

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5299 of 2020**

1. Surendra Das Mahant S/o Shri P.D. Mahant, Aged About 42 Years Presently Posted And Working As Training Officer, Government Industrial Training Institute, Bilha, District Bilaspur, Chhattisgarh
2. Tula Ram Patel S/o Shri Bodh Ram Patel, Aged About 46 Years Presently Posted And Working As Training Officer, Government Industrial Training Institute, Pusore, District Raigarh, Chhattisgarh
3. Lav Kumar Singh S/o Shri R.K.S. Nagvanshi, Aged About 44 Years Presently Posted And Working As Training Officer, Government Industrial Training Institute, Balod, District Balod, Chhattisgarh
4. Avdesh Kumar S/o Shri A.P. Dwivedi, Aged About 40 Years, Presently Posted And Working As Training Officer, Government Industrial Training Institute, Kanker, District Kanker, Chhattisgarh
5. Uttam Kumar Naik S/o Shri M.R. Naik, Aged About 42 Years, Presently Posted And Working As Training Officer, Government Industrial Training Institute, Kharsiya, District Raigarh, Chhattisgarh
6. Minati Bej W/o Shri Dilip Kumar Bej, Aged About 35 Years Presently Posted And Working As Training Officer, Government Industrial Training Institute, Kurud, District Dhamtari, Chhattisgarh
7. Rasna Kashyap W/o Shri Pushp Kashyap, Aged About 36 Years Presently Posted And Working As Training Officer, Government Women Industrial Training Institute, Saddu, District Raipur, Chhattisgarh
8. Banshi Lal Kashyap S/o Late Rameshwar Kashyap, Aged About 43 Years, Presently Posted And Working As Training Officer, Women Government Industrial Training Institute, Koni, District Bilaspur, Chhattisgarh

9. Mustri Begam W/o Shri Mohd. Mustafa, Aged About 42 Years Presently Posted And Working As Training Officer, Government Women Industrial Training Institute, Koni, District Bilaspur, Chhattisgarh
10. Ku. Santoshi Kaushik D/o Late Bhagat Ram Kaushik, Aged About 36 Years, Presently Posted And Working As Training Officer, Government Industrial Training Institute, Koni, District Bilaspur Chhattisgarh
11. Satyanarayan Kurre S/o Shri Sahas Ram Kurre, Aged About 43 Years, Presently Posted And Working As Training Officer, Government Industrial Training Institute, Geedam, District Dantewada, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Principal Secretary, Department Of Skill Development, Technical Education and Employment, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh
2. Director, Directorate Of Employment And Training, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Shashank Thakur, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

19.01.2021

1. The grievance of the petitioners in the present writ petition is the non-availability of any promotional avenues to the petitioners on the post of Training Officer in Communication Skill.

2. The case of the petitioners is that they had been appointed as Training Officer (Communication Skill) way back in the year 2013 and till date they have been working on the said post and they do not have any promotional avenues. According to the petitioners, the persons who were appointed as Training Officer (Technical) along with the petitioners and also faced a similar situation. However subsequently preferred a writ petition i.e. WPS No. 751/2017 which was disposed of by this Court directing the State authorities to consider the grievance of the petitioners therein so far as not having any promotional avenue is concerned. The State authorities subsequently amended the rule and created promotional avenues and amended the Rules in this regard but the Training Officer (Communication Skill) cadre the petitioners herein have been left out.
3. Counsel for the petitioners prays that the present writ petition may also be disposed of directing the State authorities to consider and decide the representation which the petitioners have made keeping in view the manner in which the respondents have proceeded in the case of the persons who were initially appointed on the post of Training Officer (Technical) along with the petitioners.
4. Counsel for the petitioners relied upon the judgment of the Supreme Court in the case of O. Z. Hussain (Dr.) Vs. Union of India reported in 1990 Supp. SCC 688 wherein paragraph-7 the Supreme Court has held as under:

“7. This Court, has no more than one occasion, pointed out that provision for promotion increased efficiency of the public service while stagnation reduced efficiency and makes the service ineffective. Promotion is thus a normal incidence of

service. There too is no justification why while similarly placed officers in other ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the 'A' category scientists in the non-medical wing of the Directorate.”

5. Again in the case of State of Tripura and others Vs. K. K. Roy reported in 2004 (9) SCC 65, the Hon’ble Supreme Court dealing with a similar situation in paragraph-6 has observed as under:

“It is not a case where there existed an avenue for promotion. It is also not a case where the State intended to make amendments in the promotional policy. The appellant being a State within the meaning of [Article 12](#) of the Constitution should have created promotional avenues for the respondent having regard to its constitutional obligations adumbrated in Articles 14 and 16 of the Constitution of India. Despite its constitutional obligations, the State cannot take a stand that as the respondent herein accepted the terms and conditions of the offer of appointment knowing fully well that there was no avenue of appointment, he cannot resile therefrom. It is not a case where the principles of estoppel or waiver should be applied having regard to the constitutional functions of the State. It is not disputed that the other States in India Union of India having regard to the recommendations made in this behalf by the Pay Commission introduced the scheme of Assured Career Promotion in terms whereof the incumbent of a post if not promoted within a period of 12 years is granted one higher scale of pay and another upon completion of 24 years if in the meanwhile he had not been promoted despite existence of promotional avenues. When questioned, the learned counsel appearing on behalf of the appellant, even could not point out that the State of Tripura has introduced such a scheme. We wonder as to

why such a scheme was not introduced by the Appellant like the other States in India, and what impeded it from doing so. Promotion being a condition of service and having regard to the requirements thereof as has been pointed out by this Court in the decisions referred to hereinbefore, it was expected that the Appellant should have followed the said principle.”

6. Given the aforesaid facts and circumstances of the case and also taking into consideration the judgments passed by the Hon’ble Supreme Court and also by this Court in WPS No. 751/2017 decided on 14.02.2017 in the case of the same department dealing with Training Officer (Technical), the respondents are directed to consider the grievance of the petitioners also and take an appropriate decision at the earliest preferably within a period of 4 months from the date of receipt of copy of this order.

7. The writ petition accordingly stands disposed of.

**Sd/-
P. Sam Koshy
Judge**