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2026:CGHC:31944

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5352 of 2026

1 - Hirman Das Mahant S/o Late Gurvind Das Mahant Aged About 36 Years Permanent R/o Ward No. 13, Machadoli, Lalpur, Post Office Machadoli, Distt. Korba (C.G.), Aadhaar No. 4685-9937-4118

2 - Vidyabhushan Shukla S/o Late Shri Ramdheeraj Shukla Aged About 41 Years R/o House No. 10, Sakti Road, Thusekela, Teh.- Kharsia, Distt. Raigarh (C.G.), Aadhar No. 3485-7720-4292

... Petitioners

versus

1 - State of Chhattisgarh Through The Secretary, Water Resources Department, Mahanadi Bhavan, Nava Raipur Atal Nagar, District Bilaspur (C.G.)

2 - The Chief Engineer Minimata (Hasdeo) Bango Project, Water Resources Department, Distt.- Bilaspur (C.G.)

3 - The Superintending Engineer Hasdeo Project Circle, Rampur / Distt.- Korba (C.G.)

4 - The Superintending Engineer Kelo Project Dam Circle, Kharsia, District Raigarh (C.G.)

... Respondents

For Petitioners	:	Mr. Vimal Pathak, Advocate
For State/Respondents	:	Ms. Diksha Gouraha, Dy. GA

(Hon'ble Shri Justice Bibhu Datta Guru)

Order on Board

27/07/2026

1. The present writ petition has been preferred under Article 226 of the Constitution of India calling in question the legality and validity of order dated 25.06.2026, passed by the Chief Engineer, Minimata (Hasdeo) Bango Project, Bilaspur, whereby the promotion granted to the petitioners from the post of Jeep Driver to Mechanic Grade-II vide order dated 12.04.2023 has been cancelled and they have been reverted to their substantive post of Jeep Driver.
2. Learned counsel for the petitioners submits that the petitioners were promoted after undergoing the prescribed selection process and had continuously worked on the promotional post for nearly three years. Their names also stood reflected in the provisional seniority list of Mechanic Grade-II. It is argued that the impugned order is arbitrary, violative of principles of natural justice and has been passed without assigning adequate reasons. It is further submitted that no fraud, concealment or misrepresentation is attributable to the petitioners and therefore they cannot be made to suffer for any alleged mistake committed by the Department or the Departmental Promotion Committee (DPC). It is also contended that once the promotion had been acted upon, the same could not have been withdrawn after such a long period.
3. *Per contra*, learned State counsel submits that the promotion granted to the petitioners was ex facie contrary to the applicable statutory Rules governing work-charged employees. The Department, upon scrutiny, found that the DPC had ignored the mandatory eligibility conditions and the prescribed procedure while recommending the names of the

petitioners for promotion. Consequently, a detailed departmental scrutiny was undertaken. It is submitted that before cancellation of the promotions, show cause notices were issued to both petitioners, their detailed replies/representations were considered and thereafter the competent authority passed a reasoned order cancelling the erroneous promotions. Thus, adequate opportunity of hearing was afforded and the principles of natural justice stand fully complied with. Learned State counsel further submits that the present case is not one of imposition of any penalty but merely rectification of an illegal promotion granted dehors the Rules. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in the matter of *Union of India and Another. Vs. Narendra Singh {(2008) 2 SCC 750}*, to contend that an order granting promotion contrary to statutory Rules does not create any enforceable right and the employer is competent to rectify such illegality. Reference has also been made to Fundamental Rule 31-A, submitting that pay drawn on a promotional post which is subsequently found to have been wrongly granted does not confer any vested right to continue on such post merely because the employee had worked thereon for some period.

4. I have heard learned counsel for the parties and perused the material available on record.
5. The principal contention advanced on behalf of the petitioners proceeds on the assumption that the impugned order is punitive in nature and therefore could not have been passed without holding a regular enquiry.

6. The present matter is not a disciplinary enquiry against the petitioners nor is it a case involving any allegation of misconduct. Rather, it concerns the legality of the recommendations made by the Departmental Promotion Committee (DPC) and the correctness of the promotional exercise undertaken by the Department. The scrutiny conducted by the respondents was confined to examine whether the DPC had adhered to the governing statutory Rules and eligibility conditions while making its recommendations. Consequently, the cancellation of promotion is the outcome of administrative review of an erroneous promotion process and not a punishment imposed upon the petitioners.
7. Merely because a show cause notice was issued and the explanation of the petitioners was sought before passing the impugned order would not convert the proceedings into disciplinary proceedings. The opportunity afforded was only to comply with the principles of natural justice before correcting an administrative error. The pleadings disclose that the competent authority found that the recommendations of the DPC were made in violation of the applicable Rules governing promotion. Once the very foundation of promotion is found to be contrary to statutory provisions, continuation of such promotion cannot be claimed as a matter of right.
8. It is well settled that there can be no estoppel against a statute. An employee does not acquire an indefeasible right merely because an illegal promotion has remained in operation for some time. If the promotion itself is contrary to the governing Rules, the employer is competent to withdraw the same after following the minimum

requirements of natural justice.

9. The record further demonstrates that show cause notices were issued to the petitioners, their representations were received and considered, and only thereafter the competent authority passed the impugned order. Thus, the requirement of audi alteram partem stood substantially complied with. The reliance placed by the respondents on the decision of the Hon'ble Supreme Court in *Narendra Singh* (supra) also supports the proposition that promotion granted *de hors* the statutory Rules can always be corrected and no vested right accrues from an illegal promotion.
10. Reference to Fundamental Rule 31-A is also apposite. The Rule recognises that where pay has been regulated on account of an appointment or promotion which is subsequently found to be erroneous, the competent authority possesses the power to appropriately regulate the pay in accordance with law. The Rule itself negatives the contention that continuance on an erroneous promotion creates a perpetual or indefeasible right in favour of the employee.
11. The petitioners have not been able to demonstrate that the findings recorded by the competent authority regarding violation of the promotion Rules are either perverse or unsupported by the record. Judicial review under Article 226 does not extend to re-appreciation of the correctness of the DPC proceedings once the competent authority has found that the recommendations were contrary to the governing Rules and has corrected the same after affording opportunity of hearing.

12. In such circumstances, this Court finds no arbitrariness, *mala fides* or jurisdictional error warranting interference under Article 226 of the Constitution of India.
13. Accordingly, finding no merit in the writ petition, the same is dismissed.

SD/-
(Bibhu Datta Guru)
JUDGE

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Headnote

Promotion granted *de hors* the statutory Rules can always be corrected at any stage and no vested right accrues from an illegal promotion.