

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6062 of 2021

- A. K. Laxminarayan S/o Late Shri Surya Prakash Rao Aged About 66 Years
R/o Retired Assistant Teacher In The High School Pravas Adhra Pathshala
Camp No. 1, Bhilai Nahar, Durg (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Post And P.S. Mandir Hasaud, Raipur (Chhattisgarh)
2. Joint Director, Treasury, Accounts And Pension, Durg (Chhattisgarh)
3. Pravas-Adhara Pathshala Committee, Through Chairman, Bhilai Nagar, Camp No. 1 Bhilai, District- Durg (Chhattisgarh)
4. Chhattisgarh Housing Board, Through The Commissioner Paryawas Bhawan, North Block, Sector-19, Naya Raipur District Raipur (Chhattisgarh)

---- Respondents

For Petitioner : Shri Aditya Tiwari, Advocate

For Respondent/ State : Shri Gagan Tiwari, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

01.11.2021

Heard

1. This is second round of litigation.
2. Learned counsel for the petitioner would submit that the petitioner initially has filed a writ petition before this Court bearing WP No. 4127 of 1992 wherein the appointment of one K. Umashankar Rao and J. Mohanrao was under challenge claiming that they were juniors to petitioner to be appointed on a higher post. This Court by order dated 25.04.2007 had quashed the order of

appointment of K. Umashankar Rao and J. Mohanrao. He would further submit that the petitioner also claims he should have been appointed on that post being the senior and the Court by order dated 25.04.2007 has directed Pravas Andhra Pathshala Committee, Respondent No. 3 herein to fill up the post of Assistant Teachers, if they so desire, in accordance with the rules. Learned counsel for the petitioner submits that thereafter the said order was challenged before the Supreme Court by K. Umashankar Rao and J. Mohanrao but the Hon'ble Supreme Court has dismissed those petitions, therefore the petitioner was required to be appointed in the post which was not done and now since he has retired therefore he may be *de novo* posted in the post of teacher and accordingly the service benefits be given to him.

3. As per the submission of the petitioner in the initial round of litigation prayer of petitioner was to appoint him by cancellation of appointment K. Umashankar Rao and J. Mohanrao, who were respondents No. 4 & 5 in the earlier round of writ petition bearing No. 4127 of 1992.
4. Perusal of the order of this Court dated 25.04.2007 which is filed as Annexure P-1 would show that this Court has not directed for appointment of the petitioner instead it was directed to *Pravas Andhra Pathshala* Committee (the respondent No.3, herein) to fill up the post of Assistant teacher, if they desire so, by strictly following the rules in accordance of rule prescribed in Rule 8 of the provisions of *Ashashikya Shikshan Sanshtha Niyam*, 1979. If the petitioner though claimed to be appointed in place of K. Umashankar Rao and J. Mohanrao, who were junior to him in the earlier round of litigation, but prayer not granted it would amount to denial of the prayer of the petitioner. The petitioner had chosen not to challenge the said order in the earlier round of litigation dated 25.04.2007. As on date the petitioner stands retired, therefore there cannot be *de novo* appointment of the petitioner to the post

which he claimed in the earlier round of litigation and also in this writ petition.

Consequently, the retrial benefits as otherwise would have accrued to the petitioner in case he was appointed cannot be assumed and presumed.

Thus, no relief can be granted to the petitioner in this writ petition.

5. In view of this, the petition sans merit is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti