

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 94 of 2021**

Mallika Kashyap D/o Shri Chamruram Kashyap Aged About 29 Years R/o Village Pujaripal, Post- Chhindgarh, Tahsil- Chhindgarh, District Sukma Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Schedule Caste And Schedule Tribe Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh.
2. The Secretary Department Of Finance And Planning, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh., D
3. Collector Sukma, District Sukma Chhattisgarh.
4. Assistant Commissioner Tribal Development Sukma, District Sukma Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Shrawan Agrawal, Advocate
For State	:	Mr. V. R. Tiwari Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15/02/2021**

1. The grievance of the petitioner in the present writ petition is the alleged action and discrimination on the part of the respondents in discriminating between two set of workers appointed by the same recruitment in the same category.
2. According to the petitioner, an advertisement was published as early as on 01.06.2012 for filling up of the class-IV posts lying vacant in the different offices in District Sukma. The petitioner also participated in the same recruitment process and vide the order passed in the year 2013, a bunch of candidates were selected vide

different orders all appointments being made under the Work Charged Contingency Establishment Rules. Subsequently, the Department after about 3 years of service issued two orders on 31.08.2017 (Annexure P/4) and again Annexure P/6 dated 31.08.2017, wherein two set of candidates were placed in different categories. One set of employees were regularized against the regular posts under the State Government and another set of employees were regularized under the work charged contingency establishment.

3. From the materials available with the writ petition, it appears that there was a writ petition in the representative capacity on an earlier occasion preferred by the Chhattisgarh Shaskiya Laghu Vetan Karmachari Sangh, WPS No. 6211/2018, through the President of the District Sukma of the said Sangh. The writ petition was disposed on 20.09.2018 directing the respondents to take a decision on the grievance of the petitioners by passing a reasoned and speaking order, particularly dealing with the issue raised in those representations, wherein identically placed persons were subsequently categorized in the two different Rules detrimental to the interest of one.
4. Perusal of the pleadings further show that the District Collector, District Sukma vide order dated 31.10.2018 as per the directions of the High Court had considered the case and has cancelled the order dated 31.08.2017 and the cancellation has been done in respect of an order bearing reference No. आ.वि./स्थापना/2017. 18/1374, दिनांक 31.08.2017. According to the petitioner, he still

continued to work under the work charged contingency establishment, whereas the other group enjoys the benefit of regular employees under the State Government inspite of being appointed from the same advertisement and undergoing the same selection process and no criteria or guidelines have been envisaged creating the two categories. It was further the contention that the order of the District Collector dated 31.10.2018 also does not reflect any reasons in the process of issuance of the order of 31.10.2018.

5. Taking note of the aforesaid facts and circumstances of the case, the State counsel also submits that it does need a consideration at the level of the District Collector, who has to pass a reasoned and speaking order, particularly when this Court had while disposing of the earlier writ petition had directed the authorities to decide the representation of the petitioner therein by a reasoned order objectively deciding the contentions raised which the order Annexure P/9 does not reflect.
6. Given the said facts and circumstances of the case and also taking note of the factual matrix as has been narrated by the petitioner this Court is of the opinion that the matter needs to reconsideration at the level of the District Collector, District Sukma and it is therefore ordered that the District Collector shall pass a fresh order in respect of the status of the petitioner taking into consideration the advertisement that was issued and the various orders that have been passed subsequently and also taking note of the fact that a different set of employees from the same recruitment process have

been granted employment on regular basis under the State Government.

7. Let the District Collector, District Sukma pass an order afresh touching the aforesaid issues within a period of 90 days from the date of receipt of the copy of this order. The petitioner herein also would have the liberty to approach the District Collector by way of a fresh representation supported with all relevant documents and records in his possession in respect of his respective stand, which shall also be duly considered by the District Collector by deciding the issue.
8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

VAISHALI