

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3643 of 2020**

- Yogesh Kumar Khandey S/o Awadh Ram Khandey Aged About 35 Years Presently Posted As Sub Engineer At Janpad Panchayat Tilda District Raipur R/o House No. 313, Nagar Palika Road Neora, Tilda, District Raipur Chhattisgarh.,

---- Petitioner**Versus**

1. State of Chhattisgarh Through Its Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Engineer In Chief Rural Engineering Services Indrawati Bhawan, Naya Raipur, Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Superintendent Engineer Department Of Rural Engineering Services, Circle Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Executive Engineer Rural Engineering Services Raipur Division Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. Kamlesh Kumar Chandrakar Incharge Sub Divisional Officer, Rural Engineering Services Sub Division Tilda, District Raipur Chhattisgarh.

---- Respondents

For Petitioner : Ms. Diksha Gouraha, Advocate

For State : Ms. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

16-09-2020

1. Heard.

2. Learned counsel for the petitioner would submit that initially when one Vinod Kumar Rajak was transferred from the office of Executive Engineer, Rural Engineering Services at Tilda by order dated 5-9-2019 (Annexure P/1), respondent No.5/Kamlesh Kumar Chandrakar was given the charge of Sub Divisional Officer, Rural Engineering Services, ignoring the petitioner Yogesh Kumar Khandey, who is much senior to respondent No.5. She further submits that the Government had issued the circular from time to time which mandates that the senior most officer should be given the charge in case of transfer or likewise situation other than juniors. Accordingly, Engineer-in-Chief, as per letter dated 29-7-2020 (Annexure P/9) issued to Executive Engineer, Rural Engineering Services, observed the seniority of the petitioner that he is placed at serial No.231, whereas respondent No.5 – Kamlesh Kumar Chandrakar is placed at serial No.446 and thereby directed the Executive Engineer, Rural Engineering Services to give the charge according to the seniority of officers in the office. Subsequently, the petitioner made request to respondent No.4 – Executive Engineer, Rural Engineering Services, Raipur Division, Raipur to comply with the order dated 5-9-2019 (Annexure P/1), however, the same has not been decided. It is further submitted that according to the

circular of the State Government, in case of hand over of the charge, the senior most of the department is required to be given the charge, therefore, the mandamus be issued to give the charge to the petitioner instead of respondent No.5.

3. At this stage, the document would show that a direction has already been given by the Engineer-in-Chief, Rural Engineering Services by letter dated 29-7-2020 (Annexure P/9) addressed to the Executive Engineer, Rural Engineering Services to give the charge of Sub Divisional Officer, according to the seniority. In the same letter, seniority of the respondent No.5 in the office is marked at serial No.446 and the seniority of the petitioner is marked at serial No. 231. Since the order has already been passed by the Chief Engineer to give charge of Sub Divisional Officer to the person who is the senior most, no separate mandamus is required to be issued as it would amount indulgence in working of office and if certain orders are already existing which are issued by higher ups and if the directions issued by the higher officials are not complied by the subordinates, it is the duty of the higher officials to take action for subordination.
4. Considering the fact that the petitioner has already made a representation on 10-8-2020 (Annexure P/10) to the Executive Engineer, the respondent No.4 - the Executive Engineer, Rural Engineering Services, is directed to decide the same within a period of three weeks from the date of receipt of a copy of this

order.

5. With the aforesaid observation/direction, the writ petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Raju