

HIGH COURT OF CHHATTISGARH AT BILASPUR

Contempt Case (C) No. 481 of 2019

1. Vijay Pandey S/o Late Shri J. N. Pandey Aged About 34 Years Working As Constable, At Police Line Kanker, P.S. Kanker, Chhattisgarh, R/o Purana Nakapara, Charama, District- Uttar Bastar, Kanker, Chhattisgarh.

---Petitioner(s)

Versus

1. Shri D. M. Awasthi Director General of Police Police Headquarter, District- Raipur, Chhattisgarh.
2. Shri Vivekanand Sinha Inspector General of Police Bastar Range, Jagdalpur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Sunil Pillai, Advocate.
For Respondents	:	Shri Chandresh Shrivastava.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10.09.2021.

1. The present contempt petition has been filed alleging willful disobedience of the order dated 20.02.2019 passed by this court in WPS No.1126 of 2019.
2. The petitioner through the said writ petition was seeking a direction to be considered for promotion to the post of Head Constable from the post of Constable. The entire dispute arose on account of a penalty which was imposed upon the petitioner vide order dated 31.12.2012 whereby the petitioner was inflicted with a penalty of lowering down of the pay scale to the minimum pay scale of Constable for a period of three years with cumulative effect. The departmental remedies availed by the petitioner of appeal and mercy appeal all being rejected. The order of the penalty has now been subjected to challenge before the High Court in a writ petition WPS No.966 of 2013. The said writ petition is still pending consideration.
3. The contention of the petitioner now is that since the effect of the punishment order or the rigor of the punishment order got completed if

three years are to be accepted on 31.12.2015 and if five years are to be accepted then on 31.12.2017 and in any case beyond 31.12.2017 the petitioner becomes eligible for being considered for promotion. Therefore, the petitioner should have been granted the advantage of promotion at least after 31.12.2017 which the respondents have not granted and that has what has led to the filing of the present contempt petition.

4. Learned counsel appearing for the respondents submits that it is a case where the order of penalty was in operation when the previous promotion process for District Kanker was initiated in 2016-17 and at that point of time because of effect of the penalty being in operation, the petitioner was not eligible to be considered for promotion even for participating in the written examination. However, on a request letter submitted by the petitioner for permitting him to participate in the written examination, as his writ petition is pending before the High Court, the authorities had sympathetically considered and allowed the petitioner to participate in the promotion process.
5. The counsel for the respondents referred to Annexure R/3, a document issued by the office of the Inspector General (Recruitment) for and on behalf of the Director General of Police stating that permission granted to the petitioner for participating in the recruitment process is conditional and the benefits of promotion would be considered only after the outcome of the writ petition which the petitioner has preferred vide WPS No.966 of 2013. He further submits that beyond 31.12.2017 the petitioner becomes eligible for being considered for further promotion subject to the petitioner applying for the same in accordance with rules and having cleared and found fit for the promotion thereafter.

6. It appears that the petitioner either has not appeared in the selection process of any promotion process subsequently convened or has not been found fit on merits in the subsequent promotion process. However, the claim of the petitioner still survives so far as his claim for promotion on account of the participation of the petitioner in the promotion process that was convened in 2016-17 and where he was found qualified, but for the pendency of the writ petition challenging the order of punishment which is pending consideration before this court.
7. The counsel for the respondents further referred to Annexure R/5 whereby pursuant to the order passed by this court, the respondent authorities had considered the claim of the petitioner and have reached to the conclusion that because of the operation of the punishment the petitioner could not be considered for promotion as on 2016 when the promotion process was convened.
8. The counsel for the respondents submits that in the event if the writ petition which the petitioner has preferred is allowed and the order of punishment is quashed, the case of the petitioner would have to be reconsidered keeping in view the participation of the petitioner in the promotion process that was convened for the year 2016-17.
9. Given the said facts, the present contempt petition at this juncture stands disposed of. The respondents stand discharged of the contempt proceedings with a liberty to the petitioner to pursue the said writ petition and subject to the outcome of the said writ petition to further pursue his claim for promotion.
10. This disposal of contempt petition and pendency of the above mentioned writ petition, would not preclude the petitioner for applying for

further promotion in any further promotion process that takes place if he is otherwise entitled for under the service rules governing the field.

Sd/-
(P. Sam Koshy)
Judge

inder