

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 530 of 2015**

Gokul Das Manikpuri S/o Amol Das Manikpuri, aged about 36 years, R/o Ward No. 03, Near Hariom Chowk, Kailash Nagar, Kawardha Police Station and Tahsil Kawardha, Civil and Revenue District Kabirdham, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through the Secretary, Urban Administration and Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. The Collector, Kawardha, District Kabirdham, Chhattisgarh.
3. Chief Municipal Officer, Municipal Council Kawardha, District Kabirdham Chhattisgarh.
4. Dev Kumar Sahu S/o Rohit Kumar Sahu, aged about 22 years, R/o Village Neurgaon, Khurd, Police Station and Tahsil Bodla, District Kabirdham, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Govind Dewangan, Advocate.
For Respondents/State	:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board**30/10/2015**

1. The present appeal arises from order dated 11.9.2015 dismissing Writ Petition (S) No. 3293 of 2015 declining to interfere with the challenge to the appointment of Respondent No. 4 in preference to the Appellant, inter alia, on the ground that Respondent No. 4 had secured more marks than the Appellant.

2. Learned Counsel for the Appellant submits that the advertisement in clause (6) provided for preference in appointment to persons already working. The Appellant was working since before while Respondent No. 4 was a fresh applicant. It was submitted that this was in violation of statutory rule 11 of the Chhattisgarh Municipal Employees (Recruitment & Conditions of Service) Rules, 1968 (hereinafter called 'the Rules') which provides that the names of

the candidates are required to be prepared in order of preference suitable for appointment. Since the advertisement itself provided for preference, name of the Appellant should have figured above Respondent No. 4.

3. Learned Counsel for the State has opposed the appeal submitting that preference does not mean a right to appointment irrespective of all other considerations.

4. We have considered the submissions on behalf of the parties and are of the opinion that the order of the Learned Single Judge calls for no interference.

5. The word 'preference' used in the Rules and incorporated in the advertisement cannot be read out of context by simply culling out one word from the same. The word 'preference' does not create a vested right to appointment irrespective of all other considerations. It will mean that other things being equal, one was to be chosen over the other. The Collector, having opined that the Appellant had secured lesser marks than Respondent No. 4, we find no reason to interfere with the order under appeal.

6. In (2006) 6 SCC 474 (State of Uttar Pradesh v. Om Prakash) it was observed as follows at paragraph 16:

"16. This court has consistently held that when selection is made on the basis of merit assessed through the competitive examination and interview, preference to additional qualification would mean other things being qualitatively and quantitatively equal, those having additional qualification would be preferred. It does not mean en bloc preference irrespective of inter se merit and suitability".

7. The appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE