

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3995 of 2007

1. Gautam Chand Baid, S/o Late Shri Rajmal Baid, Aged about 59 years, presently working as Assistant Food Officer in the Food Section of Collectorate, Raipur; R/o M-32, Rajiv Nagar, Kapa, Raipur District-Raipur (CG).
2. Jayprakash Singh Banafer, S/o Santosh Singh Banafer; Aged about 57 years; presently working as Assistant Food Officer in the Food Section of Collectorate, Raipur; R/o 145, Agyey Nagar, Bilaspur, District- Bilaspur (CG).
3. Bhagwati Prasad Sharma, S/o Shri Shyam Sunder Sharma; Aged about 54 years, presently working as Assistant Food Officer in the Food Section of Collectorate, Raipur; R/o 1-Sachdev Bhawan, Golden Homes, near VIP Club, PO Shanker Nagar, Khamhardih, Raipur, District- Raipur (CG).

---- Petitioners

Versus

1. State Of Chhattisgarh, through the Secretary, Department of Food & Civil Supplies, Mantralaya DKS Bhawan, Raipur (C.G.)
2. State of Chhattisgarh, through the Secretary, General Administration Department, Mantralay DKS Bhawan, Raipur (C.G.)
3. Director, Food & Civil Supplies Department, R/o 38 Anand Nagar, Raipur (C.G.)
4. M.R.S. Paikra, presently working as Assistant Food Officer Korla, District- Korla (CG)
5. Gokul Ram Korram, presently working as Assistant Food Officer Sarguja, District- Sarguja (CG).
6. Basant Kumar Korram; presently working as Food Inspector, Dhamtari, District- Dhamtari (CG)
7. Shatrughan Verma, Presently working as Asstt. Food Officer, Kanker, Distt. Kanker (C.G.)

---- Respondents

For Petitioners
For Respondent-State

Shri Vinod Deshmukh, Advocate
Ms. Fouzia Mirza, Addl. AG

Hon'ble Justice Shri Prashant Kumar Mishra

Order On Board

17/10/2019

1. Challenge herein is to the order dated 20.06.2007 by which the respondent Nos.4 to 7 have been promoted to the post of Food Officer from the post of Assistant Food Officer by applying the Chhattisgarh Public Services (Promotion) Rules, 2003.
2. Admittedly, the petitioners were senior to the respondent Nos.4 to 7, yet they were not promoted and the private respondents were promoted by applying the roaster system for the reason that out of 14 sanctioned posts, 10 posts were already filled up by promotion and the remaining 4 posts are to be filled under the roaster system, in which these posts have fallen in the share of reserved category candidates.
3. The Division Bench of this Court in the matter of **Sharad Kumar Shrivastava and others vs Chhattisgarh State Power Companies Limited and others, Writ Appeal No.409/2013**, decided on **04.02.2019**, and other connected matter, has quashed the Rules, 2003 to the extent of providing reservation in promotion to the extent it falls foul of **M. Nagaraj and others vs Union of India and others**¹ and **Jarnail Singh and others vs Lachhmi Narain Gupta and others**².
4. In this petition, an interim order was passed on 01.05.2017 staying the impugned promotion order, yet no one appears for the private respondents to defend the writ petition.

¹ (2006) 8 SCC 212

² (2018) 10 SCC 396

5. In view of the above, considering the law laid down by this Court in the matter of **Sharad Kumar Shrivastava** (supra) and for the fact that the said part of the Rules, 2003, which has been invoked to accord reservation in promotion for the benefit of respondent Nos.4 to 7, has already been quashed, the present writ petition is allowed. The impugned promotion order dated 20.06.2007 is quashed.

Sd/-
Prashant Kumar Mishra
Judge

Nirala