

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 8534 of 2018

Rakesh Yadav S/o Shri Madan Mohan Yadav Aged About 42 Years Police Sub Station Suragi, Police Station Basantpur , District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Principal Secretary, Department Of Home, Mantralaya, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director General Of Police Police Head Quarter, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Inspector General Of Police (Administration) Police Head Quarter, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. The Inspector General Of Police Surguja Rang, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- **Respondents**

For petitioner	:	Shri Sunil Verma, Advocate.
For State	:	Ms. Sunita Jain, PL

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/01/2019

1. The petitioner who is Sub-Inspector is aggrieved by the decision on the part of the respondents in not considering grant of promotion to the petitioner on the post of Inspector.
2. According to the petitioner when the DPC was convened on the earlier occasion, the case of the petitioner was excluded on account of departmental enquiry which was pending against the petitioner. According to the petitioner, the petitioner could not have been excluded from the zone of consideration on account of the pendency of the departmental enquiry rather his case should have been considered and placed under sealed cover till the outcome of the departmental enquiry. The petitioner further submits that departmental enquiry also has since been concluded and he has been inflicted only with a fine amount which has also been deposited. Therefore, the authorities concerned now should consider the case of the petitioner for grant of promotion. Imposition of fine cannot

be considered as penalty which could hamper the promotional avenues. Counsel for the petitioner refers to the decision of the Supreme Court in the case of **Union of India and another Vs. S. C. Parashar reported in 2006 (3) SCC, 167**. He prays that the concerned authority be directed to consider the case of the petitioner in the light of the judgment of the Supreme Court in the case of **S.C. Parashar**(Supra).

3. Taking into consideration the entire facts and circumstances of the case particularly, taking note of the fact that promotion to the petitioner was denied on account of pendency of the departmental enquiry. Departmental enquiry has since been concluded, the petitioner has not been inflicted with the major penalty. The petitioner was imposed with only a fine and the fine amount has also been deposited. Even if the petitioner at that relevant point of time could not be considered for promotion but subsequent to the departmental enquiry getting concluded and he was inflicted only a minor penalty of fine, the Petitioner deserves to be considered for promotion to the next higher post.

4. Let respondents in the light of the aforesaid facts and circumstances of the case consider the case of the petitioner a fresh, as the departmental enquiry having been concluded and the petitioner having been inflicted with only a minor punishment which should not come in the way of grant of promotion to the post of Inspector. Let the petitioner's case be considered for promotion in accordance with the promotional rules and guidelines applicable and an appropriate decision be taken at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.

5. The writ petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE