

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4780 of 2021

1. Pramod Kumar Shrivastava S/o Late J.P. Shrivastava Aged About 57 Years Sub Engineer, Presently Working As Assistant Project Manager, (Sub Engineer), Chhattisgarh Road And Infrastructure Development Corporation Limited (C.G.R And I D C L) Ambikpur, District Sarguja Chhattisgarh.
2. Jagdish Prasad Chaudhary S/o Shri Damodar Prasad Chaudhary Aged About 57 Years Presently Working As Sub Engineer, In The Office Of Executive Engineer, P.W.D. Division No. 2, Bilaspur, R/o Dayalband, Bhatkhande Sangeet Mahavidhyalaya, Munshi Ram Gali No. 2, Police Station Torwa, District Bilaspur Chhattisgarh.
3. Smt. Rekha Pandey W/o Late Shri Satyanarayan Pandey Aged About 55 Years R/o S.M.I.G. 41 Vajpayee Castle, Minocha Colony, Bilaspur, District Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Public Works Department (PwD), Mahanadi Bhawan New Mantralaya, Atal Nagar Nawa Raipur, District Raipur Chhattisgarh.
2. The Engineer In Chief Public Works Department, Nirman Bhawan, North Block, Atal Nagar, Raipur, District Raipur Chhattisgarh.

---Respondents

For Petitioners	:	Shri R.S. Patel, Advocate.
For State	:	Ms. Sunita Jain, Govt. Advocate.

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 dated 26.09.2019, 25.10.2019 and 26.09.2019 (Annexure P/1 Collectively).
2. The facts of the case in nutshell are that the petitioners No.1&2 and the husband of petitioner No.3 were initially appointed under the respondents as a daily wage employee on the post of Sub Engineer. In due course of time, the services of petitioners No.1&2 stood regularized on 25.07.1994 whereas the Husband of the petitioner No.3 stood regularized on 30.12.1998. Vide WPS Nos. 6556/2018, 2975/2019 and 6265/2018 the petitioners No.1&2 and the Husband of the petitioner No.3 had approached this Court claiming a relief from the respondents for

considering their services as daily wage employee for the purpose of grant of seniority and also for the benefit of annual increments etc. The claim of petitioners 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 orders dated 04.10.2018, 24.04.2019 and 24.09.2018 respectively disposed of the said writ petitions 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 orders of this Court the respondents convened a meeting and the case of petitioners were scrutinized and the claim of petitioners for seniority from their initial date of appointment were rejected vide orders impugned Annexure P/1 collectively.

3. A plain perusal of the orders under challenge i.e. Annexure P-1 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 impugned orders as regards the order passed by the State Administrative Tribunal in the case of Satish Kumar Mandloi. There is also no comparative assessment of the claim of petitioners qua the benefit extended to Satish Kumar Mandloi. The decision in the case of petitioners, have 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 for a fresh consideration of the case of petitioners therein. That 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 on 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 stands 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