

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4226 of 2021

Vinod Kumar Bari S/o Shri Jagdish Prasad Aged About 42 Years R/o
Nehru Ward, Ward No. 25, Dil Bahar Hotel , Ambikapur Police Station
Ambikapur , Tehsil Ambikapur District Surguja Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department,
Mahanadi Bhawan, Atal Nagar, Naya Raipur Chhattisgarh.
2. Director General Of Police Police Head Quarter , Atal Nagar , Naya Raipur
Chhattisgarh.
3. Inspector General Of Police District Surguja Chhattisgarh.
4. Superintendent Of Police District Surguja Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Chitendra Singh Advocate.
For State	:	Ms. Sunita Jain, GA

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

13/08/2021

1. The grievance of the petitioner in the present writ petition is the non-consideration of the petitioner for promotion from the post of Constable to the post of Head Constable.
2. According to the petitioner, by virtue of the promotion process initiated by the respondents the petitioner being eligible for promotion had participated in the selection process and the petitioner along with the others were subjected to Drill Test. The petitioner herein could not succeed in the Drill Test and therefore the petitioner was not further permitted to participate in the promotion process.

3. The entire promotion process and the Drill Test were conducted in the year 2012. Surprisingly the petitioner did not challenge the action on the part of the respondents at that point of time and has now filed the writ petition after about more than 8 years time. Meanwhile, however there were a batch of similarly placed persons who had approached this Court by way of a writ petition i.e. WPS No.1816/2012. This Court vide order dated 23.04.2013 found the action of the respondents in not calling upon the similarly placed persons for the second Drill Test that they are entitled for under the SOP dated 23.10.2002, to be bad in law and the writ petition was disposed of directing the respondents to consider granting those petitioners an opportunity of appearing in the second Drill Test, which otherwise was permissible under the SOP dated 23.10.2002 and to pass an appropriate order for promotion subject to the petitioner therein being found fit for the same.
4. The contention of the petitioner is that subsequently, the Department conducted the Drill Test for the second time only for those persons, who have filed the writ petition i.e. WPS No.1816/2012. Other similarly placed persons like the petitioner were not even informed of the second Drill Test, nor were they called upon for the second Drill Test and it is only recently that they came to know about all these facts and many of those persons who were petitioners in WPS No. 1816/2012 have also been promoted meanwhile from the post of Constable to Head Constable.
5. The State counsel opposing the petition at this juncture submits that the petition suffers from delay and laches as the present writ petition has been preferred after more than 8 years from the date the earlier writ petition was disposed of and also from the date when the claim of the petitioner for promotion was rejected on account of his failing in the Drill Test. The State

counsel further submits that during these 8 years period, much water must have flown and there could also be a possibility of fresh appointments or fresh promotion process also being conducted by the Department wherein the petitioner might have participated and must have failed again. These are facts, which need to be verified.

6. The State counsel also made a submission that since the writ petition is being filed after a period of 8 years, the authorities be given the liberty to take any decision which would have a prospective effect. This Court does not express any opinion on the merits on this point, the matter is left for the authorities on the administrative side to take a decision.
7. Given the entire facts and circumstances of the case, this Court does not intend to keep the writ petition pending on this aspect. The writ petition at this juncture stands disposed of directing the petitioner to approach the respondent No.3 by way of a detailed representation supporting with all relevant documents in their custody within a period of two weeks, which the respondent No.3 shall duly consider keeping in view the order passed by this Court in WPS No. 1816/2012 and the treatment extended to those petitioners in the said writ petition and an appropriate decision betaken by the respondent No.3 in this regard at the earliest preferably within a period of 90 days from the date of receipt of the copy of this order.
8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit