondent authorities to pass an appropriate order granting seniority to the petitioner in accordance with law, particularly taking note of the provisions of Rule 12 (2) (c) of the Chhattisgarh Civil Services (General Conditions of Services) Rules, 1961.
8. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge