

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4602 of 2021

1. Rampravesh Pathak S/o Late Shri T.N. Pathak, Aged About 38 Years R/o B-2, 402, Vijya Residency, Vijaypuram Colony, Sarkanda, Bilaspur, District Bilaspur Chhattisgarh
2. Shankar Meshram, S/o Late Shri Dayaram Meshram, Aged About 36 Years R/o Gitanjali City, Phase-I, Bahtarai Road, Bilaspur, District Bilaspur Chhattisgarh
3. Balkrishna Verma, S/o Shri P.R. Verma, Aged About 53 Years R/o Yadunandan Nagar, Tifra, Bilaspur, District Bilaspur Chhattisgarh
4. Gopi Acharya, S/o Late Shri D.C. Acharya, Aged About 40 Years R/o Khamtarai Road, Near Ashok Viktika, Ashok Nagar, Bilaspur, District Bilaspur Chhattisgarh
5. Sanjay Mishra, S/o Late Shri R.S. Mishra, Aged About 53 Years R/o Gondpara, Bilaspur, District Bilaspur Chhattisgarh
6. Smt. Anita Gond, D/o Late Shri Itwari Ram Dhruva, Aged About 35 Years R/o Near Satbahiniya Mandir, Bandwapara, Sarkanda, Bilaspur, District Bilaspur (Chhattisgarh)
7. Smt. Sunanda Khandekar, D/o Shri Darasram Kurre, Aged About 31 Years R/o Bhartiya Nagar, Near Tirpur Auto, Bilaspur, District Bilaspur Chhattisgarh
8. Smt. Anita Pradhan, D/o Shri Jivan Lal Pradhan, Aged About 40 Years R/o Ashok Nagar, Ekta Colony, Bilaspur, District Bilaspur Chhattisgarh
9. Shobha Bakre, D/o Late Shri J.R. Bakre, Aged About 51 Years R/o Shubham Vihar, Uslapur, Bilaspur, District Bilaspur (Chhattisgarh)
10. Nikesh Khalkho, S/o Shri Jebiyar Khalkho, Aged About 29 Years R/o Ayoydha Nagar, Gourav Path, Bilaspur, District Bilaspur Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Urban Administrative And Development Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District Raipur Chhattisgarh

2. Director, Urban Administration And Development Department, Indrawati Bhawan, Fourth Floor, D-Block, New Raipur, District Raipur Chhattisgarh
3. Municipal Corporation Bilaspur, Through Commissioner, Municipal Corporation, District Bilaspur Chhattisgarh
4. The Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District Raipur (Chhattisgarh)

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For Petitioner	:	Mr. Parag Kotecha with Mr. V. K. Agrawal, Advocates.
For State	:	Ms. Sunita Jain, GA
For Res. No.3	:	Mr. Ashish Tiwari, Advocate

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

06/09/2021

1. The grievance of the petitioner is the non availability of channel of promotion to the petitioner working on the post of Data Entry Operator/Computer Operator and relief sought for is for appropriate direction to the respondent no.1, 2 & 4 for considering their claim for creating promotional avenues for Data Entry Operator/Computer Operator which would entail the petitioners for further promotion and improvement of their service career.
2. All the petitioners are working on the post of Data Entry Operator appointed under the respondent no.3 since 2011 and as such they have put in more than 10 years of continuous service. At the time of appointment the rules governing the field of the rules of 2009. Subsequently the Government has enacted fresh rules of 2018 which is known as Chhattisgarh Municipal Corporation (Appointment and Terms and Conditions of Service Officers and Employees) Rules 2018.
3. Under the said rules, the post of Data Entry Operator/Computer Operator does not have a further channel of promotion. The petitioners herein are

claiming for promotion to the post of Assistant Programmer. Under the Rules of 2018 the post of Assistant Programmer is one which is to be filled up 100% by way of direct recruitment. All the petitioners are also claiming for being accommodated or considered for promotion to any other posts equivalent to the pay scale that is of Assistant Programmer. Further claim of the petitioner for a suitable direction also seems to be on a couple of recommendations made by the respondent no.3 to the State Government for early consideration and decision on the claim of the petitioners.

4. All said and done, the claim of promotion, made by the petitioners have to be considered strictly in accordance with the rules governing the field which in the instant case is the rules of 2018. The petitioners in the instant case are working on the post of Data Entry Operator/Computer Operator. As on date, there is no channel of promotion available to the petitioners. The promotions which could be provided to the petitioners, can be only by the respondent authorities amending the rules whereby a channel of promotion is created for the Data Entry Operator/Computer Operator. The said promotional post so created should have the feeder post to be that from the post presently held by the petitioners. The power to amend the rules is exclusively within the domain of the State Authorities and it is for the State Authorities to consider the grievance of the petitioners and to take appropriate decision. Unless, the rules stands modified or amended the claim of the petitioners cannot be considered by any of the respondents.
5. Therefore, at this juncture the writ petition stands disposed of permitting the petitioners to approach the State Authorities for appropriate suitable amendment to the Rules ventilating their grievances and at the same time direction to the respondent State Authorities to consider the

recommendations that respondent no.3 has made to the State Authorities in this regard.

6. However, so far as considering the representation of the petitioners or considering the recommendations of the respondent no.3, the Respondent Authorities i.e. Respondent no.1, 2 & 4 are expected to take a decision preferably within four months. If at all the claim of the petitioners are acceptable to the respondents, since the amendment of the Rules requires a prescribed procedure to be followed, no stipulated time limit can be granted to the State Authorities in this regard.
7. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit