

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5405 of 2021**

1. Smt. Disha Singh Rajput W/o Shri Abhishk Singh Rajput, Aged About 41 Years Working As Head Constable At S.I.B., Pendra Raod, District Gourela Pendra Marwahi, Chhattisgarh
2. Smt. Vijya Kaiwartya W/o Shri Sohan Kaiwartya, Aged About 43 Years, Working As Head Constable At AJK, Kawardha, District Kabirdham, Chhattisgarh.
3. Smt. Jyoti Rakesh W/o Shri Santosh Sinha, Aged About 35 Years Working As Head Constable At DCRB, Office Of Superintendent Of Police, Kawardha, District Kabirdham, Chhattisgarh.
4. Doman Banjare S/o Shr D. R. Banjare Aged About 36 Years, Working As Head Constable At Police Station Kukdur, District Kabirdham Chhattisgarh.
5. Mukesh Kumar Sahu S/o Shri E. K. Sahu, Aged About 37 Years Working As Head Constable At Police Station City Kotwali, Kawardha, District Kabirdham, Chhattisgarh.
6. Birbal Sahu S/o Shri Pati Ram Sahu, Aged About 38 Years, Working As Head Constable At Police Station S. Lohara, Kawardha, District Kabirdham, Chhattisgarh.
7. Kamal Narayan Verma S/o Shri J. R. Verma, Aged About 42 Years Working As Head Constable At SIB, District Kabirdham, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary Home Department, Ministry, Mahanadi Bhawan Atal Nagar, Nava Raipur, District Raipur Chhattisgarh
2. Director General Of Police, Police Head Quarter, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.
3. Inspector General Of Police, Rang Durg, District Durg, Chhattisgarh.

----Respondents

For Petitioners	:	Mr. Somkant Verma, Advocate
For State	:	Mr. Amrito Das, Additional A.G.

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

29/09/2021

1. The present writ petition has been filed primarily seeking a relief of the respondents to immediately act upon the select list in which the petitioners have been held to be entitled for promotion to the post of ASI, at par with the personnel who were already promoted from the very same select list.
2. The contention of petitioners is that they had cleared the departmental promotion examination for promotion to the post of Assistant Sub-Inspector from the post of Head Constable that was conducted in the year 2018 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 12.05.2018 for 28 candidates, again on 22.05.2020 for 48 candidates, on 01.03.2021 for one candidate and on 20.07.2021 for two candidates.
3. 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 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, would be considered for promotion first and only thereafter would there be a requirement for picking up candidates from the subsequent departmental promotion examination.

4. 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.
5. 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.
6. In the light of the said stand of the State Government, the said writ petition i.e. 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 12.05.2018 consisting of 150 selected candidates does not have a validity period and that the candidates from the said list of 150 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.

7. Given the stand of the State Government in WPS No. 2182/2020 and the select list dated 12.05.2018 consisting of 150 candidates, the petitioners herein also are entitled for the protection which would be extended in terms of the stand taken by the respondents and clarified vide 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 take necessary steps for issuance of order granting promotion to the petitioners in terms of their policy decision.
8. 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 recently arisen by which they have to be 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.
9. With the aforesaid observations, the present writ petition stands allowed in part and disposed of.

Sd/-
(P. Sam Koshy)
Judge