

(2019) 09 CHH CK 0096

Chhattisgarh High Court

Case No: REVP No. 28 Of 2019

Rajesh Agrawal

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Sept. 17, 2019

Hon'ble Judges: Prashant Kumar Mishra, J; Sanjay Agrawal, J

Bench: Division Bench

Advocate: Anup Mazumdar, Rajnish Singh Baghel

Final Decision: Dismissed

Judgement

Prashant Kumar Mishra, J

1. WPS No.6479 of 2014 was preferred by one D.S. Dandotia challenging the action of the State Government under which he was not promoted to

the post of Assistant Engineer w.e.f. 13-1-2006 with a prayer that his non-promotion is arbitrary and illegal.

2. The learned Single Judge allowed the writ petition of D.S. Dandotia holding that the order passed by the State Government declaring D.S. Dandotia

not entitled to be considered for promotion w.e.f. 13-1-2006 is quashed. No consequential order was passed by the learned Single Judge.

3. The order passed in WPS No.6479 of 2014 was assailed in Writ Appeal by one Sanjay Pathak, who was respondent No.6 in WPS No.6479 of

2014. Said WA No.106 of 2016 was decided on 17-10-2016 modifying the order passed by the learned Single Judge holding thus in paras 12 & 13 :

12. The Learned Single Judge also did not consider the fact that though the Writ Petitioner joined services in the State of Chhattisgarh in the year

2007, he did not file any representation against his juniors till he was promoted in the year 2010. Be that as it may, the fact of the matter is that the

Writ Petitioner could not have been promoted in the REVP No.28 of 2019 State of Chhattisgarh till he actually joined in the State of Chhattisgarh on

13.8.2007. Therefore, the only benefit that can be given to the Writ Petitioner D.S. Dandotia (Respondent No.6 herein) is that the DPC shall consider

him for promotion with effect from 13.8.2007, when he joined in the State of Chhattisgarh. The order of the Learned Single Judge shall stand modified

to that extent.

13. We are, therefore, of the opinion that the writ appeal has to be and is accordingly allowed and the judgment of the Learned Single Judge is

modified and the Respondent No.6 shall be considered for promotion by the DPC only w.e.f. 13.8.2007.

4. The review petitioner is also working in the Water Resources Department and is presently posted as Assistant Engineer. His position is akin to that

of D.S. Dandotia, as both of them came to be allocated and joined in the State of Chhattisgarh at a later point of time. The review petitioner joined in

the State of Chhattisgarh on 5-2-2008 whereas he has been granted promotion to the post of Assistant Engineer by order dated 9-1-2014 w.e.f. 22-9-

2007. Thus, the review petitioner has also been granted the benefit of promotion from the date prior to his joining in the State of Chhattisgarh.

5. In the writ appeal of Sanjay Pathak it has been held that D.S.Dandotia could not have been promoted in the State of Chhattisgarh till he actually

joined in the State of Chhattisgarh on 13-8-2007. Exactly similar is the case of the REVP No.28 of 2019 review petitioner wherein he has been

granted promotion in the State of Chhattisgarh from a date when he was actually working in the State of Madhya Pradesh and not in the State of

Chhattisgarh.

6. Shri Anup Majumdar, learned counsel appearing for the review petitioner, would contend that the review petitioner was not heard when the

observation was made in paras 12 & 13 in WA No.108 of 2016, however, acting on the said order, review petitioner's promotion w.e.f. 22-9-2007 is

sought to be cancelled.

7. We have heard Shri Anup Mazumdar, learned counsel for the review petitioner and Shri Rajnish Singh Baghel, learned Dy. Govt. Advocate as to the observation made in paras 12 & 13 of the order passed in WA No.108 of 2016 and we failed to persuade ourselves to take any different view of the matter for the simple reason that an employee or officer who was allocated to the State of Chhattisgarh consequent to which he joined in the State of Chhattisgarh on a particular date, he cannot be allowed promotion from the retrospective date when he was not actually working in the State.

8. If the review petitioner or for that matter D.S. Dandotia, writ petitioner of the previous writ petition are allowed promotion from a date when they were not actually working in the State of Chhattisgarh and were actually working in the State of Madhya Pradesh, such promotion can only be examined by the State of Madhya Pradesh. As a separate State, State of Chhattisgarh is entitled to grant benefit of promotion for the period when the employee was actually working in the State. For any previous period it is the State of Madhya Pradesh, REVP No.28 of 2019 who will take a decision to promote an employee or officer who was working in that State at the relevant point of time.

9. There is no error apparent on the face of record warranting review of the order passed by the Division Bench in WA No.108 of 2016.

10. In the result, the review petition, sans substratum, is liable to be and is hereby dismissed.