

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2182 of 2020**

1. Sheela Lakra D/o Shri Kamal Ram Aged About 34 Years Presently Working As Head Constable (B. No. 233) In Police Station (Ajak), Balrampur, District Balrampur - Ramanujganj, Chhattisgarh.
2. Atul Dubey S/o Dinesh Dubey Aged About 37 Years Presently Working As Head Constable In The Office Of Police Sahayata Kendra Balrampur, District Balrampur - Ramanujganj, Chhattisgarh.
3. Santosh Koiry S/o Late Shri Chandrika Prasad Aged About 37 Years Presently Working As Head Constable In The Office Of Superintendent Of Police Balrampur, District Balrampur - Ramanujganj, Chhattisgarh.
4. Kumar Vaibhav Singh S/o Shri Vipin Bihari Singh Aged About 37 Years Presently Working As Head Constable In The Office Of Reserve Line Balrampur, District Balrampur - Ramanujganj, Chhattisgarh.
5. Ghanshyam Yadav S/o Shri Govardhan Yadav Aged About 45 Years Presently Working As Head Constable In The Office Of Kotwali Police, Ambikapur, District Surguja Ambikapur, Chhattisgarh.
6. Rajesh Chaturvedi S/o Shri Krishan Kant Choubey Aged About 40 Years Presently Working As Head Constable In Reserve Line, Ambikapur, District Surguja Ambikapur, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Home (Police), Mahanadi Bhawan New Raipur, District Raipur, Chhattisgarh.,
2. Director General Of Police Police Head Quarter - Raipur, District Raipur, Chhattisgarh.
3. Inspector General Of Police Surguja Range, Ambikapur, District Surguja, Chhattisgarh
4. Superintendent Of Police Office Of S. P. Surguja, District Surguja Ambikapur, Chhattisgarh.
5. Superintendent Of Police Office Of S.P. Balrampur, District Balrampur - Ramanujganj, Chhattisgarh

----Respondents

For Petitioners	:	Mr. Sushil Dubey, Advocate along with Mr. Aman Upadhyay, Advocate
For State	:	Mr. Amrito Das, Additional A.G. along with Ms. Akanksha Jain, Dy. G.A.

For respective Intervenors : Mr. S.P. Kale, Advocate
 Mr. A.N. Pandey, Advocate
 Ms. Shivali Dubey, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

28/09/2021

1. The present writ petition has been filed claiming for the following main reliefs:

“10.2] That, this Hon'ble Court may kindly be pleased to issue a writ in nature of mandamus whereby direct to the respondent No.2 and 3 to cancel the Eligibility list of 2020 dated 22.05.2020 (Annexure P/5) issued by the respondent No.3 holding that the list is arbitrary and illegal.

10.3] That, this Hon'ble Court may kindly be pleased to issue a writ in nature of mandamus whereby direct to the respondent No.2 and 3 to conduct fresh promotion examination from the post of Head Constable to the post of Assistant Sub-Inspector Class-A for the current year 2020 and for the coming years as well.”

2. The grievance of the petitioners seems to be the action on the part of the respondents in continuously issuing promotion orders and publishing select list of candidates found fit for promotion from the post of Head Constable to the post of Assistant Sub-Inspector.
3. The facts relevant for understanding the dispute raised by the petitioners are that all the petitioners herein are working on the post of Head Constable under the Surguja Range. The next promotional post available for the petitioners is that of Assistant Sub-Inspector. The relevant guidelines governing the field of promotion so far as the petitioners are concerned is the SOP 24/2002 (Annexure P/6). Under the said SOP there has to be a departmental promotion examination conducted every year. The previous departmental promotion examination for promotion to the post of Assistant Sub-Inspector was

convened in the year 2017. At that point of time the petitioners were not permitted to participate in the departmental promotion examination as they were found not suitable. 153 candidates were permitted to participate in the promotion process and the select list was published on 19.05.2017 whereby the 84 candidates were found selected or had cleared the departmental promotion examination. Of the 84 candidates the Government issued a promotion order of 13 candidates vide Annexure P/3 dated 07.06.2017 and thereby 71 Head Constables were left from the select list that was published on 19.05.2017. Subsequently, again a promotion order was issued on 02.06.2018 promoting 19 Head Constables again. There was no dispute till now by the petitioners. It is only recently that the respondents when they issued another list of 52 candidates who were found fit for promotion vide their order dated 22.05.2020 (Annexure P/5) that the present writ petition has been filed.

4. The contention of the petitioners is that once when the select list was published on 19.05.2017 consisting of 84 candidates who were found fit for promotion, the validity of that was for 18 months and beyond a period of 18 months, the petitioners could not have been promoted any other candidates from the said list. That for all further promotions the respondents were required to hold a departmental promotion examination afresh. Thereafter a select list was to be published of selected candidates therein for the purpose of issuance of promotion orders for filling up of the subsequent vacancies available.
5. The respondent-department according to the petitioners failed in conducting these periodical examinations as is otherwise envisaged

under the SOP as also under the Police Regulations and were continuing to consider candidates who had cleared the examination in the year 2017 for promotion inspite of the select list having lost its validity. The further contention of the petitioners is that in the process, the petitioners who have become eligible for promotion are being denied or deprived of their right of fresh consideration for promotion. That at the same time all subsequent vacancies that are arising are getting filled up from a list which has lost its validity, detrimental to the interest of the petitioners.

6. The Additional Advocate General appearing for the State submits that the stand of the State Government is quite clear in this regard. The stand is that once a candidate has appeared in a departmental promotion examination and has been found eligible for promotion and his name reflects in the select list, the said list does not have a validity period. It is valid for all time to come, till the list of selected candidates are exhausted. He further submits that on all subsequent vacancies that would arise, it would still be the candidates who have been found eligible from the previous departmental promotion examination, who would be considered for promotion first and only thereafter the persons from the subsequent departmental promotion examination would be considered.
7. The State counsel further submits that even if in the subsequent years the respondents, if they convened a departmental promotion examination, even then it is the candidates whose name appeared in the select list in the earlier departmental promotion examination and who have not been granted promotion till now would have to be given

promotion ahead and they would not be required to partake in all subsequent departmental promotion examinations for them to be promoted.

8. Learned counsel for the respondents further drew the attention of the Court to the list of selected candidates published on 07.06.2017 whereby the candidates whose name appear at serial No. 1 and 2 are candidates who were found eligible and suitable in the previous departmental promotion examination that was conducted in the year 2015.
9. In support of his contention, the State counsel further drew the attention of recent clarification issued from the office of the Police Headquarters dated 15.09.2021, which also goes to the extent of extending the protection to those candidates, who have already cleared the departmental promotion examination conducted under the previous SOP also and from the previous departmental promotion examination.
10. Given the aforesaid categorical stand taken by the State Government in the instant case and also taking note of the fact that the petitioners as such did not challenge their being declared ineligible in the departmental promotion examination convened in the year 2017, this Court is of the firm view that the entire list of 88 candidates, whose name is reflected in the select list that was published on 19.05.2017 being eligible for promotion subject to availability of vacancies in the respective category to which they belong as and when the vacancies arise from time to time and it is only after the 84 candidates are

provided promotion would the State Government fill up any further vacancies that arises. The petitioners since they had not participated in the recruitment process of 2017 nor had they challenge their ineligibility part, the only recourse now available for the petitioners as of now is by participating in any subsequent promotion process or the departmental promotion examination that would be convened. It has been stated that the petitioners have appeared in the departmental promotion examination that were convened recently under the new SOP.

11. Thus, the petitioners in the present writ petition as such cannot be granted any relief as of now and the writ petition therefore stands rejected accordingly. The interim relief earlier granted also stands vacated.

Sd/-
(P. Sam Koshy)
Judge

Ved