

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.2630 of 2007**

Santosh Kumar Tamrakar, S/o Late A.P. Tamrakar, aged about 49 years, Occupation-Service, R/o. Killa Ward, Ner Sao Dharmsala, Juna Bilaspur, District-Bilaspur (CG)

----- **Petitioner**

Versus

1. The Managing Director, Chhattisgarh State Power Holding Company Ltd., Dagonia, Raipur, District-Raipur (CG)
2. The Managing Director, Chhattisgarh State Power Distribution Company Ltd., Dagonia, Raipur, District Raipur (CG)
3. The Managing Director, Chhattisgarh State Power Transmission Company Ltd., Dagonia, Raipur, District Raipur (CG)
4. Chief Engineer, Chhattisgarh State Power Transmission Company Ltd. Tifra, Bilaspur, District Bilaspur (CG)
5. The Superintending Engineer (T&C) Circle, Chhattisgarh State Power Transmission Com. Ltd., Tifra, Bilaspur, District-Bilaspur (CG)
6. The Executive Engineer (Communication & Telemetry Dn.) Chhattisgarh Power Transmission Company Ltd. Tifra, Bilaspur, District Bilaspur (CG)

----- **Respondents**

For Petitioner	: Mr.Somkant Verma, Advocate
For Respondents	: Mr.Abhishek Sinha, Senior Advocate with Mr.D.L.Dewangan, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

17.6.2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner was working as Assistant Grade II in the office of Chhattisgarh State Electricity Electricity Board (Now Chhattisgarh State Power

Distribution Company Limited). He was served with adverse remark in his ACR for the period 22.7.2000 to 31.3.2001, against which, he made representation to the respondents-authorities. That representation was rejected by the respondent-authority on 24.9.2003 (Annexure P-18) and thereafter this writ petition has been filed on 17.4.2007 questioning adverse remark in ACR dated 2.1.2002 (Annexure P-12) and also claimed higher pay scale w.e.f.2.8.2000.

3. Mr.Somkant Verma, learned counsel for the petitioner, would submit that adverse remark in ACR communicated to the petitioner vide letter dated 2.1.2012 (Annexure P-12) is bad and he was entitled for upgradation. Against his adverse remark, he has already made representation, which has been rejected by the respondents-authorities summarily without assigning any reason on 24.9.2003. He would further submit that the petitioner is also entitled for higher pay scale w.e.f. 2.8.2000 though he has been given higher pay scale w.e.f.1.4.2004 and now the petitioner has retired from service on 30th June, 2019. Therefore, appropriate order be passed in favour of the petitioner.

4. On the other hand, Mr.Abhishek Sinha, learned Senior Counsel ably assisted by Mr.D.L.Dewangan, learned

counsel for the respondents, would submit that against adverse order dated 2.1.2002 (Annexure P-12) the petitioner made representation to the respondents-authorities which the respondents-authorities considered on the basis of material available on record and vide order dated 24.9.2003 it has been rejected finding no merit and that order has attained finality in absence of any challenge being made in writ petition filed before this Court as belatedly as on 17.4.2007 i.e. more than 3½ years without explaining inordinate delay in filing this writ petition. Therefore, the petitioner is not entitled for any upgradation particularly in absence of challenge to order rejecting representation. He would further submit that since higher pay scale has already been granted to the petitioner w.e.f.1.4.2004 (Annexure P-22) and he has accepted all benefits without protest or demur and even order dated 1.4.2004 has not been questioned in writ petition filed belatedly with a delay of more than 3½ years, therefore, the writ petition deserves to be dismissed.

5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

6. It is not in dispute that the petitioner was communicated adverse remark in ACR vide letter dated 2.1.20002 (Annexure P-12) by the respondents-authorities for the period 22.7.2000 to 31.3.2001, against which, he made representation. His representation was duly considered and it was rejected on 24.9.2003. Though subjective satisfaction has been recorded while rejecting the representation filed by the petitioner, but true it is that reasons have not been set-out in order rejecting representation for not accepting the reasons assigned by the petitioner, but the fact remains that order rejecting representation has even not been questioned in this writ petition filed with a delay of 3½ years, but it appears that representation has duly been considered and it has been rejected, which has not been challenged by the petitioner for the reasons best known to him, as such, in absence of challenge to order rejecting representation, adverse remark in ACR cannot be upgradated by this Court in this writ petition that too filed with a delay of 3½ years and cannot be directed to expunge as its correctness has been considered in the representation filed by the petitioner and it has been rejected.

7. The next challenge is that the petitioner is entitled

for higher pay scale w.e.f.2.8.2000 which he has already been granted w.e.f.1.4.2004 vide Annexure P-22. Again, the petitioner has not called in question that order holding that it ought to have been granted to him w.e.f. 2.8.2000 and that order has been allowed to become final by the petitioner by not questioning the said order and that has been accepted without protest or demur. In absence of that, no mandamus can be issued in favour of the petitioner to grant higher pay scale w.e.f. 2.8.2000.

8.As a fallout and consequence of the above-stated discussion, I do not find any merit in this writ petition. The writ petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-