

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 483 of 2019**

*{Arising out of order dated 13.09.2018 passed by the learned Single Judge in Writ
Petition (S) No. 6742 of 2010}*

1. State of Chhattisgarh, through its Secretary, Water Resources Department,
Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur, Chhattisgarh.
2. Additional Secretary, Water Resources Department, Mahanadi Bhawan, Nava
Raipur, Atal Nagar, District Raipur, Chhattisgarh.
3. Engineer-in-Chief, Water Resources Department, Sector-19, Shivnath Bhawan,
Nava Raipur, Atal Nagar, District Raipur, Chhattisgarh.
4. Executive Engineer, Water Resources Department, Raigarh, District Raigarh,
Chhattisgarh.

---- Appellants**Versus**

1. Uttam Kumar Shrivastava, S/o Shri I.C. Shrivastava, aged about 43 years,
presently posted as Sub-Engineer Civil at Water Resources Division Raigarh,
District Raigarh, Chhattisgarh.
2. B.R. Jaadon, age unknown, Presently posted at Water Resources Division,
Kota, Bilaspur (C.G.)

---- Respondent

For Appellants/State	:	Shri Sudeep Agrawal, Deputy Advocate General.
For Respondent No. 1	:	Shri Rahul Tamaskar, Advocate.
For Respondent No. 2	:	Shri Pankaj Singh and Shri Sabyasachi Bhaduri, Advocates.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

18.10.2019

1. I.A. No. 1 of 2019, application for condonation of delay of 303 days in filing the writ appeal, is allowed for the reason stated therein.
2. Challenge is against the judgment dated 13.09.2018 passed by the learned Single Judge, whereby the writ petition filed by the Respondent No. 1 was allowed so as to grant benefit of promotion to him in the manner which was given to similarly situated person (as put forth by the Petitioner) by name Shri B.R. Jaadon.
3. Heard Shri Sudeep Agrawal, the learned Deputy Advocate General for the Appellants/State, Shri Rahul Tamaskar, the learned counsel appearing for Respondent No.1 and Shri Pankaj Singh and Shri Sabyasachi Bhaduri, the learned counsel representing the Respondent No.2.
4. The prayers in the writ petition are in the following terms:

“10.1 That the Hon'ble Court may be pleased to call for entire records pertaining to the case.

10.2 That the Hon'ble Court be pleased to direct the Respondent Authorities consider the case of the Petitioner for promotion and further direct the Respondent Authorities to grant him promotion over and above his junior.

10.3 That the Hon'ble Court may be pleased to direct the Respondent Authorities to give all the consequential benefits to the petitioner from the date of promotion of his junior.

10.4 That Hon'ble Court may be pleased to pass any other order as it may deem fit in the interest of justice.”

5. On going through the verdict passed by the learned Single Judge, it is seen that the denial of promotion to the writ Petitioner was considered and held that, since under circumstance benefits were given to the 5th Respondent herein by name Shri B.R. Jaadon, the writ Petitioner's case was also liable to be considered to decide the eligibility in similar lines. It was accordingly, that the matter was finalized and the writ petition was disposed off as per the judgment under challenge, whereby the matter was directed to be reconsidered in the light of the benefits extended to Shri B.R. Jaadon, stated as similarly situated person like the Petitioner herein. The operative portion as contained in paragraph 8 of the judgment is in the following terms:

“8. Given the said facts and circumstances of the case, this Court is of the opinion that the impugned order Annexure P/1 is not sustainable and the same deserves to be and is accordingly set aside. The matter stands remitted back to the respondents for reconsidering the case of the petitioner for promotion on the post of Assistant Engineer keeping in view the recommendation dated 30.06.2008 made by the Superintending Engineer (Administration). The authorities concerned would also take into consideration the benefits which have been extended to Shri B.R. Jaadon who is also similarly placed like that of the petitioner while deciding the claim of the petitioner. Let this exercise be concluded within a period of 3 months from the date of receipt of certified copy of this order. It is made clear that if at all if the Committee find that the petitioner is entitled for promotion, the petitioner would only be entitled for proforma benefit of promotion and all actual benefits would be prospective.”

6. The learned counsel representing the State submits that the benefit given to Shri B.R. Jaadon was subsequently found as based on a mistake and hence it was withdrawn, by conducting a review DPC on 09.08.2019.
7. The learned counsel for the 2nd Respondent herein as well as the learned counsel appearing for the 1st Respondent who was the writ Petitioner submit that the above decision taken by the review DPC has already been subjected to challenge by filing writ petition before this Court as Writ Petition (S) No. 8362 of 2019.
8. In view of the fact that the learned Single Judge has directed only to reconsider the matter in the light of benefits given to Shri B.R. Jaadon, the Appellants are at liberty to consider the matter and pass a 'speaking order', also with reference to the subsequent developments. It is open for the parties to proceed with further steps, in accordance with law, if the order stands detrimental to the rights and interest of anybody, by appropriate proceedings.
9. With the above observation, the writ appeal stands disposed off.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge