

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3514 of 2015**

- Varsha Sharma D/o Dr. Santosh Kumar Sharma, Aged About 32 Years R/o Near Bus Stand, Gariaband Road, Rajim, District Gariaband (Chhattisgarh)

---- Petitioner**Versus**

1. The State of Chhattisgarh Through Secretary, Department of Higher Education, Mahanadi Bhawan, New Raipur, P.S. Rakhi, District Raipur, (Chhattisgarh)
2. Chhattisgarh Public Service Commission, Through: Secretary, Chhattisgarh Public Service Commission, Civil Lines, Raipur, Pin 492006, District Raipur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Sudeep Agrawal, Advocate
For Respondent No.1/State:	:	Shri Bhaskar Payashi, PL for the State
For Respondent No.2/PSC :	:	Shri Abhishek Sinha, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****07/10/2015**

1. Petitioner has preferred this writ petition seeking a direction to respondent No.2 to comply with the letter dated 9-7-2015, issued by the Higher Education Department of the State Government, requesting the Public Service Commission (for short 'the PSC') to consider preparation of modified waiting list and make recommendation for appointment on one vacant post of Assistant Professor (MCA).
2. Indisputably, the petitioner had appeared in the recruitment conducted by the PSC in the year 2011, wherein one post of Assistant Professor (MCA) was advertised. Based on performance of the candidates, name of one

Anamika Shukla was recommended as the selected candidate and one Swati Jain was kept in the waiting list. The petitioner did not find any place in any of the list. Eventually, neither Anamika Shukla, nor Swati Jain joined on the post, therefore, it remained vacant.

3. It is argued that since the select list was published on 27-9-2014 and thereafter appointment order was issued by the State Government on 17-11-2014, but the candidates having not joined on the post and at the same time, one year period has not elapsed after publication of the select list, the petitioner is entitled to be considered for appointment by preparing fresh select/waiting list. Learned counsel for the petitioner would place reliance on the judgment passed by the Division Bench of this Court in Writ Appeal No.92/2013, passed on 23-4-2013.
4. In the said matter the issue was of non-publication of waiting list, whereas in the case at hand the waiting list was already published, but the candidates did not join, therefore, there being no prescription under the service rules for preparation of fresh or supplementary waiting list, the Division Bench order is clearly distinguishable.
5. It is well settled that once the select list is prepared and thereafter waiting list is also published and both the lists were acted upon by issuing offer of appointment, the process of recruitment comes to an end and nothing survives for issuance of any further or fresh select list or waiting list. It is also settled that list of selected or eligible candidates is not to be used as a reservoir for making appointment at any point of time as if the same is perennial source of recruitment.
6. The Supreme Court in the matter of **State of Orrisa and another Vs.**

Rajkishore Nanda and Others¹, in para 16 has held thus:-

"16. A select list cannot be treated as a reservoir for the purpose of appointments, that vacancy can be filled up taking the names from that list as and when it is so required. It is the settled legal proposition that no relief can be granted to the candidate if he approaches the court after the expiry of the select list. If the selection process is over, select list has expired and appointments had been made, no relief can be granted by the court at a belated stage. (Vide *J. Ashok Kumar v. State of A.P., State of Bihar v. Mohd. Kalimuddin, State of U.P. v. Harish Chandra, Sushma Suri v. Govt. of NCT of Delhi, State of U.P. v. Ram Swarup Saroj, K. Thulaseedharan v. Kerala State Public Service Commission, Deepa Keyes v. Kerala SEB and Subha B. Nair.*)"

7. It is also argued that the PSC should have complied with the letter written by the concerned department of the State Government by Annexure P-1. The PSC is a recruiting agency, which recommends name of selected candidates at the end of selection process. In the absence of any recommendation by the PSC of its own, the State Government cannot entertain any representation to direct the PSC to send recommendation. Even otherwise, in view of the law laid down by the Supreme Court in the above referred matter, the PSC was fully justified in not recommending the name of the petitioner pursuant to the request made by the State Government.
8. For the foregoing, the writ petition being devoid of any substance, it deserves to be and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

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¹ (2010) 6 SCC 777