

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 386 of 2015**

Nitin Jain S/o Shri Gulabchand Jain, aged about 39 years, R/o Thakur Road, In front of Vinod Readymade, Jagdalpur, District Bastar, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, through the Secretary, Department of Law, Mantralaya, DKS Bhawan, Raipur, Chattisgarh.
2. The High Court of Chhattisgarh, through the Registrar General, Bilaspur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Vinod Deshmukh, Advocate.
For Respondents/State	:	Shri Prafull N Bharat, Additional Advocate General.
For Respondent No. 2	:	Shri Ashish Shrivastava, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Inder Singh Uboweja, J.

Judgment on Board**Per Navin Sinha, Chief Justice****04/12/2015**

1. The present appeal arises from order dated 23.6.2015 dismissing Writ Petition (S) No. 4721 of 2009 holding that the Appellant figuring in the wait list had no indefeasible right to appointment.
2. The Appellant was an applicant for the post of Civil Judge, Entry Level held in 2008. He was serial No. 1 in the wait list of open category candidates. One candidate at serial No. 22 belonging to his category did not join. The Appellant therefore represented that he should be considered against the same. When no response was received, he filed the writ petition.
3. Learned Counsel for the Appellant submits that the representation was filed within the duration of life of the panel. Even the writ petition was filed during

the life of the panel. Had the Respondents considered his representation in time, he could have been considered for appointment. The fact that the life of panel may have lapsed during the pendency of the litigation cannot be a ground to deny relief.

4. Learned Counsel for Respondent No. 2 submitted that a candidate in the select list has no indefeasible right to demand that merely because there was a vacancy due to non-joining, he must mandatorily be appointed. Moreover, the present matter relates to judicial appointments which are governed by the order of the Supreme Court in Civil Appeal No. 1867 of 2006 (Malik Mazhar Sultan v. UP Public Service Commission). The advertisements are required to be published every year and the vacancies notified afresh each year which includes back log unfilled vacancies of the previous year. The unfilled vacancies against which the Appellant claims relief has been carried into successive examinations held in the year 2011, 2012 and 2014, according to the directions of the Supreme Court.

5. We have considered the respective submissions.

6. The Learned Single Judge relying on (2013) 12 SCC 243 (Raj Rishi Mehra v. State of Punjab) held that merely because the Appellant was at serial No. 1 of the wait list it did not create an indefeasible right of appointment in him. Reliance on behalf of the Appellant upon Rule 10(2) of the Chhattisgarh Lower Judicial Service (Recruitment and Conditions of Service) Rules, 2006 to submit that he had a right to be considered against non-joining vacancies, does not impress. The Rule talks of appointment on available vacancies in the order in which they appear in the list. Reference to list, is to the merit list and not the wait list.

7. Moreover, the present is a matter relating to judicial appointments which are primarily guided by the directions of the Supreme Court in Malik Mazhar

Sultan (supra). It has specifically been provided therein that advertisements must be published every year in accordance with the schedule after identification of vacancies afresh each year. The left over vacancies of 2008 have already been carried to subsequent years in the examination held in 2011, 2012 and 2014.

8. We therefore find no reason to interfere with the order under appeal. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(Inder Singh Uboweja)
JUDGE