

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4240 of 2021

1. Anusuchit Jati Avam Janjati Karamchari Parishad Through General Secretary Ram Ji Mandavi, S/o Late Phool Singh Mandavi, Age- 56 Years, R/o Pandit Ravishankar University Campus, Raipur, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Chief Secretary Department of Higher Education, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh.
2. Commissioner of Higher Education Indrawati Bhavan, Naya Raipur, Raipur, Chhattisgarh.
3. Registrar Pandit Ravi Shankar University Raipur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Anurag Jha, Advocate.
For State	:	Shri Ayaz Naved, Govt. Advocate.
For Respondent No.3	:	Shri Neeraj Choubey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25.08.2021

1. The present writ petition has been filed by the petitioner-Trade Union claiming for the following relief :

“10.2. That, the Hon'ble Court may kindly be pleased to make an order/orders, writ/writs or direction/directions to respondents to fulfil the vacant post of Assistant Registrars considering the name of the eligible candidate/Section Officers of Pandit Ravishankar University.”

2. The counsel appearing for the respondent No.3 at the outset raises an objection as to maintainability of the writ petition since it has been filed on behalf of the Trade Union. The contention of the respondent No.3 is that the persons who has sworn the affidavit in support of the present writ petition has himself in his individual capacity has filed a writ petition i.e. WPS No.4497 of 2021 for the same grievance and for the same relief. Therefore, now the subsequent writ petition in a representative capacity by a Trade Union would not be maintainable.

3. Learned counsel appearing for the petitioner, on the other hand, submits that the present writ petition is filed in the representative capacity for the reason that there are large number of vacancies on the post of Assistant Registrar in the University lying vacant and therefore it is for the larger interest of the employees who would fall in the zone of consideration that the present writ petition has been filed.
4. Having perused the documents enclosed along with the writ petition, what is revealed is that the promotions to the post of Assistant Registrars have to be carried out at the State Govt. level. So far as the respondent No.3- University is concerned, they have already published a provisional seniority list of Section Officers showing seniority as on 01.04.2021. The name of the person who has sworn the affidavit of the present writ petition is reflected in the said list and he has approached this court by way of an individual writ petition already.
5. A fact which needs to be appreciated is that the claim for consideration for promotion is an individual right which accrues upon only those persons who would otherwise fall within the zone of consideration in terms of the service rules. If there is any inaction on the part of the respondents, it may be an individual grievance of an individual whose right otherwise is getting delayed.
6. So far as a proceeding under Article 226 of the Constitution of India before a High Court is concerned, particularly under the service matter roster, it is only an aggrieved person who can approach the court highlighting the fundamental right which is being infringed, denied or deprived. In the factual backdrop of this case what reveals is that one of the aggrieved person namely Ram Ji Mandavi, the person who has sworn the affidavit in the present writ petition, for his individual grievance, has already filed a separate individual writ petition invoking writ jurisdiction of this court and

the same person thereafter cannot be now permitted to file a writ petition on behalf of the Trade Union even if it is a recognized body. A Trade Union as such may not have a fundamental right which are otherwise enshrined under the Constitution of India. The Trade Union as such may have a right to file a writ petition affecting the common interest of all the members of the Trade Union, but the Union as such cannot be conferred with the power and authority to raise individual grievances invoking the writ jurisdiction under Article 226 of the Constitution of India particularly in service matter disputes. The view of this court stands fortified from the decision of Supreme Court in case of Mahinder Kumar Gupta Vs. Union of India & Ors. reported in 1995 (1) SCC-85.

7. Given the fact that the dispute has already been raised in an individual capacity by one of the aggrieved persons particularly the person who has sworn the affidavit in the present writ petition in a representative capacity, this court is of the opinion that the present writ petition in its present form on behalf of a Trade Union therefore would not be maintainable. The writ petition therefore fails and is accordingly rejected, reserving the right of the aggrieved persons, if any, for approaching the court in their individual capacity for ventilating their grievances.

Sd/-
(P. Sam Koshy)
Judge