

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPS No. 4814 of 2021

Kamlesh Kumar Thakur **Versus** State Of Chhattisgarh
Proceedings through Video Conferencing

2/09/2021	Mr. Goutam Khetrapal, counsel for the petitioner. Mr. Chandresh Shrivastava, Dy.A.G. for the State. Mr. Sudeep Agrawal, counsel for respondent No.3 Heard. Challenge in this petition is to the constitutional validity of circular dated 02.05.1990 (Annexure P5) which completely debars a candidate for being considered for promotion even though he is otherwise falling within the zone of promotion to the post governed under statutory rule framed under Article 309 of the Constitution of India. Petitioner is within the zone of consideration for the promotion to the post of Deputy Superintendent of Police under C.G. Police Executive (Gazette Service Recruitment and Promotion) Rules, 2005. Referring to the law laid down by the Supreme Court in the matter of L. Rajaiah Vs. Inspector General of Registration & Stamps, Hyderabad And Others [(1996) 8 SCC 246] and Sarva

U.P. Gramin Bank Vs Manoj Kumar Chak [(2013) 6 SCC 287], it is argued that since petitioner's appeal against imposition of punishment of stoppage of one increment with cumulative effect is pending consideration before the Appellate Authority and if the appeal is allowed either wholly or in part, petitioner would be entitled for consideration, however, in view of the impugned circular he is not considered for promotion.

Issue notice to the respondents.

Mr. Chandresh Shrivastava, learned State counsel would accept notice for respondents No.1, 2 and 4.

Mr. Sudeep Agrawal, learned counsel appears and accepts notice for respondent No.3/PSC.

Since all the respondents are represented, process fee need not be paid.

Post the matter immediately **after four weeks**.

In the meanwhile, one post of Dy.SP shall be kept vacant, till the next date of hearing.

Certified copy as per rules.

SD/-
(Prashant Kumar Mishra)
Acting Chief Justice

SD/-
(Rajani Dubey)
Judge