

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 690 of 2021**

1. Rajkumar Mansar S/o Shri Dhelau Ram Mansar Aged About 40 Years R/o Shivam Vatika Colony, Quarter No. 36, Mopka, Bilaspur, Police Station Sarkanda, District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. Chhattisgarh State Power Distribution Company Limited Through The Chairman, Chhattisgarh State Power Companies Limited, Danganiya Raipur Chhattisgarh.
2. The Executive Director (Bilaspur Region) Chhattisgarh State Power Distribution Company Limited Bilaspur Chhattisgarh.
3. The Superintending Engineer Office Of Executive Director (Bilaspur Region), Chhattisgarh State Power Distribution Company Limited Bilaspur Chhattisgarh.
4. The Executive Engineer (City Division) East Chhattisgarh State Power Distribution Company Limited Bilaspur Chhattisgarh.
5. The Superintending Engineer (O And M) Circle Chhattisgarh State Power Distribution Company Limited Janjgir, District Janjgir Champa Chhattisgarh.
6. The Executive Engineer (O And M) Division Chhattisgarh State Power Distribution Company Limited Champa, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner : Mr. Rishi Rahul Soni, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18/02/2021**

1. The present writ petition has been filed challenging the four orders dated 01.02.2012, 04.05.2012, 24.06.2016 and 16.01.2017 Annexure P/5, Annexure P/6, Annexure P/7 and Annexure P/8 respectively.

2. The dispute, revolves around, the non granting of proper pay-scale to the petitioner at the time of his promotion from the post of Attendant Grade- II to the post of Attendant Grade-I in the year 2010. According to the petitioner, he was initially appointed under the respondent as an Attendant Grade II and in due course of time he got promoted to the post of Attendant Grade-I in the year 2010. The petitioner immediately assumed his duty and started discharging the duties of Attendant Grade-I.
3. Counsel for the petitioner submits that at the time of promotion, the respondents ought to have intimated the petitioner in-respect-of the option that was available with the petitioner to first have got the annual increment on the post of Attendant Grade-2 and thereafter should have got the proper fixation of the pay on the post of Attendant Grade- 1 in-terms-of the circular of the State Government dated 25.07.1987 which has also been adopted by the respondent establishment w.e.f. 12.08.1994 onwards. According to the counsel for the petitioner, the petitioner in the said circumstances ought to have got the benefit which is otherwise envisaged under FR. 22-A and FR. 22-D.
4. Perusal of the records would show that the petitioner for the first time had moved an application for the benefit under FR. 22-A and FR. 22-D and also the benefits provided under the circular dated 25.07.1987 in the year 2012 and it was firstly rejected by Annexure P/5 dated 01.02.2012 on the ground that the petitioner did not exercise the option available to him in-terms-of the aforementioned Rules and the circular, within the stipulated period. The petitioner

did not challenge the same, rather pursued the matter again with the respondent-authorities who again have rejected his claim on 04.05.2012 (Annexure P/6). This order also was not challenged by the petitioner any further for quite some time. Meanwhile, the petitioner appeared in a departmental examination and got qualified for being appointed on the post of Testing Attendant Grade-II and on which the petitioner immediately assumed his duty and on which post the petitioner is still working and in due course of time, he has also changed his cadre.

5. After the second rejection of his claim on 04.05.2012 (Annexure P/6), the petitioner again revives his claim after a period of four years which again was rejected on the same ground by the respondents on 24.06.2016 (Annexure P/7). This order also was not questioned by the petitioner before any Court of law and still pursued the matter against the management for the fourth time and the management again for the fourth time rejected his claim on 16.01.2017 (Annexure P/8) which again the petitioner did not challenge promptly. Thereafter, now after a period of four years, the present writ petition has been filed challenging all the aforesaid order starting from 01.02.2012, 04.05.2012, 24.06.2016 and 16.01.2017.
6. At the outset, this Court is of the firm view that the writ petition suffered from delay laches. The petitioner was aware of the fact that this claim for the benefit in terms of the circular dated 25.07.1987 and which is envisaged under FR 22-a and FR-22D has been rejected by the respondents, he thought it fit not to

challenge the same and accepted the decision of the management for a considerable long period. Meanwhile, he has also changed his cadre and got himself appointed to the post of Testing Assistant/Attendant Grade-II.

7. It would be relevant at this juncture to take note of the circular dated 25.07.1987 which refers to the option available to an employee on promotion so far as proper fixation is concerned. The said circular in very clear terms provides the option available to the petitioner for getting benefits under FR 22-a and FR-22-D has to be exercised within a period of one month from the date of promotion. In the instant case, from the pleadings itself, it is evidently clear that the said option which was not availed by the petitioner within a stipulated period and for the first time, he has sought for availing the said benefit/option after more than two years from the date of promotion i.e. in the year 2012. Since the circular specifically provides for a stipulated period within which the option has to be exercised in order for an employee to avail the benefit under FR. 22-a and FR. 22-D.
8. The respondents can not be blamed for having rejected the same since it was beyond the prescribed period of limitation. Moreover, the circular as also FR 22-A(i) and FR 22-D do not provide any power to the Higher Authority in the department to condone the delay of exercising the option beyond a period of one month.
9. Under the circumstances, the authorities had no other option but to reject the same. The petitioner since he has not questioned the same for the period of 8-9 years, he can not be now permitted to

agitate the same at this belated stage, particularly keeping in view the fact that the petitioner has himself relinquished his claim for all these period and have also changed his cadre and has gone to a different cadre altogether.

10. The writ petition thus being hit by delay latches deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

VAISHALI