

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2050 of 2011**

Raghunandan Singh, S/o. Late Kamla Singh, Aged about 45 years,
Occupation Head Constable No.206, Police Station Kotadol, District Korea,
Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh, through: Home Department, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh
2. The Director General of Police, Police Headquarter, Raipur, Chhattisgarh
3. The Inspector General of Police, Surguja Range, Ambikapur, District Surguja Chhattisgarh
4. The Superintendent of Police, Baikunthpur, District Korea, Chhattisgarh
5. Shiv Kumar Yadav, Occupation Head Constable No.266, Police Station Sonhat, District Korea, Chhattisgarh
6. Ramesh Toppo, Occupation Head Constable No.81, Police Station Sonhat, District Korea, Chhattisgarh
7. Chitbahor Yadav, Occupation Head Constable No.265, Police Station Baikunthpur, District Korea, Chhattisgarh
8. Chadheshwar Ram, Occupation Head Constable No.278, Police Station Sonhat, District Korea, Chhattisgarh
9. Umashanker Tripathi, Occupation Head Constable No.237, Police Station Kolhari, District Korea, Chhattisgarh
10. Rajendra Pratap Singh, Occupation Head Constable No.113, Police Station Patna, District Korea, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Shakti Raj Sinha, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G. along with Ms. Sunita Jain, G.A.

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

26/06/2020

1. The present writ petition was filed claiming for the following reliefs:
 - 10.1 That, the Hon'ble Court may kindly be pleased to call the entire records concerning the case of the departmental examination for promotion from the respondents authorities.
 - 10.2 That, this Hon'ble Court may kindly be pleased to set-aside the departmental examination for promotion held on 10.04.2011.

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondents authorities to re-conduct the examination allowing the petitioner to appear in the same.

2. According to the petitioner, he was working on the post of Head Constable when the Department had advertised for conducting a departmental examination for promotion to the post of Assistant Sub-Inspector. The examination was proposed to be held on 10.04.2011, however the petitioner was denied participation in the said examination, which lead to the filing of the present writ petition.
3. The writ petition was admitted on 05.05.2011 and it was held by this Court while admitting the writ petition that any decision by the respondents shall be subject to the outcome of the present writ petition.
4. It has been informed that the petitioner was deprived of his right to participate in the examination on account of the charge-sheet, which was issued to the petitioner on 22.07.2009 and a departmental enquiry being contemplated. Initially, the petitioner had also challenged the issuance of charge-sheet and initiation of the departmental enquiry by a separate writ petition registered as WP(S) No. 6789/2009. The said writ petition stood allowed vide the judgment of this Court on 23.07.2018. While allowing the writ petition this Court had quashed the charge-sheet dated 22.07.2009 and also the departmental enquiry initiated pursuant the said charge-sheet with a specific direction of consequence to follow.
5. Now the present writ petition has come up for hearing today after a lapse of about 10 years. The claim of the petitioner originally was for canceling the examination held on 10.04.2011 or atleast permit the petitioner to appear in the said examination. From the pleadings of the State Government, it appears that the petitioner was deprived from appearing in the examination only on account of the pending charge-

sheet dated 22.07.2009. Now that charge-sheet has been quashed by this Court in WP(S) No. 6789/2009 and the order passed by this Court has since attained finality. As a result of quashment of the charge-sheet and with an order of consequences to follow, the natural effect would be that the disqualification for the petitioner to appear in the departmental examination does not exist any further. He is entitled for participating in the departmental examination or he stands entitled to participate and be treated at par with his immediate junior.

6. Since the order of this Court in WP(S) No. 6789/2009 has attained finality, the charge-sheet stands quashed and the departmental enquiry stands dropped this Court is of the opinion that the petitioner as on date becomes eligible to be considered for promotion to the post of Assistant Sub-Inspector at par with his immediate junior, who got promoted way back in the year 2011 itself.
7. The State counsel at this juncture submits that the petitioner was not entitled for participating in the departmental examination on account of his suffering from a disqualification of facing departmental enquiry as there was a charge-sheet dated 22.07.2009 with a departmental enquiry contemplated. The petitioner therefore admittedly was not entitled for promotion up till the date when WP(S) No. 6789/2009 was allowed on 23.07.2018. According to the State counsel, any relief that can be granted to the petitioner can only be prospective, it cannot be retrospective as the petitioner was admittedly undergoing a departmental enquiry till July, 2018.
8. Having heard the contentions put forth on either side and on perusal of record, from the averment made in the preceding paragraphs admittedly there was a charge-sheet issued to the petitioner on

22.07.2009 contemplating a departmental enquiry. The said issuance of charge-sheet and initiation of departmental enquiry was subjected to challenge in WP(S) No. 6789/2009. The writ petition was allowed on 23.07.2018. As a consequence of allowing of the said writ petition, the charge-sheet and the departmental enquiry initiated does not exist any further. In between, the Department had advertised and conducted the departmental examination for promotion to the post of Assistant Sub-Inspector. At that point of time the petitioner was refused participation on account of his facing the charge-sheet. Now that the charge-sheet and the departmental enquiry has been quashed and no longer survives, the petitioner becomes eligible for being considered for promotion to the post of Assistant Sub-Inspector, subject to there being no other disqualification in between that has occurred. In WP(S) No. 6789/2009 this Court has specifically ordered consequences to follow, which means that any consequence that has been found detrimental to the interest of the petitioner has to be restored back.

9. Since the departmental examination proposed on 10.04.2011 for promotion to the post of Assistant Sub-Inspector has already been conducted, all that the relief that the petitioner can be granted at this stage is a direction to the respondents-State to conduct a fresh departmental promotion examination for the petitioner, if he is otherwise found eligible in all other respects and subject to the petitioner passing the said examination, the concerned authority shall take appropriate steps in granting promotion to the petitioner at par with his immediate junior who got promoted in the examination held on 10.04.2011.
10. It is made clear that since admittedly till 23.07.2018, there was a disciplinary proceeding pending against the petitioner, this itself was a

disqualification till that date for the petitioner to appear in the examination, therefore the promotion which the petitioner would be getting at par with his immediate junior would only be on notional basis without any monetary impact and monetary benefit and all benefits would only accrue prospectively. However, the seniority of the petitioner on the promoted post should be placed at par with his immediate junior promoted from the examination held on 10.04.2011.

11. Considering the fact that the writ petition being of the year 2011, it is expected that the respondents shall take necessary consequential steps within an outer limit of 4 months.
12. With the aforesaid observations, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved