

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 26-9-2019Order delivered on 9-1-2020WPS No. 6970 of 2007

1. D.R. Dayal (Dead) Through Legal Heirs

1(A) Smt. Vijaya Dayal W/o Late D.R. Dayal Aged About 61
Years1(B) Digvijay Dayal S/o Late D.R. Dayal Aged About 40
Years1(C) Divyarani Dayal D/o Late D.R. Dayal Aged About 37
Years1(D) Dushyant Dayal S/o Late D.R. Dayal Aged About 33
YearsAll are R/o House No. R-8/76 Ramavelly, Parasada, Bodri,
High Court Road, Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. High Court Of Chhattisgarh Through The Registrar General,
High Court Of Chhattisgarh, Bilaspur, Chhattisgarh.2. Registrar General High Court Of Chhattisgarh, Bilaspur,
Chhattisgarh.3. State Of Chhattisgarh Through The Secretary Deptt. Of Law
And Legislature D K S Bhawan, Raipur, Chhattisgarh.

---- Respondents

For PetitionerShri Deepak Jain & Shri Vinod
Deshmukh, Advocates

For Respondent/State

Shri Rajendra Tripathi, Panel Lawyer

Hon'ble Shri Prashant Kumar Mishra, J

C A V Order

1. The petitioner (since deceased), now represented by his legal heirs, has preferred this writ petition claiming benefit of consequential reliefs of seniority and promotion pursuant to the judgment dated 28-8-1997 rendered by the Supreme Court in Civil Appeal No.9569 of 1995 (*Dayaram Dayal v State of M.P. & Another*).
2. The factual matrix of the case, in brief, is that the petitioner was appointed as Civil Judge Junior Division (Class II) on 22-10-1985. He completed his probation on 22-5-1988 and thereafter was placed under suspension on 2-3-1990. The petitioner was served with charge sheet on 3-3-1990. On completion of departmental enquiry, the charges were found proved against him. Thereafter, the High Court imposed punishment of stoppage of two annual increments with cumulative effect pursuant to the resolution dated 27/28-4-1991 passed in the meeting of the Full Court. The suspension was revoked on 7-8-1991. On account of certain adverse remarks in his ACRs for the period 1987-88, 1988-89, 1989-90, 1991-92 and 1992-93 as also certain irregularities found by the inspecting Judge of the High Court the petitioner's case for promotion as Civil Judge Senior Division (Class I) was

deferred. In the Full Court meeting held on 30-4-1993 and 1st & 2nd May, 1993 the petitioner was not found fit for confirmation and his services were terminated after giving one month's salary in lieu of notice. The State Government issued the consequential order on 8-11-1993. Writ petition and LPA preferred by the petitioner came to be dismissed, however, SLP preferred by the petitioner was allowed by the Supreme Court under the judgment mentioned above and the petitioner was reinstated in service along with arrears of emoluments and all other consequential benefits.

3. Petitioner's claim for seniority and promotion is on the ground that in the seniority list of the Civil Judge Junior Division showing position as on 1-8-1988 his name find place at S.No.168 whereas his immediate juniors namely; Purannath Tembhurkar & Brijlal Tidke were at S.No.169 & 170, respectively and those two judicial officers were promoted on the post of Civil Judge Senior Division in October, 1993 and on the post of Chief Judicial Magistrate in 1996 and thereafter to the post of Additional District Judge in 1998 whereas the petitioner remained as Civil Judge Senior Division. It is the stand of the petitioner that the Supreme Court having reinstated him in service with all consequential benefits he should be placed at par with his immediate juniors.

4. It is contended by the learned counsel that the petitioner was never considered for promotion pursuant to the order of the Supreme Court and the judicial officers junior to him have been promoted, therefore, the petitioner is entitled for all consequential benefits as directed by the Supreme Court.
5. The respondent High Court has taken a stand in its return that consequent to the order of the Supreme Court the petitioner's case for promotion to the post of Civil Judge Senior Scale was considered in the Full Court meeting dated 7-8-1998 and was promoted to the said post on 28-8-1998, therefore, the order passed by the Supreme Court has been duly complied with.
6. Petitioner is comparing his case for promotion along with Purannath Tembhurkar & Brijlal Tidke who were junior to him as Civil Judge Junior Division in the seniority list showing their position as on 1-8-1988, however, it is worth notice that the petitioner's case for promotion to the post of Civil Judge Senior Division was considered in the Full Court meeting between 1st May to 3rd May, 1992 but his case was postponed and thereafter his case was again considered in the Full Court meeting held on 30-4-1993 to 2-5-1993 in which petitioner was not found fit for promotion. Thus, before his termination petitioner's case was duly considered for

promotion to the post of Civil Judge Senior Division as he was not found fit for promotion. This consideration was much before the Supreme Court judgment and it is an independent cause of action not at all connected with judgment of the Supreme Court.

7. It was not the case of the petitioner at any point of time before the Supreme Court, in the earlier round of litigation, that he was wrongly denied promotion in the year 1992 & 1993.
8. This petition was filed in the year 2007 claiming promotion from 1992 or 1993 is hopelessly barred under the principles of delay and laches, apart from lacking on merits also. Merely because the petitioner was reinstated in service because the order of discharge from service without holding any departmental enquiry was not found permissible in law, he cannot claim seniority and promotion vis-à-vis his immediate juniors, as the petitioner was considered in 1992 & 1993 and not found fit for promotion.
9. In the result, the writ petition, being bereft of merit, is liable to be and is hereby dismissed, leaving the parties to bear their own cost(s).

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri