

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1605 of 2020

Smt. Padminnee Bhoi Sahu W/o Jintendra Kumar Sahu Aged About 39 Years
Presently Working As Deputy Collector, Raipur Chhattisgarh ---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of General Administration, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Chhattisgarh Public Service Commission Through Secretary, Shankar Nagar, Road, Bhagat Singh Square, Raipur, District Raipur Chhattisgarh
3. Ms Jaishree Jain, Deputy Secretary, O/o Chief Secretary, Secretariat, Raipur District Raipur Chhattisgarh
4. Ms. Fariha Alam Siddiqui Deputy Commissioner, Commissioner Office Bilaspur District Bilaspur Chhattisgarh,
5. Ms Roktima Roy Yadav Deputy Secretary, Governor House Raipur District Raipur Chhattisgarh,
6. Ms Deepak Agrawal Deputy Secretary, State Election Commission Raipur, District Raipur Chhattisgarh
7. Ms Priyanka Rishi Mahobiya Upper Collector, Korba, Collectorate, Korba District Korba Chhattisgarh
8. Mr. Sanjay Kanoje Chief Executive Officer, Jila Panchayat Kanker, District Kanker Chhattisgarh
9. Ms Tulika Prajapati Chief Executive Officer, Jila Panchayat Korea, District Korea Chhattisgarh
10. Mr. Chandan Tripathi Additional Commissioner, Higher Education Department, Raipur, District Raipur Chhattisgarh
11. Mr. Bhagwan Singh Uike Upper Collector, Collectorate Bilaspur District Bilaspur Chhattisgarh
12. Mr. Sukhnath Ahirwar Upper Collector, Collectorate Raigarh, District Raigarh Chhattisgarh
13. Ms. Leena Mandavi Deputy Secretary, Secretariat GAD, Nava Raipur District Raipur Chhattisgarh
14. Ms. Santan Jangde Upper Collector, Collectorate Surguja District Surguja Chhattisgarh,

---- Respondents

For Petitioner : Shri Shobhit Mishra, Advocate.
 For State : Shri Soumya Rai, PL.
 For respondent No.2 : Shri B.D. Guru and Shri Anuroop Panda,
 Advocates.
 For respondent No.4 : Shri Ghanshyam Kashyap, Advocate appears
 on caveat.
 For respondent No.10 : Shri Pankaj Singh, Advocate.
 For respondents No.11& 12: Shri Mateen Siddiqui, Advocate appears on
 caveat.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17/03/2020

Heard.

1. Instant petition has been preferred by one Deputy Collector wherein the respondents No.3 to 14 who are also the Deputy Collector have been arrayed in their personal capacity. It is contended that the petitioner was appointed by order dated 3/12/2005 by Annexure P-1 wherein the petitioner was at the top in the selection list. Subsequently the seniority was laid down by the letter dated 2/08/2011 by Annexure P-2 wherein though the petitioner had joined the services on 8/12/2005 the petitioner was placed in the lower rank of seniority list as shown at column No.3. It is contended that at present though the petitioner was at the first place at time of selection but she has been placed in the lower seniority. He would refer to para 8.14 of the petition wherein pleading are with respect to the Rules of Chhattisgarh State Civil Services General Condition of Service Rules, 1961 and would submit that as per clause 12(1)(f) the trial period of direct recruitment examination or the promoted person are to be determined reckoning their date of joining. Consequently, irrespective of the fact there has been a departmental examination was held, which the petitioner has passed subsequent to private respondent, after she passed out the requisite examination the date of seniority should have been reckoned from 8/12/2005 i.e date of appointment and despite the fact that the representation has been filed same has been dismissed by order dated 30/05/2019 Annexure P-10. He would submit that it is not because of the

fault of the petitioner the petitioner has been placed at the bottom of the seniority and as per Annexure P-7 it would show that certain examination were held on 19/01/2009 wherein other persons appeared and in respect of petitioner examination were held on 20/01/2009 and the petitioner since appeared on 21/01/2009 i.e. at a subsequent date, it is a mere chance. It is stated had the examination would have conducted on 19/01/2009 wherein petitioner appeared, she would have been at senior posting. Therefore she cannot be deprived of her seniority only on the basis of examination dates. It is further submitted that at present promotion of the State officers to the Indian Administrative Service ie. I.A.S. is contemplated, DPC is going to be held, therefore the seniority of the petitioner should be reckoned from the date of joining of 8/12/2005.

2. Per contra, opposing the admission learned counsel for the respondents No.2, 4, 10, 11 & 12 vehemently opposes the argument and would submit that wrong factual aspect has been projected before this court. He would submit that initially the seniority list was published way back on 2nd August, 2011 and prayer has been made to annul such Annexure P-2 which includes the name of the petitioner too, therefore if such relief is granted that will diminish the case of the petitioner as well. Further it is contended at para 8.14 of the petition, Rule 12(1)(f) of Chhattisgarh State Civil Services General Condition of Service Rules, 1961 has been wrongly quoted which is otherwise in the statute book and Rule 12(1)(f) permits the State to fix inter-se seniority. It is further submitted that the seniority having been fixed in 2011 the present petition is tainted with malafide as the process of IAS award are in the pipe line, therefore after 9 years the petitioner has come out with this petition that too wrong factual aspect has been projected.

3. Heard learned counsel for the parties on admission.

4. These facts are not in dispute the appointment of the petitioner was on 3/12/2005 was on probation as per Annexure P-1. The appointment order contains a condition that during probation period, the petitioner has to go through the

exhaustive training and the examination. The different employees who were initially selected went through the training and examination. The respondents as arrayed passed out the examinations on different dates. Subsequently on the basis of date of their passing out after first or repeated attempts, the seniority list was prepared. The seniority list was drawn on 2nd August, 2011 which is in three compartments.

(i) The first compartment includes name of Priyanka Rishi Mahobiya, Fariha Alam, Roktima Yadav and Tulika Prajapati. Record shows that they have passed out the examination within two years of the probation.

(ii) Second compartment includes name of Jaishri Jain, Chandan Sanjay Tripathi, Deepak Kumar Agrawal, Leena Kamlesh Mandavi and Santan Devi Jangde. At the bottom of such column endorsement is made that these persons could not pass out the examination within two years and in the extended period of three years they have passed out the examination.

(iii) Third compartment includes the name of the petitioner Padmini Bhoi alongwith Sanjay Kannouje, Bhagwan Singh Uike and Sukhnath Ahirwar and the endorsement under their column it is shown that these persons including the petitioner has passed out the examination after the period of three years. Consequently, their seniority has been fixed as per Rule 12(1)(f) of the Chhattisgarh State Civil Services General Condition of Service Rules, 1961.

5. At para 8.14 of the petition the petitioner has quoted Rule 12(1)(f) of the Chhattisgarh State Civil Services General Condition of Service Rules, 1961 and pleaded that following principle are applicable to determine the seniority. Thereafter the following is pleaded.

“1. Directly recruited and promoted seniority of the persons admitted:-

(f) If the period of direct recruitment examination or the trial period of promoted person has been extended the appointing authority shall be determined the seniority of the candidate if he would have completed the

probation period and examination on time.”

6. Whereas in the statute book Rule 12(1)(f) of Chhattisgarh State Civil Services General Condition of Service Rules, 1961 reads as under:-

“12(1)(f)- If the period of probation of any direct recruit or the testing period of any promotee is extended, the appointing authority shall determine whether he should be assigned the same seniority as would have been assigned to him if he had completed the normal period of probation testing period successfully, or whether he should be assigned a lower seniority.”

7. It apparently appears that wrong quotation has been made of the statute in the petition. Reading of Rule 12(1)(f) which is existing in the statute book purports that the appointing authority shall determine whether the person should be assigned the same seniority as would have been assigned to him if he had completed the normal period of probation testing period successfully or whether he should be assigned a lower seniority. Therefore apparently it appears that in exercise of power under Rule 12(1)(f) of the Rules of 1961 seniority of the petitioner was fixed as she passed out the examination subsequent to other candidate. Therefore subsequently she was confirmed to the post on 21/01/2009 after extended period of three years when she passed out and Rule 12(1)(f) of the Rules of 1961 the same could have been done by appointing authority.

8. Apart from it the seniority of petitioner alongwith others was fixed on 2nd August, 2011. Almost 9 years have passed as of now. The petitioner appears to be under the deep slumber and submission of respondents holds the sway that when the grant of IAS is being fast tracked or in the process and in the pipe line instant petition has been filed to arrest the happening wherein petitioner may or may not get the seat. Prima facie therefore apparently it appears that the petition suffers with delay and laches of 9 years and further more certain facts deliberately appears to have been suppressed and wrongly projected so as to frustrate the cause of promotion of others. The petition is not filed with clean hands and all

bonafide and therefore deserves to be non-suited.

9. Accordingly, the petition is devoid of merits and it is dismissed.

Sd/-
Goutam Bhaduri
Judge