

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3622 of 2021

1. Ku. Sarita Mihsra D/o Shri G. P. Mishra Aged About 48 Years Presently Posted At Officer In Inchage, Joint Director, Health Services, Raipur Division, Chhattisgarh, R/o Q. No. 09, Road No. 03, Sector No. 2, Bhilai Nagar District Durg

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, Health And Family Department, Mantralaya, Mahanadi Bhavan, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Secretary State Of Chhattisgarh General Administration Department, Mantralaya, Mahanadi Bhavan, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
3. Commissioner Directorate, Health Services, 3rd Floor, Indrawati Bhavan, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
4. Director Directorate, Health Services, 3rd Floor, Indrawati Bhavan, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
5. Joint Director (Office Establishment) Directorate, Health Services, Indrawati Bhavan, 3rd Floor, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
6. Deputy Director (Office Establishment) Directorate, Health Services, Indrawati Bhavan, 3rd Floor, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh

---- Respondents

For Petitioner	: Shri Jitendra Gupta, Advocate.
For State	: Shri Suyash Dhar, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/07/2021

1. Aggrieved by inaction on the part of the respondents in not considering the case of the petitioner for promotion to the next Higher post of Assistant Director in-spite of the post of Assistant Director lying vacant, the present writ petition has been filed.
2. According to the Counsel for the petitioner, the petitioner was appointed as a Stenographer initially and subsequently by efflux of time and seniority,

she has been further promoted to the post of Personal Assistant in the year 2017. The next promotional post in the cadre, according to the petitioner, is that of Assistant Director. For promotion to the post of Assistant Director, it is only minimum of three years which is required. According to the Counsel for the petitioner, she is the senior most person on the post of Personal Assistant and therefore she is entitled for the promotional post. However, for the last couple of years, the respondents have not convened a DPC in this regard.

3. Counsel for the petitioner further submits that the under the Rules the respondents are under obligation to convene DPC regularly, if not, atleast once a year and if a regular DPC is convened for promotion to the post of Assistant Director, the petitioner can be considered for being promoted.
4. The State Counsel on the either hand submits that the only right which the petitioner has, is for a right of consideration subject to his fulfilling the eligibility criteria and there also being vacancies available on the promoted post.
5. Having heard the contention put forth on either side and on perusal of records, if we look into the Chhattisgarh Public Services (Promotion) Rules 2003, it specifically envisages holding of regular DPC and at-least one DPC annually for filling up of the existing vacancies and also for the anticipated vacancies of the current year. According to the Counsel for the petitioner, there are two posts of Assistant Directors still lying vacant and the petitioner is the only person from the feeder post of Personal Assistant who is eligible for the same but for holding of DPC, she is being denied the promotional benefits.
6. Given the said facts, considering the submission made by Counsel for the petitioner that the DPC has not been held for couple of years, it would be

in the interest of justice, if the writ petition at this juncture is disposed of directing the respondents to hold a DPC to consider for filling up of the post of Assistant Director form among the candidates available in the feeder cadre of Personal Assistant in-terms-of the Rules of 2003 governing the filed. The consideration of the petitioner for the said post would also be subject to availability of vacancies and the petitioner fulfilling all the other eligibility criteria under the Rules. Let the respondents take all necessary steps in this regard within an outer limit of four months from the date of receipt of copy of this order.

7. Writ Petition is allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

Jyotijha