

HIGH COURT OF CHHATTISGARH AT BILASPUR

Review Petition No. 134 of 2021

1. CSPHCL (Chhattisgarh State Power Holding Company Limited) Through Its Chairman, Daganiya, Doongaji Colony, Raipur Chhattisgarh.
2. Chhattisgarh State Power Distribution Company Limited Through Its Chairman, C.S. Power Companies Campus, Daganiya, Raipur Chhattisgarh.
3. The General Manager (HR) Chhattisgarh State Power Holding Company Limited, Daganiya, Doongaji Colony, Raipur Chhattisgarh.

---Petitioner(s)

Versus

1. N.W. Henry S/o Shri J. Henry Parte Aged About 54 Years Occupation Service (Additional Chief Engineer), C.S.P.D.C.L. Chhattisgarh, Resident Of Shanti Residency, Near Ganga Diagnostic Lalpur, District Raipur Chhattisgarh.

---Respondents

For Petitioners	:	Shri SC Verma, Sr. Advocate along with Shri Vikram Dixit, Advocate.
For respondent	:	Shri Rajeev Shrivastava, Sr. Advocate along with Ms. Sonam Shukla, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.12.2021

1. The present review petition has been filed by the applicants herein seeking for review of the order dated 06.07.2021 passed in WPS No.3302 of 2021.
2. The matter pertains to a DPC that was convened for promotion from the post of Additional Chief Engineer to the post of Chief Engineer. The DPC that was convened on 05.11.2019 considered the case of the petitioner also but the recommendations were kept in a sealed cover on account of a pending departmental enquiry. The departmental enquiry which the petitioner-employee was facing finally got concluded and vide order dated 28.11.2020 the petitioner stood exonerated from all the charges levelled against him. This has led to the filing of the writ petition seeking for an appropriate direction to open the recommendations made by the DPC which is otherwise kept in a sealed cover.

3. This court while disposing of the writ petition has made the following observations:

“4. Given the aforesaid factual matrix of the case and also taking note of the order dated 28.11.2020 whereby the petitioner stands completely exonerated from the disciplinary proceedings, the respondent authorities ought to have promptly acted upon the consequences which the petitioner would be entitled for in the context of his getting exonerated from the disciplinary proceedings.

5. The writ petition at this juncture for this limited purpose is disposed of directing the respondents to take an appropriate decision at the earliest in opening the sealed cover pertaining to petitioner from the DPC that was convened on 05.11.2019, and if the petitioner has been recommended for promotion, let appropriate orders be also issued in this regard. The respondent-authorities are expected to take a decision at the earliest preferably within a period of 60 days from the date of the receipt of copy of this order.”

4. The review petition now has been filed on 09.09.2021 seeking for review on three counts. The first being that the petitioner has not disclosed the fact that the dispute pertaining to the social/caste status of the petitioner is already subjudice before the High Court in WPC No.2002 of 2016. That, the said writ petition was filed challenging the order of the High Powered Caste Scrutiny Committee (in short the Committee) which had cancelled the social status certificate of the petitioner. The second ground is that there is a circular of the State Govt. dated 25.11.2020 which was passed by the State Govt. subsequent to the DPC by which the State Govt. has taken a decision not to grant promotions to any of those persons whose caste certificate stands cancelled by the Committee. The third ground is that the Board of Directors of the applicants Company themselves have taken a decision on 22.02.2021 reserving one post of Chief Engineer

vacant till the outcome of WPC No.2002 of 2016 in the case of the respondent-employee.

5. Learned counsel appearing for respondent-employee opposing the review petition submits that all these grounds raised by the applicants-company are not sufficient for exercising the power of review jurisdiction of this court. That, review would be applicable only in the event of an error apparent on the face of records which in the instant case has not been pointed out. The grounds raised by the review petitioners are all facts and developments which have subsequently carved out and which would not have relevance so far as DPC and recommendations which were made on 05.11.2019. Lastly it was also contended by the respondent-employee that DPC recommendations so far as petitioner is concerned was kept in a sealed cover only on account of the pending departmental enquiry and not for any other grounds. That, therefore these subsequent grounds cannot be taken by the applicant company for denying the respondent-employee his claim for promotion if he has been recommended by the DPC. The respondent-employee also submits that pendency of the writ petition was already within the knowledge of the DPC which was convened on 05.11.2019 as would be evident from the note sheet and the minutes and if the DPC themselves have not deferred the case of the respondent for promotion because of pendency of writ petition, the same cannot be availed at this juncture by the applicant company.
6. Having heard the contentions put forth on either side and on perusal of records admittedly the Committee's decision cancelling the caste certificate of the petitioner is sub judice before this court since 2016 i.e. in WPC No.2002 of 2016. This High Court vide an interim order dated 08.08.2016 has ordered that no co-ercive steps shall be taken against the

respondent-employee pursuant to the impugned order i.e. cancellation of the caste certificate. The interim order is still in operation. The DPC recommendations dated 05.11.2019 was kept in a sealed cover only on account of the pending departmental enquiry against the employee which has subsequently been concluded and the employee stands exonerated vide order dated 28.11.2020.

7. This Court while disposing of the writ petition had directed the respondents, applicants herein to take an appropriate decisions so far as the sealed cover of DPC that was convened on 05.11.2019 pertaining to petitioner is concerned to be opened and to take an appropriate decision. This, in other words means, as is also evident from the order passed by this court, that the decision of the respondents, applicants herein, has to be taking into consideration all the ground realities and the factual matrix available on the date when sealed cover is being opened as per the directions of this court. If upon opening of the sealed cover the applicants still find some legal hurdle in executing the order, in all fairness it is expected that the applicants herein would have taken an appropriate decision in this regard highlighting the grounds, reasons and justifications showing the inability in not executing the said order so that the respondent-employee, if at all, if he is aggrieved of, would have an option of subjecting the same to a judicial review again.
8. The grounds raised by the applicants herein may not be a ground available for entertaining the review petition or warrants modification of the order dated 06.07.2021 passed in WPS No.3302 of 2021. The review petitions can be entertained only in the event of an error apparent on the face of record and the error should be glaringly visible. The grounds raised by the applicants herein do not disclose any error apparent on the face of

records for the simple reason that the whole dispute was in respect of a sealed cover procedure initiated by the DPC in the meeting that was convened on 05.11.2019 and the reason also being only on account of pending of a departmental enquiry which too subsequently stands concluded. The grounds raised by the applicants are all subsequent development which may not be a strong ground available for review of the order as on date.

9. The review petition accordingly stands rejected with the aforesaid observations.

Sd/-
(P. Sam Koshy)
Judge

inder