

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 270 of 2020**

(Arising out of order dated 14.2.2020 passed by learned Single Judge in WPS No.1036/2012)

- Yamuna Prasad S/o Late Bhagwan Prasad, aged about 47 years, Presently working Constable at Training School Mana, Raipur, District Raipur (CG)

---- Appellant/Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department of Home, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur (CG)
2. Director General of Police, Raipur (CG)
3. The Inspector General of Police, Training Division, Raipur (CG)
4. The Superintendent of Police, Police Training School, Mana Raipur (CG)

---- Respondents

For Appellant	:	Appellant in person.
For Respondents	:	Mr. Ashish Tiwari, Govt. Advocate.

Hon'ble Shri PR Ramachandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order On Board**Per Parth Prateem Sahu, J****12.1.2021**

1. Challenge in this appeal is to the order dated 14.2.2020 passed by the learned Single Judge in WPS No.1036/2012 whereby writ petition filed by petitioner/appellant has been dismissed.
2. Petitioner, who appears in person, submits that the learned Single Judge has not taken into consideration the entire facts and circumstances of case and passed the impugned order.

He further submits that since the date of his appointment on 15.9.1983, he is working on the same post i.e. Constable, without any further promotion for which he is entitled for. Relief of grant of benefits accrued from the order of reinstatement, seniority, pay-scale etc. have also not been considered. He lastly contended that he is entitled for promotion on the basis of seniority as has been done in respect of other employees situated similarly to him.

3. Mr. Ashish Tiwari, learned State Counsel submits that the learned Single Judge while considering pleadings made in writ petition as also documents annexed along with it, has taken note of Annexure P-2, which is an order passed by High Court of Madhya Pradesh in WP No.6277/2003 filed by petitioner/appellant challenging his order of termination, wherein there is only a direction for reinstatement of appellant in service and relief of back wages as sought by petitioner has been denied. He further submits that in absence of any specific direction in the order passed by the High Court of MP in WP No.6277/2003 with regard to grant of consequential reliefs or benefits, appellant is not entitled for any benefit. Appellant has not challenged the order dated 10.11.2005 passed by MP High Court, which has attained finality. In compliance of the order dated 10.11.2005, respondent Department has reinstated appellant in service vide order dated 1.3.2006, posted him at Police Training School, Mana, Raipur and re-fixed his pay vide Annexure R-1. The order of fixation of pay is also not

challenged, if for any reason he was aggrieved. Pursuant to permission granted by the department to appellant vide order dated 20.4.2012 for appearing in departmental promotion exam on the post of Head Constable, appellant appeared in the said exam but could not succeed, hence appellant is not entitled for any relief as claimed. The impugned order does not call for any interference.

4. We have heard the petitioner/appellant and learned Government Advocate representing the State.

5. Petitioner/appellant has filed writ petition seeking for following reliefs:-

“10.1. The Hon'ble Court may kindly be pleased to call for the entire records pertaining to the case of the petitioner.

10.2. The Hon'ble Court may kindly be pleased to direct the respondents to allow benefit of promotion to the petitioner for the high post.

10.3. The Hon'ble Court may kindly be pleased to further direct the respondents to give the petitioner all consequential benefits like seniority, pay increments, arrears etc.

10.4. Any other relief, which this Hon'ble Court may deems fit and proper may also be awarded to the petitioner including the cost of the petition.”

6. Regulation 115 of the Police Regulation prescribes for passing of departmental exam for promotion on the post of Head Constable Class-A. As pleadings made by respondents supported by documents show that appellant has been permitted to appear in examination but he could not succeed, the learned Single Judge has rightly observed in Para-9 of

impugned order that direction for granting promotion to petitioner/ appellant herein cannot be issued. Appellant before this Court could not able to point out as to under which provision promotion is to be granted on the basis of seniority nor any document has been placed on record i.e. gradation list of Constable, based on which appellant is claiming his promotion on the basis of seniority. It is also not pleaded and supported by any document that any Constable junior to appellant has been superceded by giving promotion only considering seniority.

7. In view of above, considering the facts and circumstances of case, we do not find any infirmity in the order passed by the learned Single Judge dismissing writ petition. Consequently, the writ appeal being *sans merit* is liable to be dismissed and it is hereby dismissed.

8. However, in the given facts and circumstances, appellant will be at liberty to file fresh representation before the Competent Authority concerned raising all his grievances with regard to non-grant of promotion or pay fixation. In case the appellant files representation for redressal of his grievance, the same shall be decided by the Competent Authority concerned within a period of 08 weeks from the date of receipt of representation, in accordance with law.

Sd/-
(P.R Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-