

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4662 of 2021**

1. Abhishek Kumar Dubey S/o Shri Sumer Dutt Dubey Aged About 37 Years Presently Working On The Post Of Head Constable At Police Chowki Bariyon Police Station Rajpur, District Balrampur Ramanujganj Chhattisgarh.
2. Shashi Shekhar Tiwari S/o Late Sudesh Tiwari Aged About 38 Years (Batch No. 210), Presently Working On The Post Of Head Constable At Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.
3. Atendra Singh S/o Shri Kailash Nath Singh Aged About 43 Years (Batch No. 238), Presently Working On The Post Of Head Constable At Police Station Raghuathnagar , District Balrampur Ramanujganj Chhattisgarh.
4. Ashwani Singh S/o Late Vijay Bahadur Singh Aged About 43 Years (Batch No. 226), Presently Working On The Post Of Head Constable At Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.
5. Yogendra Prasad Jaiswal S/o Lakhanlal Jaiswal Aged About 40 Years (Batch No. 128), Presently Working On The Post Of Head Constable At Police Chowki Bariyon Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.
6. Arun Gupta S/o Shri N.P. Gupta Aged About 48 Years (Batch No. 758), Presently Working On The Post Of Head Constable At Police Station Jainagar , District Surajpur Chhattisgarh.
7. Ashwani Pandey S/o Late Ramanand Pandey Aged About 50 Years (Batch No. 288), Presently Working On The Post Of Head Constable At Police Station Ramanujnagar , District Surajpur Chhattisgarh.
8. Santosh Kumar Singh S/o Late K.D. Singh Aged About 44 Years (Batch No. 265), Presently Working On The Post Of Head Constable At Police Station Pratappur , District Surajpur Chhattisgarh.
9. Arvind Kumar Prasad S/o Shri Surya Nath Prasad Aged About 45 Years (Batch No. 211), Presently Working On The Post Of Head Constable At Police Station Basantpur , District Balrampur Ramanujganj Chhattisgarh.
10. Gopal Dutt Dahariya S/o Shri B.P. Dahariya Aged About 47 Years (Batch No. 341), Presently Working On The Post Of Head Constable At Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.
11. Manju Rani Tiwari W/o Late Ravishankar Tiwari Aged About 52 Years (Batch No. 240), Presently Working On The Post Of Head Constable At Mahila Pramash Kendra Balrampur District Balrampur Ramanujganj Chhattisgarh.
12. Sanjay Kumar Ram S/o Shri Ramgirwar Ram Aged About 37 Years (Batch No. 217), Presently Working On The Post Of Head Constable

At Police Station Chando, District Balrampur Ramanujganj Chhattisgarh.

13. Raphel Tirki S/o Shri Ramchandra Tirki Aged About 37 Years (Batch No. 269), Presently Working On The Post Of Head Constable At Police Station Balrampur , District Balrampur Ramanujganj Chhattisgarh.
14. Sandeep Kumar Singh S/o Shri Shivharsh Singh Aged About 35 Years (Batch No. 163), Presently Working On The Post Of Head Constable At S.P. Office Ambikapur District Surajpur Chhattisgarh.
15. Ashok Tirki S/o Shri Sonsai Tirki Aged About 43 Years (Batch No. 188), Presently Working On The Post Of Head Constable At Traffic Police Balrampur , District Balrampur Ramanujganj Chhattisgarh.
16. Radheshyam Ram S/o Late Ram Pyari Ram Aged About 47 Years (Batch No. 214), Presently Working On The Post Of Head Constable At Police Station Raghunathnagar, District Balrampur Ramanujganj Chhattisgarh.
17. Girish Sahay S/o Shri Bideshwar Sahay Aged About 34 Years (Batch No. 202), Presently Working On The Post Of Head Constable At Traffic Police Ramanujnagar , District Balrampur Ramanujganj Chhattisgarh.
18. Kamlesh Kumar Pathak S/o Late Dwarika Nath Pathak Aged About 37 Years (Batch No. 209), Presently Working On The Post Of Head Constable At Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh.
19. Paskal Lakra S/o Shri Baleshwar Lakra Aged About 43 Years (Batch No. 249), Presently Working On The Post Of Head Constable At S.D.O.P. Office Ramanujganj, District Balrampur Ramanujganj Chhattisgarh.
20. Rajkumar S/o Shri Sonu Ram Aged About 40 Years (Batch No. 319), Presently Working On The Post Of Head Constable At Police Station Bagicha, District Jashpur Chhattisgarh.
21. Shirad Ram Paikra S/o Shri Sadhu Ram Paikra Aged About 50 Years (Batch No. 53), Presently Working On The Post Of Head Constable At Police Station Bagbahar , District Jashpur Chhattisgarh.
22. Praksh Tirki S/o Garib Sai Tirki Aged About 45 Years (Batch No. 272), Presently Working On The Post Of Head Constable At Police Station Sanawal , District Balrampur Ramanujganj Chhattisgarh.
23. Hempal Singh S/o Late Lolam Singh Aged About 47 Years (Batch No. 183), Presently Working On The Post Of Head Constable At Police Line Baikunthpur District Koriya Chhattisgarh.

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary , Department Of Home Mahanadi Bhawan, Atal Nagar, Raipur District Raipur Chhattisgarh.
2. The Director General Of Police Head Quarter Sector 19. Nawa Raipur District Raipur Chhattisgarh.

3. Inspector General Of Police Surguja Range Ambikapur, District Surguja Chhattisgarh.
4. Superintendent Of Police Balrampur District Balrampur Ramanujganj Chhattisgarh.
5. Superintendent Of Police Ambikapur District Surguja Chhattisgarh.
6. Superintendent Of Police Jashpur District Jashpur Chhattisgarh.
7. Superintendent Of Police Surajpur District Surajpur Chhattisgarh.
8. Superintendent Of Police Baikunthpur District Koriya Chhattisgarh.

----Respondents

For Petitioners	:	Mr. A.N. Pandey, Advocate
For State	:	Mr. Amrito Das, Additional A.G. along with Ms. Akanksha Jain, Dy. G.A.

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

28/09/2021

1. The matter was taken up for hearing along with WPS No. 2182/2020.
The reason for filing of the writ petition was perhaps the interim protection that was granted by this High Court in the said petition WPS No.2182/2020 on 16.06.2020.
2. The contention of the petitioner is that they had cleared the departmental promotion examination for promotion to the post of Assistant Sub-Inspector from the post of Head Constable in the examination that was conducted in the year 2017 and the respondents have been periodically filling up those posts by frequently issuing promotion orders subject to availability of vacancies. In the process the Government had on earlier occasion issued promotion orders on 17.06.2017 for 13 candidates and again on 02.06.2018 for 19 candidates and now the respondents had issued

the select list for promotion consisting of 52 persons including the name of the petitioners.

3. The present writ petition has been filed primarily seeking a relief of the respondents to immediately act upon the order dated 22.05.2020 thereby granting promotion to the petitioners and also consider granting of promotions at par with those Assistant Sub-Inspectors who were promoted vide order dated 07.06.2017.
4. The stand of the State Government in WPS No. 2182/2020 as per the Additional Advocate General appearing for the State is that the State Government is quite clear in this regard and that once a candidate has appeared in a departmental promotion examination and has been found eligible for promotion and his name reflects in the select list, the said list does not have a validity and it is valid for all time to come till the list of selected candidates are exhausted. He further submits that on all subsequent vacancies that would arise, it would be the candidates who have been found eligible from the previous departmental promotion examination, who would be considered for promotion first and only thereafter would there be a requirement for picking up candidates from the subsequent departmental promotion examination.
5. The State counsel further submits that even if in the subsequent years the respondents convene a departmental promotion examination, even then it is the candidates whose name appear in the select list in the previous departmental promotion examination and who have not been granted promotion till now would have to be given promotion

ahead and they would not be required to partake in all subsequent departmental promotion examinations for them to be promoted.

6. Learned counsel for the respondents further drew the attention of the Court to the list of selected candidates published on 07.06.2017 whereby the candidates whose name appear at serial No. 1 and 2 are candidates who were found eligible and suitable in the previous departmental promotion examination that was conducted in the year 2015.
7. In support of his contention, the State counsel further drew the attention of recent clarification issued from the office of the Police Headquarters dated 15.09.2021, which also goes to the extent of extending the protection to those candidates, who have cleared the departmental promotion examination conducted under the previous SOP also and also from the previous departmental promotion examination.
8. In the light of the said stand of the State Government the said writ petition WPS No. 2182/2020 has been dismissed by this Court. That if the said stand has to be accepted, the case of the petitioners deserves to be allowed on the very stand of the State Government, wherein they have taken a decision that the select list that was published on 19.05.2017 consisting of 84 selected candidates does not have a validity period and that the candidates from the said list of 84 would be considered for promotion first as and when vacancies arises in respect of the various categories to which each of the selected candidates belong. The list of 52 persons wherein the name

of the petitioners also find place have been issued on 22.05.2020 and according to the petitioners they have also cleared the P.P. Course and have now become fully eligible for promotion to the post of ASI.

9. Given the stand of the State Government in WPS No. 2182/2020 and this list dated 22.05.2020 being from the same original select list dated 19.05.2017 consisting of 84 candidates, the petitioners also are entitled for the protection which would be extended in terms of the stand taken by the respondents and the clarified circular issued by the Police Headquarters on 15.09.2021. The writ petition therefore deserves to be and is accordingly allowed. The respondents are directed to immediately comply with the order dated 22.05.2020 by granting promotion to the petitioners.
10. As regards the seniority part is concerned, this Court is of the firm view that mere inclusion of the select list by itself would not give a right to the petitioners. The petitioners can be granted promotion only subject to the availability of the vacancies and since the vacancies have only now arisen by which they have been considered for promotion, they cannot be equated with those candidates who have been promoted earlier from the same select list. The petitioners are not entitled for any such relief as regards seniority.
11. With the aforesaid observations, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge