

(2024) 09 CHH CK 1098
In the Chhattisgarh High Court
Case No : WP(S) 1590 Of 2016

Lalit Kumar Verma

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 11-09-2024

Acts Referred:

Chhattisgarh Municipal Corporation Act, 1956 — Section 58(1), 433

Citation : (2024) 09 CHH CK 1098

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : Jitendra Nath Nande, Devesh G. Kela, Pankaj Agrawal

Final Decision : Dismissed

Judgement

Goutam Bhaduri, J

1. The case of the petitioner is that he was initially appointed as a Tracer in the Municipal Corporation, Raipur on 05/04/1990. Thereafter he had cleared his distance education Diploma in PTDC Civil Engineering in February-March 2000. The services of the petitioner is governed under the Chhattisgarh Municipal Corporation (Appointment and Conditions of Service of Officers and Servants) Rules, 2007 Schedule I of which prescribed that for promotion to the post of Sub-Engineer initially 25% posts were reserved and 75% were from direct recruitment. The petitioner banks upon the circular which was issued on 16/11/1999 by the erstwhile State of Madhya Pradesh and according to the petitioner he would be entitled for promotion from the date of completion of 05 years in the post of Assistant Draftsman/Tracer, whereas he was promoted in the year 2015 to the post of Sub-Engineer.

2. The defence of the Municipal Corporation is that as per the notification dated 03/11/2014 (Annexure R/1) 5% promotional posts would be open to the persons who have passed out the departmental examination, otherwise a person would be entitled for consideration of promotion after 8 years as per Schedule-III.

Consequently, the petitioner was not entitled for accelerated promotion and he was promoted in the normal routine in the year 2015 as and when the occasion arose, therefore, no relief can be granted to the petitioner.

3. In order to appreciate the fact Rules of 2007 (supra) schedules were perused. Schedule I of which purports that for appointment to the post of Sub-Engineer 75% posts would be filled by direct recruitment and 25% would be filled by promotion. The petitioner claimed that he comes under the category of 25% which are to be filled up by promotion. Schedule III of the Rules prescribed that the entitlement of the promotion and the draftsman would be entitled after rendering 08 years of service as per the Rules and the same is not disputed by the parties.

4. In exercise of power under Section 58 (1) of the Municipal Corporation Act, 1956 Rules of 2007 were amended. Perusal of the Rules, 2007 would show that in Schedule I at Sr. No.29, the recruitment of the Sub-Engineer will be 100% by direct recruitment and in the said schedule Column 4 & 5 were substituted with the notification wherein 100% direct recruitment was reduced to 95% and 5% was reserved for the diploma/degree holder Tracer/Assistant Draftsman and the recruitment would be through the competitive examination. For the sake of brevity notification is reproduced hereinbelow:-

Government of Chhattisgarh Urban Administration and Development Department
Mantralaya Mahanadi Bhavan, Naya Raipur

NOTIFICATION

Raipur, Dated 03/11/2014

No. F 4 – 49/2006/18 :: In exercise of the powers conferred by Section 433 read with sub-section (1) of section 58 of the Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956) the State Government, hereby, makes following further amendment in the Chhattisgarh Municipal Corporation (Appointment and Conditions of Service of Officers and Servants) Rules, 2007, namely :-

AMENDMENT

In the Schedule of the said rules,-

1. In column (4) of serial number 29 of Schedule-I, for the figure and symbol "100%", the figure and symbol "95%" shall be substituted.

2. In column (5) of serial number 29 of Schedule-I, the following shall be inserted, namely :-

" 5% shall be filled from Diploma/Degree holder, Treasurer/Assistant draftsman who have completed 5 years of regular service through limited competitive examination."

By order and in the name of the Governor of Chhattisgarh

5. The aforesaid notification would show that two channels were provided one is direct recruitment to the Sub-Engineer and other is giving opportunity for the accelerated promotion to the Assistant Draftsman/Tracer, who had completed 5 years of regular service and have passed out the limited competitive examination. Admittedly, the petitioner has not passed out any competitive examination, however, he is promoted as on date in the year 2015, therefore, no relief can be granted to the petitioner.

6. Accordingly, the petition is dismissed.