

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 6150 of 2006**

- Allena Anjani Kumar, S/o Shri A. Raghavam, aged 38 years, Occupation-Employment, Resident of G 2/2 Warehouse Road, Bilaspur(C.G.)

---- Petitioner**Versus**

1. High Court Of Chhattisgarh, through Registrar General, Bilaspur.
2. State of Chhattisgarh, through Secretary, General Administration Department, D.K.S. Building, Mantralaya, Raipur (C.G.)
3. Shri S. Somayajulu, S/o Shri S.G.K. Suryanarayana Murthy, working as Private Secretary, High Court of Chhattisgarh, Bilaspur.
4. Shri K. Venkata Rao, S/o late K.K. Rao, working as Private Secretary, High Court of Chhattisgarh, Bilaspur.

---- Respondents

For Petitioner	:	Shri Vinod Deshmukh, Advocate
For Respondent No. 1	:	Shri Rajeev Shrivastava, Advocate
For Respondents/ State	:	Ms. Binu Sharma, P.L.
For Respondent No. 4	:	Shri Anchal Kumar Matre on behalf of Shri Maneesh Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****14/02/2020**

1. Heard.
2. Learned counsel for the petitioner contends that the petitioner was initially appointed to the post of Stenographer in the erstwhile State Administrative Tribunal (SAT) of Madhya Pradesh and was posted at Principle Bench Jabalpur on 24.07.1998. Subsequently, he was promoted on 22.12.1998 to the post of Personal Assistant at SAT. It is further contended that after formulation of State of Chhattisgarh, High Court came into being and advertisement inviting applications for different post including that of Stenographer was issued on 30.03.2001. The petitioner appeared in the

examination and interview and by order dated 29.11.2001 (Annexure R-1/2) he was appointed as a Stenographer. Pursuant thereto the petitioner was relieved from SAT, Madhya Pradesh on 11.12.2001 (Annexure P-2).

3. Learned counsel for the petitioner further contends that the said application for appointment to the post of Stenographer was processed through proper channel i.e. State Administrative Tribunal as per Note 3 of the advertisement. Subsequently, the petitioner was appointed in the pay scale of Rs. 5500-175-9000/- in the High Court of Chhattisgarh. It is also contended that before the petitioner could be relieved from SAT, the petitioner submitted his representation (Annexure P-7) to Respondent No. 1 (the High Court of C.G.) for protection of his pay scale and to avoid any financial loss in view of the service rendered by him to the post of Stenographer at the establishment of SAT. Thereafter, subsequent to the relieving order (Annexure P-2) the petitioner had joined at High Court of C.G. to the post of Stenographer on 13.12.2001.
4. It is further contended by the petitioner that the application/ representation of the petitioner to protect the pay band as he was getting in SAT, M.P. was considered by State and State by order dated 16.01.2004 protected the pay band and the earlier services rendered by the petitioner was considered as the service rendered in erstwhile SAT, M.P. and was counted as qualifying service for the fixation of pay. It is stated consequently, the Respondent No. 1 by communication (Annexure P-1/5) dated 16.02.2004 ordered that the previous pay scale of Rs. 5500-175-9000/- as Personal Assistant in the SAT would be protected w.e.f. 13.02.2001 i.e. the date of joining at the establishment of High Court of Chhattisgarh, enabling the petitioner to draw the pay with effect from 13.02.2001. He further submits that the petitioner had joined SAT on 22.12.1998, thereafter the application was processed from SAT and thereafter he appeared in the examination conducted by the High Court of Chhattisgarh. Consequently the service rendered by him in the erstwhile State of M.P. with SAT should be considered and be added for counting his seniority. He would further submit that when the pay protection

was granted with the pensionary benefit, there is no occasion as to why the services rendered with the earlier employer i.e. the SAT M.P. could not be considered for counting seniority of the petitioner. It is contended accordingly the petitioner should be granted all the service benefits by recounting the seniority and gradation list be prepared and all the ancillary benefits be allowed to him. He further submits that the representation seeking such relief when was filed by the petitioner was dismissed by High Court without any speaking order.

5. Per contra, learned counsel for the respondent No. 1 Shri Rajeev Shrivastava, would submit that the petitioner joined in the establishment of the High Court as Stenographer pursuant to the fresh advertisement made on 30.03.2001 and thereafter when he was selected by Annexure R-1/2, Clause 11 of the selection condition specifically engrafts the condition that seniority would be counted as per the placement in the merit list and not from the date of joining. It is stated therefore, it would lead to show that the services of the petitioner were considered a fresh when the new appointment was made. He would refer to Fundamental Rule 22 (c) (1) and would submit only the pay protection was granted to stop any financial loss to the petitioner, therefore, under the circumstance no relief can be granted.
6. I have heard learned counsel for the parties and perused the documents. The only question which comes to fore for adjudication is as to whether the services rendered by the petitioner at State Administration Tribunal Jabalpur from 22.12.1998 can be considered for calculation of the seniority in the establishment of the High Court of Chhattisgarh . The answer appears to be in negative, for the reason that advertisement for appointment by the High Court of Chhattisgarh was made on 30.03.2001 and though the advertisement Clause 3 contains the fact the persons employed in the government or quasi government department should send the application through proper channel or directly sent application does not confer any right to the petitioner that service rendered in such department would be considered. The advertisement was meant for fresh appointment by the

High Court of Chhattisgarh which is a sovereign and separate institution. The appointment letter (Annexure R-1/2) dated 29.11.2001, Clause 11 also contains the condition that the seniority would be considered according to the placement in the merit list. Therefore, such condition in appointment letter by implication points out that any work rendered in any other institution prior to such selection would not be considered for seniority. The only protection which was granted by State (Annexure R 1/4) on 16.01.2004 is with respect to the protection to the pay band. Reading of letter specifically shows it was directed that the earlier service rendered would be considered as the services rendered in the erstwhile SAT M.P. and at the time of finalization of the pension, the proportion shall be divided according to the provisions of Re-organization Act which meant to show that the earlier services was not taken into account for purpose of new appointment except the pay protection.

7. Plain and reading of the appointment conditions would show it was a fresh appointment on 29.11.2001, therefore, condition was that of a new employment and therefore 2 years probation was also given being part of new appointment. The petitioner having been rendered services earlier in the SAT the same cannot be considered for purpose of seniority with new appointment made at High Court. Therefore, reckoning of the seniority from the back date in the given facts of the case, can not be allowed. In such circumstances, Court is unable to grant any relief to the petitioner. The petition stands dismissed.

Sd/-

Goutam Bhaduri
Judge