

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No.2131 of 2011

Rajive Nashine S/o Late Shri L.K. Nashine, aged about 45 years, Assistant Engineer Division No. 1 Public Works Department, Raipur R/o Beside Ram Mandir Shanti Nagar Raipur, Chhattisgarh.

---Petitioner(s)

Versus

State of Chhattisgarh through the Secretary, Public Works Department, DKS Bhwan, Secretaria, Raipur.

---Respondent

Writ Petition (S) No.2149 of 2011

Ram Ratan Dhruw, son of Shri Punit Ram Dhruw, aged about 43 years, Assistant Engineer Sub Division, Kurud, Public Works Department, District Durg, Resident of MIG-65, Sector-1, Shankar Nagar (CG).

---Petitioner(s)

Versus

State of Chhattisgarh through the Secretary, Public Works Department, DKS Bhwan, Secretaria, Raipur.

---Respondent

Writ Petition (S) No.2354 of 2011

Vivek Kumar Shukla, S/o Lt. Shri S.K.Shukla, Aged about 45 years, Assistant Engineer, Sub Division No.2, Public Works Department, Aarang, Distt. Raipur (CG).

---Petitioner(s)

Versus

State of Chhattisgarh through the Secretary, Public Works Department, DKS Bhwan, Secretaria, Raipur.

---Respondent

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Writ Petition (S) No.2858 of 2011

D.K. Chandel S/o Lt. Shri P.L. Chandel, Aged about 45 years, Assistant Engineer, Division No.1,. Public Works Department, Raipur, R/o Qtr. No. G/8, PWD Colony, Katora Talab, Raipur (CG).

---Petitioner(s)

Versus

State of Chhattisgarh through the Secretary, Public Works Department, DKS Bhwan, Secretaria, Raipur.

---Respondent

For Petitioners	:	Shri Abhyuday Singh, Advocate.
For State	:	Shri Somkant Verma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy
JUDGEMENT

Reserved on 26.02.2020

Delivered on 03.03.2020

1. There are four writ petitions where the issue involved and the action against which all the petitioners are aggrieved of and the grounds raised also all being identical, all the writ petitions are being decided by this common order.
2. The facts relevant for adjudication of all these petitions are that, all the petitioners herein were appointed as Sub Engineer (Civil) on temporary basis for a period of two years. Subsequently, they were confirmed in the department. All the petitioners continued to discharge their duties on the post of Sub Engineer till the year, 2004 when on 12.07.2004 the petitioners were granted adhoc promotion on the post of Assistant Engineer (Civil). The petitioners, uninterruptedly worked on the said post and they were finally granted regular promotion on the said post vide order dated 31.07.2008.
3. The grievance of the petitioners now is that when the department vide Annexure P/4 published the gradation list of the Assistant Engineers (Civil) as on 01.04.2005 the name of petitioners are not reflected in the said gradation list as an Assistant Engineers. According to the petitioners, since they were granted adhoc promotion in the year, 2004, and they continuously worked uninterruptedly on the said post till they were on regular basis confirmed or promoted on the post of Assistant Engineer, they should have been granted seniority on the said post from the date of their initial adhoc promotion i.e. of July, 2004. Thus, the action on the part of the respondents, according to the petitioners is violative of Sub-rule 4 of Rule 12 of Chhattisgarh Civil Services (Conditions of Service) Rules,

1961, which envisages counting of seniority from the date of adhoc promotion granted and where the employee has worked continuously on the promoted post even if on adhoc basis.

4. The State counsel on the other hand submitted that a plain perusal of the order of grant of adhoc promotion itself very specifically makes it clear that the officers would not be entitled for claiming seniority on the post of the said adhoc promotion granted on 12.07.2004. In the said order itself it was specifically mentioned that the seniority would be granted on the basis of regular promotion which the officer would be getting. This, according to the respondents, was accepted by each of the officers with wide open eyes without any protest or objection at any point of time. Therefore, the petitioners now cannot be permitted to challenge the same at this juncture. Further contention of the State counsel was that the order of regular promotion granted on 31.07.2008 was again an order which held that promotion would be subject to the outcome of the large number of the writ petitions pending in the High Court as also Writ Appeal i.e. WA No.246 of 2007.
5. According to the State counsel, subsequently, the Writ Appeal No.246 of 2007 stood finally allowed by the Division Bench of this Court vide judgment dated 06.08.2012. Therefore, the claim of seniority of the petitioners for the period that they had worked on adhoc basis as an Assistant Engineer cannot be accepted. Thus, prayed for rejection of all the writ petitions.
6. Perusal of records would reveal that the basic dispute in all these cases seem to be the clash between the Diploma Holder Sub Engineers and the Degree Holder Sub Engineers in the department, each of which group had separate percentage of seat of promotion. Another aspect which cannot

be lost sight of is the fact that each of the petitioners have been granted seniority on the post of Assistant Engineer from the date they were given regular promotion vide order dated 31.07.2008. Since the Gradation list, Annexure P/4 was a seniority list prepared as on 01.04.2005 when the petitioners were not granted regular promotion on the post of Assistant Engineer and which they got only on 31.07.2008, their names could not have been reflected in the said gradation list.

7. Moreover, when the petitioners were granted adhoc promotion, they had with wide open eyes accepted the conditions put in the order that firstly it is adhoc and temporary and secondly that they would not be entitled to claim seniority on the basis of said adhoc promotion. Having accepted the said conditions with wide open eyes, the petitioners now cannot turn around and cry foul on not getting the seniority for the period which at one point of time they had agreed not to claim as would be evident from the conditions attached to the order of adhoc promotion dated 12.07.2004.
8. It is settled position of law that mere continuous adhoc service does not ripen into regular service to claim permanent or substantive status. The very term adhoc itself means that it is a temporary arrangement.
9. The judgments which have been referred to by the counsel for the petitioners are all judgments which are distinguishable in its facts itself. All these judgments have been passed under entirely different factual backgrounds which under any circumstances cannot be equated with the facts of the present cases where in the order of adhoc promotion itself it was specifically mentioned that the petitioners would not be entitled for any sort of advantage so far as claim of seniority is concerned.

- 10.** In view of the aforesaid facts and circumstances of the case and for the foregoing reasons, this court is of the opinion that the petitioners have not made out a strong case calling for issuance of any sort of writ.
- 11.** As a consequence, all these writ petitions fail and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

inder