

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4559 of 2020**

- Ajmal Javed Siddiqui S/o Late A Q Siddiqui, Aged About 53 Years Working As Sub Engineer In The Office Of Assistant Commissioner, Tribal Development, Dantewada, District- South Bastar Dantewada, Chhattisgarh
- Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Scheduled Caste And Scheduled Tribe Development, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur, Chhattisgarh
 2. Commissioner, Scheduled Caste And Scheduled Tribe Development Department, Indrawati Bhawan, Nawa Raipur, Atal Nagar, District Raipur, Chhattisgarh
 3. Assistant Commissioner Collectorate, Tribal Development Branch, District South Bastar Dantewada, Chhattisgarh
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Respondents

For Petitioner	:	Mr. Anand Dadariya, Advocate
For State	:	Ms. Akanksha Jain, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27.11.2020**

1. The petitioner through the present writ petition has sought for two reliefs; Firstly, for quashment of the disciplinary proceedings initiated against the petitioner 5 years back with no progress whatsoever on the ground of delay. Secondly, for a direction to the respondents to

convene a DPC for considering the claim of the petitioner also as the persons similarly placed in the department along with the petitioner have been considered by the respondents for promotion from the post of Sub Engineer to the post of Assistant Engineer.

2. The contention of the counsel for the petitioner is that in the course of discharging his duties, on 20.10.2015 the petitioner had suddenly taken leave without permission from the authorities for a period of 5 days on account of his mother getting seriously ill. The petitioner came back and resumed his duty as is contended by the petitioner on 26.10.2015. However, the higher authorities in the Department immediately placed him under suspension on 27.10.2015 for the absence from duty for a period of 5 days and the suspension of the petitioner for this absence of 5 days continued for more than 4 years and it was ultimately revoked on 29.11.2019. Meanwhile, the petitioner was served with a charge sheet on 26.11.2015 and the reply to the said charge sheet was also submitted by the petitioner immediately. Thereafter there has been no further development on the disciplinary proceeding.
3. Counsel for the petitioner submits that even the inquiry officer or the presenting officer has not yet been appointed by the respondents and on account of the said disciplinary proceeding the petitioner stands victimized from being considered for the next promotion to the post of Assistant Engineer particularly when all the similarly placed persons have been promoted to the higher post. According to the petitioner, even on the previous occasion also when the proposal was sent in the year 2012-14 and the DPC was convened in the year 2014-15, the

petitioner was within the zone of consideration.

4. If the contentions that the petitioner has made in this writ petition are to be accepted, it is a clear case where the respondents have taken a lethargic approach in the case of the petitioner and compels this court to draw an inference of the entire act being deliberate and with malafides, firstly keeping him unnecessarily suspended for a period of 4 years considering the nature of misconduct which is alleged against the petitioner and secondly for not proceeding further with the disciplinary proceeding in spite of the charge sheet being issued as early as on 26.11.2015 i.e. more than 5 years ago.
5. All said and done, since the petitioner's suspension was revoked on 29.11.2020, it is expected that the respondents should have thereafter proceeded with the disciplinary proceeding and concluded the same which again does not seem to have been taken on the part of the respondents since then.
6. Given the entire facts and circumstances of the case, particularly taking note of the contents of the order of suspension, this Court is of the opinion that no fruitful purpose would be served in keeping the writ petition pending at this juncture, rather it can be disposed of with a direction to the respondents to ensure that if the respondents intend to proceed with the disciplinary proceeding against the petitioner, they can do so, and conclude the proceedings at the earliest preferably within a period of 3 months from the date of receipt of copy of this order. Failing which, the charge sheet issued to the petitioner on 26.11.2015 shall automatically stand dropped and the petitioner would be entitled for all

other consequential benefits, resulting from the dropping of the disciplinary proceeding which includes his claim for being considered for promotion to the next higher post if he was otherwise entitled for the same.

7. With the aforesaid observations the writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge