

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7939 of 2019**

Vinod Kumar Rajak S/o Shri C. R. Rajak, Aged About 60 Years, R/o House No. 3, Employees Colony Simga, PS- Simga, District- Baloda-Bazar-Bhatapara, Chhattisgarh

---- **Petitioner****Versus**

- State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh

---- **Respondents**

For Petitioners	:	Mr. N. Naha Roy, Advocate
For State	:	Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****30.09.2019**

1. The prayer of the petitioner in the present writ petition is for an appropriate direction to the respondent to reconsider his case for promotion from the post of Assistant Engineer to the post of Executive Engineer from the date when the DPC was held i.e. on 17.09.2013.
2. The contention of the petitioner is that when the DPC was last held on 17.09.2013, the petitioner was eligible for promotion and was also in the zone of consideration for promotion but on account of the disciplinary proceeding pending against the petitioner, he was not considered. The said disciplinary proceeding finally culminated in an order of punishment on 05.10.2016 whereby the respondents have

ordered for recovery of an amount of Rs.2,06,213/-. This order of punishment was subjected to challenge before this Court in WPS No.2220/2017 and the said writ petition was allowed on 09.04.2018 quashing the order of punishment with a further direction that whatever amount, if any recovered from the petitioner has to be refunded with interest. Pursuant to the order of this Court, the Department itself vide Annexure P-10 dated 19.06.2018 cancelled the order of punishment dated 05.10.2016.

3. The grievance which now is left for the petitioner is that once when the petitioner was left out of the DPC only on the ground that he was facing departmental enquiry, the moment the disciplinary action on the order passed by the Department being quashed by this Court vide order dated 09.04.2019 in WPS No. 2220/2017 and the respondents also acceding to the said order and passing the order of cancellation of the punishment order dated 05.10.2016 vide its order dated 19.06.2018, the position would stand as if the order of punishment was never in existence. If the punishment order was not in existence or no longer is in existence, the petitioner now cannot be denied of his right for consideration for promotion from the date his immediate junior has been considered in the DPC which was held on 17.09.2013.
4. Given the fact that the order of punishment has been quashed by this Court on 09.04.2018 in WPS No. 2220/2017 which has been accepted by the Department vide their order dated 19.06.2018 Annexure P-10, this Court does not find any good reason why the case of the petitioner now should not be considered by holding a review DPC as it stood on 17.09.2013 subject to verification of the fact whether the

petitioner was deprived of promotion only on account of the aforementioned disciplinary proceedings and also verifying the fact whether the petitioner fulfills other requisite eligibility criteria for promotion or not. Let this exercise be completed in accordance with the rules at the earliest preferably within a period of 4 months from the date of receipt of copy of this order.

5. With the aforesaid observation the writ petition stands disposed of.

**Sd/-
P. Sam Koshy
Judge**