

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 672 of 2012**

1. Dharam Das Dahre (died) through LRs. :-

(a). Smt. Durga Devi Dahre, Wd/o Late Dharam Das Dahre, Aged about 43 years, R/o Qtr. No. H-2 (New), Govt. Polytechnic Campus, Durg, Distt. Durg, Chhattisgarh.

---Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Technical Education Department, DKS Bhawan, Mantralaya, Raipur, Chhattisgarh.

2. Director, Directorate Technical Education, Government Girls Polytechnic Campus, Raipur, Chhattisgarh.

3. Principal, Government Polytechnic College, Durg, Chhattisgarh.

4. Collector, Durg, Chhattisgarh.

5. Accountant General, Vidhansabha Marg, Raipur, Chhattisgarh.

---Respondents

For Petitioner :- Ms. Diksha Gouraha, Advocate

For State :- Mr. Soumya Rai, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

08/09/2021

1. The original petitioner (who died during the pendency of this writ petition and has now been substituted by his LRs.) has called in question the legality, validity and correctness of order dated 23/01/2012 (Annexure P/1) by which his promotion on the post of Assistant Grade III has been set aside and he has been reverted to the post of Sweeper (contingency fund).

2. Ms. Diksha Gouraha, learned counsel for the petitioner, would submit that original petitioner was duly granted promotion in accordance with the Rules by order dated 02/06/1999 (Annexure P/9) on the post of Assistant Grade III and he continued on that post for eleven years but thereafter, in complete violation of principle of natural justice, without giving any opportunity of hearing to the petitioner and without issuing any show cause notice, his promotion on the post of Assistant Grade III has been cancelled and he has been demoted to the post of Sweeper (contingency fund) by impugned order dated 23/01/2012 (Annexure P/1) passed by respondent No. 3, which is without jurisdiction and without authority of law and is in teeth of principles of natural

justice, therefore, the impugned order deserves to be set aside.

3. Mr. Soumya Rai, learned State counsel, would support the impugned order.

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

5. True it is that petitioner was promoted on the post of Assistant Grade III from the post of Sweeper (contingency fund) by order dated 02/06/1999 (Annexure P/9) pursuant to which he continued on that post for eleven years and thereafter, by order dated 23/01/2012 (Annexure P/1) his promotion has been set aside, but on the basis of the interim order dated 10/02/2012 passed by this Court, he remained on the post of Assistant Grade III till he died on 18/01/2015. Once the original petitioner was promoted on the post of Assistant Grade III, for any reason whatsoever if the order of promotion is liable to be set aside, he ought to have been given reasonable opportunity of hearing for showing cause and supporting his case for promotion by filing reply, etc. explaining his position, but

that has not been given and his promotional avenue has been taken away without even giving him minimum opportunity of hearing, which is in teeth of principle of natural justice. Accordingly, the impugned order dated 23/01/2010 (Annexure P/1) passed by respondent No. 3 is hereby set aside. Since the original petitioner has already died, therefore, no liberty is being reserved in favour of the respondents to proceed in accordance with law.

6. The writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet