

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1709 of 2015

1. Anil Kumar Lakra S/o Saldev Ram Lakra Aged About 41 Years
C/o Isack Mashih, P.S. City Kotwali, R/o Dak Banglaw, Ward -
D-93, Near Nehru Garden Dhamtari, P.S. City Kotwali, Dhamtari,
Civil & Revenue Distt Dhamtari, District Dhamtari, Chhattisgarh

---- Petitioner

Versus

1. The State Of Chhattisgarh Through Secretary Of Economical &
Statistical Department, Mahanadi Bhawan, New Mantralaya,
Raipur, District Raipur, (Chhattisgarh)
2. Arthik & Sankhiki Sanchalnalay, Raipur Address Koushalya
Bhawan Parishar Bairan Bazar, P.S. City Kotwali, Raipur, Civil &
Revenue District Raipur, (Chhattisgarh)
3. Joint Director (Administrative) Arthik & Sankhiki Sanchalnalay
Address Koushalya Bhawan Parishar; Bairan Bazar, P.S. City
Kotwali, Raipur, Civil & Revenue District Raipur, (Chhattisgarh)

---- Respondent

For Petitioner	Shri Punit Ruparel, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

29/09/2015

Heard learned counsel for the parties.

1. Petitioner has appeared in the recruitment of Statistical
Investigator in the Directorate of Economics and Statistics,
Chhattisgarh. He is claiming reservation in the said recruitment

on the ground that he having served in the Central Industrial Security Force (for short 'CISF'), he is an Ex-serviceman and, as such, he is eligible to compete in the recruitment process under the Ex-serviceman category.

2. In course of hearing, learned counsel for the petitioner would submit that the respondents have not treated the petitioner as Ex-serviceman on the ground that at the time of applying for the post the petitioner was still in the service with the CISF.
3. The argument appears to be misconceived inasmuch as, to begin with, the petitioner having serving or served with the CISF can never be treated as Ex-serviceman in view of the definition of Ex-serviceman provided in the Notification No.36034/5/85-Estt (SCT) dated 27-10-1986 issued by the Department of Personnel & Training, Ministry of Personnel, P.G. & Pensions, Government of India by which the rules namely; Ex-servicemen (Re-employment in Central Civil Service and Posts) Rules, 1979 (for short 'the Rules, 1979') have been notified.
4. Under the said Rules, 'ex-serviceman' means a person, who has served in any rank (whether as a combatant or as a non-combatant) in the Regular Army, Navy and Air Force of the Indian Union but does not include a person who has served in the Defence Security Corps, the General Reserve Engineering Force, the Lok Sahayak Sena and the Para Military Forces; and

- (i) who has retired from such service after earning his/her pension; or
- (ii) who has been released from such service on medical grounds attributable to military service or circumstances beyond his control and awarded, medical or other disability pension :
- (iii) who has been released, otherwise than on his own request from such service as a result of reduction in establishment; or
- (iv) who has been released from such service after completing the specific period of engagement otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency and has been given a gratuity; and includes personnel of the Territorial Army of the following categories, namely :-
 - (i) Pension holders for continuous (embodied) service;
 - (ii) Persons with disability attributable to military service; and
 - (iii) gallantry award winners.

5. The petitioner is claiming benefit of Ex-serviceman on the strength of the subsequent office memorandum No.27011/100/2012-R&W dated 23-11-2012 issued by the Director (Personnel), Ministry of Home Affairs, Police Division – II (Resettlement and Welfare Directorate), Government of India.

6. A reading of the said office memorandum would reveal that the personnel from Central Reserve Police Force (CRPF), Border Security Force (BSF), Central Industrial Security Force (CISF), Indo-Tibetan Border Police (ITBP) and Sashastra Seema Bal (SSB) are treated as Ex-Central Armed Police Force Personnel (Ex-CAPF Personnel), however, it nowhere says that members of the above said forces would be treated as Ex-servicemen.
7. The issue is not that whether the petitioner is serving or retired, but the real issue is whether a CISF personnel can be treated as Ex-serviceman.
8. In view of the Rules, 1979, the petitioner is not an Ex-serviceman, therefore, the order Annexure – P/2 treating the petitioner ineligible to compete in the category of Ex-serviceman is just and proper warranting no interference of this Court.
9. In the result, the writ petition, sans substratum, is liable to be and is hereby dismissed. No order as to costs.

Sd/-

Judge

Prashant Kumar Mishra

Gowri