

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4777 of 2021**

Akhilesh Kumar Gupta S/o - Late Shri Ayodhya Prasad Gupta, Aged About 53 Years, Presently Posted As Assistant Project Manager, Public Works Department, At Asian Development Bank Project / Chhattisgarh Road Development Corporation, Balodabazar Bhatapara (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)
2. Engineer In Chief, Public Works Department, Nirman Bhawan, Atal Nagar, Naya Raipur, District Raipur (Chhattisgarh)
3. Project Manager, Public Works Department, Asian Development Bank Project / Chhattisgarh Road Development Corporation Baloda Bazar, District Baloda Bazaar-Bhatapara (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Vivek Sharma, Advocate
For State	:	Mr. Amrito Das, Addl. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order On Board****09.09.2021**

1. The challenge in the present writ petition is to the orders Annexure P-1 & P-2 dated 12.08.2021 & 18.09.2019.
2. The facts of the case in nutshell are that the petitioner was initially appointed under the respondents as a daily wage employee on the post of Sub Engineer. In due course of time, the services of petitioner

stood regularized on 19.05.2000. In the year 2017, vide WPS No. 5213/2017 the petitioner had approached this Court claiming a relief from the respondents for considering his services as daily wage employee for the purpose of grant of seniority and also for the benefit of annual increments etc. The claim of petitioner was on the basis of an order passed by the State Administrative Tribunal in O.A. No. 1979/91 in the case of Satish Kumar Mandloi Vs. State of MP and another. This Court vide order dated 04.10.2017 disposed of the said writ petition i.e. WPS No.5213/17 for taking an appropriate decision keeping in view the judgment of the State Administrative Tribunal in the case of Satis Kumar Mandloi (supra). Pursuant to the order of this Court the respondents convened a meeting and the case of petitioner was scrutinized and the claim of petitioner for seniority from his initial date of appointment was accepted and allowed on 23.07.2018. On the basis of the recommendation by the Committee, the order of promotion was also issued in favour of the petitioner from the post of Sub Engineer to the post of Assistant Engineer vide order dated 18.02.2019. Thereafter, the petitioner has been performing the duties of Assistant Engineer till the impugned order was passed on 12.08.2021 Annexure P-1 which is an order based upon a decision taken by the respondents vide Annexure P-2 dated 18.09.2019.

3. A plain perusal of the two orders under challenge i.e. Annexure P-1 & P-2 would clearly reflect that the decision has been taken by the respondents in the light of a decision rendered by this Court in the case of Purushottam Lal Sahu Vs. State of Chhattisgarh and others in WPS No. 836/2019 decided on 08.02.2019. There is no reference in

the said two orders as regards the order passed by the State Administrative Tribunal in the case of Satish Kumar Mandloi. There is no comparative assessment of the claim of petitioner qua the benefit extended to Satish Kumar Mandloi. The decision in the case of petitioner has been only based upon a subsequent decision rendered by this Court in the case of Purushottam Lal Sahu (supra).

4. A similar issue came up for hearing in WPS No. 958/2020 and other connected matters where the writ petitions filed on behalf of similarly placed persons were taken into consideration and this Court vide order dated 24.02.2021 considering the submissions made on behalf of the parties therein in paragraphs 8 to 10 held as under:

“8. Having heard the contentions put forth on either side and on perusal of records, if we take note of the observations made by this Court in the earlier round of litigation on behalf of the petitioners, the order of which is reproduced in the preceding paragraphs it would clearly reflect that this Court had disposed of the writ petition on clear understanding arrived at on the basis of submissions made by the counsel appearing on either side that petitioners case needs consideration in terms of the order passed by SAT in the case of Satish Kumar Mandloi's which in other words means that case of the petitioner ought to had been evaluated in comparison to the case of Satish Kumar Mandloi then the Committee should have reach to a conclusion whether the case of the petitioners herein was similar to that of Satish Kumar Mandloi or not and if not how is it different than that of case of Satish Kumar Mandloi. The impugned order does not speak of or refer to anything as such nor does it reflect any evaluation having been done to reach to a conclusion that petitioner would not be entitled for the benefits as has been provided to Satish Kumar Mandloi. On the contrary the impugned order refers to an order that is the case of the Purushottam Sahu which was not referred to by this Court while disposing of the writ petition of the petitioners and therefore the authorities could not have decided the claim of the petitioners only relying upon the orders passed in the case of Purushottam Sahu, particularly when the

respondents have decided to act upon the order passed by this Court in the case of the petitioners by constituting a Committee and evaluating the claim of the petitioners.

9. Plain perusal of the impugned order would reveal that after referring to the facts of the individual petitioners and observing the directions given by this Court in the case of petitioners, they have jumped to the conclusion denying the claim of the petitioners only on the basis of order passed by this Court in the case of Purushottam Sahu i.e. WPS 836/2019 decided on 08.02.2019. This was not the mandate of the order passed by this Court. The said impugned order thus would not be sustainable and same deserves to be remitted back for a fresh consideration of the claims of each of the petitioners strictly considering the case of the respective petitioners in comparison to the case of Satish Kumar Mandloi and thereafter the Committee is expected to evaluate whether the status of the petitioners are in parity with the status of the S.K.Mandloi and why the petitioners should not be given the benefit that has been extended to Satish Kumar Mandloi. Accordingly, the impugned orders Annexure P-6 to P-64 in WPS 958/2020 and Annexure P-6 in WPS 3601/2020 deserves to be and is accordingly hereby set aside and the matter stands remitted back to the respondents for a fresh decision to be taken by the Committee in terms of the observations made in the preceding paragraphs by this Court.

10. Considering the fact that present is a second round of litigation, the Committee is expected to take a decision at the earliest preferably within a period of 90 days from the date of receipt of copy of this order."

5. In those writ petitions also it was a similar order taken by the respondents based upon the order passed by this Court in the case of Purushottam Lal Sahu and this Court after hearing the parties had remitted those matters to the State authorities qua for a fresh consideration of the case of petitioners therein and it was specifically directed that since in the first round of the litigation the direction by this Court was to compare the case of petitioners with that of Satish Kumar Mandloi, the respondent authorities were expected to take a

decision comparing the case of petitioners with that of Satish Kumar Mandloi and then to reach to a conclusion.

6. Since this Court had already in the said matter as early as on 24.02.2021 taken this view and remitted the matter to the State authorities for a fresh consideration and decision and the facts of the present case being similar set of facts, the present writ petition also stands disposed of in similar terms as rendered in WPS No. 958/2020 and connected matters decided on 24.02.2021.
7. As a consequence, the impugned orders in the present writ petition Annexure P-1 & P-2 stand quashed and the matter stands remitted back to the respondents for an appropriate decision to be taken by the Committee afresh in terms of the observations made in the preceding paragraphs and also the observations made by this Court in WPS No. 958/2020, within a period of 60 days from the date of receipt of a copy of this order.

Sd/-
(P. Sam Koshy)
Judge