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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2597 of 2021

1. Dr. Radheshyam Mani Tripathi S/o Yogeshwar Krishna Mani Tripathi Aged About 60 Years Veterinary Assistant Surgeon Office Of Joint Director, Veterinary Services, Bilaspur, District Bilaspur Chhattisgarh.
2. Dr. Vishnu Kumar Patel S/o Shri Abhimanyau Patel Aged About 60 Years Deputy Director, Veterinary Services, District Gorela Pendra Marwahi Chhattisgarh.
3. Dr. Sudhir Pratap Singh S/o Dr. Bhanu Pratap Singh Aged About 61 Years Veterinary Assistant Surgeon, Government Veterinary Hospital Korba, District Korba Chhattisgarh.
4. Dr. Rajendra Kumar Gupta S/o Late Shri Ramkripal Gupta Aged About 58 Years R/o Shanti Nagar, Bilaspur , District Bilaspur Chhattisgarh.
5. Dr. Bhawneshwar Prasad Soni S/o Late Shri B.S. Soni Aged About 57 Years R/o HIG I, 49 A, Narmada Nagar, Bilaspur District Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary Cum Agriculture Production Commissioner, Department of Agriculture and Bio Technology, Animal Husbandry Department, Mantralaya Mahanadi Bhawan, Nawa Raipur, District Raipur Chhattisgarh.
2. Under Secretary Pashudhan Vikas Vibhag Mantralaya, Mahanadi Bhawan, Nawa Raipur, District Raipur Chhattisgarh.
3. Director Veterinary Services, Ground Floor, Block No. 03, Indravati Bhawan, Nawa Raipur Atal Nagar, District Raipur Chhattisgarh.

---Respondents

For Petitioners	:	Shri Arvind Dubey, Advocate.
For State	:	Shri Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03.09.2021.

1. The grievance of the petitioners herein is that of the inaction on the part of the respondents in firstly not implementing the recommendations of the previous DPC that was convened in 2020 and the recommendations that were made on 28.11.2020 whereby the petitioner No.3 was considered for promotion. The second grievance is that of the petitioners No.1,2,4 and 5 not being considered for promotion to the post of Joint Director and Deputy Direction under the Chhattisgarh Veterinary Services.

2. According to the counsel for the petitioners, all of the petitioners are qualified and have all the requisite qualifications for promotion to the post of Joint Director and Deputy Director. The previous DPC was convened on 28.11.2020 and where the case of the petitioner No.3 was also considered, however, till date the said recommendation have not been acted upon. If the said recommendations is acted upon, the grievance of the petitioner No.3 to that extent would get redressed. As per the promotion rules governing the field, the respondents are required to convene the DPC at a regular interval, if not, atleast once an year, subject to availability of vacancy. There is no dispute to the fact that there are vacancies available. The petitioners are all at the fag end of their service career and are awaiting next promotion which would improve upon their salary for the remaining part of their service career and also would improve upon the post retiral benefits and in the event if the respondents do not initiate promotion process, the petitioners may superannuate on the said post causing substantial loss to their post retiral benefits.
3. Without dwelling further into the matter since the rules i.e. the promotion rules applicable required holding of DPC regularly, if not, atleast once an year and also considering the short tenure of service left for the petitioners, the writ petition at this juncture can be disposed of directing the respondents firstly to consider and implement the recommendations of the previous DPC dated 28.11.2020 and thereafter for the remaining vacant posts, convene a fresh DPC at the earliest in respect of all those eligible persons presently discharging their duties in the State of Chhattisgarh.
4. At this juncture the counsel for the petitioners referring to para 9.6 of their writ petition submits that the gradation list in the State of Chhattisgarh under the respondent department reflects names of many officers who are

still working in the State of Madhya Pradesh inspite of being allocated to the State of Chhattisgarh and there is all likelihood that the department may convene DPC and consider their claims for promotion inspite of fact that they are not working in the State of Chhattisgarh.

5. To the said submission, the State counsel submits that there are few employees/officers who have challenged their allocation to the State of Chhattisgarh before the High Court of Madhya Pradesh and have also availed certain interim protection which permits them to continue their services in the State of Madhya Pradesh.
6. Be that as it may, since those employees whose name find place in the gradation list and who are not working in the State of Chhattisgarh and are infact working in the State of Madhya Pradesh prima facie gives an indication that those employees are not willing to come to the State of Chhattisgarh and are trying their luck in the litigation pending before the MP High Court. Therefore, at this juncture, considering those persons name for promotion would amount to show an extra favour being shown to them inspite of their reluctance to come and work in the State of Chhattisgarh. In the event if their litigation pending before the MP High Court is allowed, they would have to be treated as employees of the State of Madhya Pradesh. Therefore, as long as their writ petitions are pending before the MP High Court such candidates should not be considered for promotion and the officers working in the State of Chhattisgarh as on date and who are dued for promotion should be considered for promotion subject to their coming in the zone of considerable otherwise and they being found fit for promotion.
7. The claim of those candidates whose litigation is pending before the State of Madhya Pradesh so far as allocation part is concerned and who are

enjoying an interim protection, their case should be considered for promotion only after the outcome of their litigation before the MP High Court. The fact that they are enjoying an interim protection to the allocation to the State of Chhattisgarh would mean that the allocation itself has been stayed as of now subject to outcome of the writ petition. It is expected that the respondent authorities, particularly the respondent No.1 shall take this fact in to consideration.

8. Let the respondent authorities take necessary steps for initiating the promotion process for filling up of the post of Deputy Director and Joint Director preferably within a period of three months from the date of receipt of copy of this order.
9. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder