

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4568 of 2011**

1. Bohran Lal Gendre, S/o Shri Hirou Ram Gendre, aged about- 46 years, R/o – Quarter No.H-4, I.T.I. Colony, Government I.T.I. Bastar, District-Bastar (C.G.)
2. M. L. Rasemiya, S/o Late Shri Chote Lal, aged about 52 years, R/o Dondi Lohara, Dhangaon Road, Ram Nagar Post & Tehsil -Dondi Lohara, District – Durg (C. G.)
3. V. D. Rajoriya, S/o Late Shri Harikishan Rajoriya, aged about -57 , R/o I.T.I. Dondi Lohara, District -Durg (C.G.)
4. Hari Shankar Rana, S/o Late Shri D.S. Rana; aged about -45 years,R/o I.T.I. Bastar Campus, Quarter No. 6-6, I.T.I. Colony, Bastar, District Bastar (C.G.)
5. S.B. Samuel, S/o Late Shri B. Samuel, aged about -45 years, R/o Quarter No.-G-5, I.T.I. Colony, Bastar, District – Bastar, (C.G.)
6. Surendra Kumar Tamrakar, S/o Late Shri Ram Gopal Tamrakar, aged about-48 years, R/o I.T.I. - Daundilohara, District – Durg (C.G.)
7. A.H. Jafri, S/o Late Shri Rephik Mohammad Jafri, Aged about 56 years, Training Officer-II, Government I.T.I. Dondi Lohara, District – Durg (C.G.)
8. Sohan Lal Idapache, S/o Late Shri Ghudan Lal Idapache, Aged about 52 years, R/o I.T.I. Narayanpur, District – Narayanpur (C.G.)
9. Shri Bhagwati Prasad S/o Late Shri R. P. Sahu, Aged about 50 years, R/o Qr. No.54/1870, Pallavi Vihar Rohini Puram Near Gol Chowk, Raipur-(C.G.)
10. Shri C.L. Patre, S/o Shri R.L. Patle Aged about 50 years, Near of Shri N. R. Verma, Ward No.11, Sector No.3, Shivanand Nagar, Khamtarai, Raipur- (C. G.)
11. Shri Sang Roy Poya S/o Late Shri Bhanwar Singh Poya, Aged about 44 years, R/o I.T.I. Gedam South Bastar, District – Dantewada (C. G.)
12. Shri Onkar Das Sahu, S/o Shri Bhikh Rai Sahu, Aged about 56 years, R/o I.T.I. Gedam South Bastar, District- Dantewada (C. G.)
13. Shri Gyarik Ram Thakur (T.O.-II) S/o Late Shri Bhuval Singh Thakur, Aged about 44 years, I.T.I., Antagarh, P.O. Antagarh, Distt. U.B.-Kanker-(C.G.)

14. Shri Hemant Kumar Sahu, S/o Shri R. P. Sahu, T.O.-II Aged about 52 years, Govt. I.T.I. Kondagaon, Bastar- (C.G.)
15. Shri Munish Chandra Saxena S/o Shri B.S. Saxena, T.O.-II, Aged about 56 years, Govt. I.T.I. Bastar, Distt. Jagdalpur – (C.G.)
16. Shri Santosh Kumar Lahoriya s/o Late Shri K. L. Lahoriya, Aged about 48 years, Govt. I.T.I., Mana- Camp, Raipur -(C.G.)
17. Shri Laxmi Narayan Raj S/o Late Shri B.S. Raj, Aged about 43 years, Govt. I.T.I., Bijapur, P.O. & Distt. Bijapur- (C.G.)
18. Shri Sewa Ram Nagoriya, S/o Pothi Ram Nagoriya aged about 55 years , Govt. I.T.I manendragarh, District Koriya-(C.G.)
19. Shri A. K. Verma, S/o Late Shri Jagannath Prasad Verma T.S. aged about 56 years , Govt. I.T.I Prem Nagar, Tehsil Surajpur District Surguja-(C.G.)
20. Shri R.C. Bagle, S/o Shri Mangilalji Bagle T.S. Govt. I.T.I, Tehsil Surajpur District Surguja-(C.G.)
21. Shri K. L. Vishwakarma, S/o Shri Kapoorchand Vishwakarma T.S., aged about 60 years Govt. I.T.I Samri (Kasmi), District Surguja-(C.G.)
22. Shri R. B. Khande S/o Shri Bimaji Khande, aged about 53 years Govt. I.T.I Antagarh, District U.B., Kanker-(C.G.)
23. Smt. Agnesh Rajninath W/o Shri Pritendra Nath, aged about 43 years Woman I.T.I Kanker North Bastar-(C.G.)

Versus

1. State of Chhattisgarh, Through its Secretary, Man Power and Planning Department, D.K.S. Bhawan, Raipur (C.G.)
2. Director, Employment and Training, Women Polytechnic, Campus, Bayron Bazar, District- Raipur (C.G.)

For Petitioner	:	Mr. Uttam Pandey, Advocate
For State	:	Mr. V. R. Tiwari, Addl. AG

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

03/07/2020

1. The primary grievance of the petitioners in the present writ petition is non granting of the petitioners for promotion ahead of their counter

parts who were working with the department and who are basically from the Man Power Planning Department.

2. Brief facts of the case is that under the Erstwhile State of Madhya Pradesh around 16 ITI's were run by the Tribal Welfare Department. The Erstwhile State of M.P. on 24.02.1999 issued an order for merging of the ITS's under the Tribal Welfare Department to the Man Power Planning Department of the State Government. Out of 16 ITI's with the Tribal Welfare Department 10 of the ITI's stood within the territory falling under the State of Chhattisgarh. The State of Chhattisgarh also on 10.02.2003 issued a similar notification for merging of the ITI's under the Tribal Welfare Department to the Man Power Planning Department of the State Government and it was acted upon. The petitioners in the writ petition are employees working with the ITI's earlier under the Tribal Welfare Department and subsequent to 10.02.2003 they became employees under the Man Power Planning Department of the State Government.
3. According to the petitioner once when the merger takes place the earlier employees of the Tribal Welfare Department, ITI's now became the employees of the Chhattisgarh Man Power Planning Department and they ought to have been granted appropriate seniority in the Gradation list corresponding the seniority of persons similarly placed in the Man Power Department. The Gradation list accordingly should had been prepared and any further promotions should only had been made accordingly. It is this which has not been followed which had led to filing of present writ petition.
4. Petitioners are aggrieved of the fact that on one hand there is a merger made by the State Government of the ITI's under the Tribal Welfare Department with Man Power Planning Department while on

the other hand the respondents have victimized the petitioner by denying them their rightful claim for promotion and at the same time considering only the original employees of the Man Power planning department alone for promotion ignoring the claim of the petitioners.

5. The present writ petition was filed as early as in 2011. In 2013, the respondent State Government on 09.09.2013 filed their reply and in the reply the State Government has taken a categorical stand which for ready reference is being reproduced hereinunder :-

“It is humbly submitted that the preparation of a joint gradation list is in the process and after publication of joint gradation list promotions would be granted in accordance with law.”

6. Plain reading of aforesaid contentions as stipulated in the return of the State Government itself would suggest that State Government also accept the fact that joint gradation list has to be prepared for the purpose of issuance of promotion orders.
7. Now that the State Government as early as in 2013 in their reply has given an undertaking of preparation of joint gradation list and promotions to be made in thereafter in accordance with law. This Court is of the opinion that nothing further remains to be adjudicated upon.
8. The Writ petition is being disposed of directing the State Government to ensure that any promotion made in between has to be on the basis of undertaking that they have given in their reply i.e. after preparation of joint gradation list. We leave it for the State Government at this juncture to consider the case of each of the petitioners in the light of the aforesaid contentions that they had made in their reply and pass a suitable order ensuring that rights of each of the petitioners are protected and also ensure that petitioners are not victimized only on

account of the action of merger initiated by the State Government nor should they be given step motherly treatment.

9. It is expected that State Government should act fairly as undoubtedly it is welfare State. It is the bounden duty of the State Government to take care of its employees with all fairness and treating all to be equals. That only because the petitioners have been earlier working in the Tribal Welfare Department should not be a reason for not considering them for promotion and in the process the petitioners would be put to double loss as otherwise they would have got their promotions in the Tribal Welfare Department which now they are denied on account of merger.
10. Let State Government take appropriate decision in respect of each of the petitioners within an outer limit of four month. State Government on due verification if finds that petitioners have been deprived of their claim earlier, it is expected that at least State Government should pass a modified order granting notional benefit to the petitioners from the date their counter part in the Man Power Department have been promoted.
11. Needless to mention, in case if any grievance still survives, the petitioners would be at liberty to approach appropriate forum including this Court.
12. With the aforesaid directions, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge