

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1696 of 2015

1. Shatrughan Lal S/o Shri Nanhu Ram Aged About 35 Years R/o Village Ramhepur, Post Khairjiti, Pandariya, Police Station- Pandariya, Civil & Revenue Distt. Kabirdham Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through the Secretary, Public Health And Welfare Department, Mahanadi Bhawan, Mantralaya, Naya Raipur Distt. Raipur Chhattisgarh
2. Chief Medical Health Officer, Kawardha, Distt. Kabirdham Chhattisgarh

---- Respondent

For Petitioner	Shri Ajit Singh, Advocate
For Respondent/State	Shri Bhaskar Payasi, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

23/09/2015

Heard learned counsel for the parties.

1. Petitioner has prayed for a direction to the respondents to consider the method of selection adopted by the Health Department of Durg District in Annxure – P/7 for providing weightage marks for the experience earned by the petitioner and like candidates of Kabeerdham District.

2. The Chief Medical & Health Officer (CMHO), Kabeerdham, issued advertisement for recruitment of Driver amongst several other posts. The petitioner had earlier worked as Driver in the establishment of the CMHO, Kabeerdham, therefore, he was anticipating grant of weightage for experience as has been granted in similar advertisement issued by the CMHO, Durg. However, when the same did not find mention in the subject advertisement, the petitioner has preferred this writ petition.
3. Learned counsel for the State would submit that under the circular dated 30-1-2012 issued by the General Administration Department the contract appointee is only entitled for relaxation in upper age limit, however, the State Government has never issued any direction for grant of weightage for experience as contract appointee.
4. Learned counsel for the petitioner would refer to the document Annexure – R/2 wherein the Commissioner, Health Services, Chhattisgarh, has directed all the Joint Directors (Health Services) to maintain parity in the selection process for recruitment of class III & IV employees. He would submit that since in Durg District weightage for experience has been granted, to maintain parity, Kabeerdham should also have granted the benefit of weightage of marks for experience.

5. A reading of the communication issued from the office of the Commissioner, Health Services on 23-7-2013 (Annexure – R/2) would reveal that a direction has been issued to maintain parity, however, the Commissioner has not issued any model advertisement or guidelines, which is required to be adhered in all the districts. There is no mention in the letter that benefit of weightage for experience should be granted in all the districts. Merely because such weightage has been granted in one district, the same cannot be applied through out the State in exercise of power under Article 226 of the Constitution of India. It is not a case where the subject weightage of marks is permissible under the recruitment rules. The Commissioner (Health Services) has also not issued any express direction by order and in the name of the Governor of Chhattisgarh so to improve the status of document as an executive order of the Government. The document appears to be advisory in nature and not enforceable under Article 226 of the Constitution of India.

6. Accordingly, the writ petition is dismissed. No order as to costs.

Sd/-

Judge

Gowri

Prashant Kumar Mishra