

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3466 of 2015

- Uttam Kumar Bareth S/o Late Mangal Prasad Bareth, Aged About 36 Years, R/o Dhobipara, Chandi Chowk, Raigarh, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Public Works Department, Mantralaya, Mahanadi Bhawan, New Raipur, (Chhattisgarh)
2. The Principal Secretary, Department Of Public Works, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
3. Engineering In Chief, Department Of Public Works, Seerpur Bhawan, Raipur, (Chhattisgarh)
4. Chief Engineer, Department Of Public Works, Bridge Zone, Seerpur Bhawan, Raipur, (Chhattisgarh)
5. Superintending Engineer, Department Of Public Works, Bridge Construction, Circle Raigarh, Distt. Raigarh, (Chhattisgarh)

---- Respondents

For Petitioner	Shri A. N. Bhakta, Advocate
For Respondent/State	Shri S. Majid Ali, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

23/09/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. That, the petitioner has preferred this writ petition seeking a direction to the respondents to consider and appoint him on the post of Peon as he was placed as wait listed candidate No.2 in the recruitment

conducted by the respondents.

3. The Department of Public Works, Bridge Construction Division, Raigarh issued advertisement in the year 2013 for filling up 18 posts of Peon. At the end of recruitment process, appointment letters were issued in favour of the selected candidates on 09.06.2014. The petitioner was placed as wait listed candidate No.2.
4. It is urged that Dinesh Kumar Chouhan and Kripachand Gendle, who were placed at Sr. No.1 & 3 respectively in the appointment order, did not join on the post, therefore, there being vacancies within one year, the respondents should have acted upon the waiting list and offered appointment to the petitioner. Learned counsel would place reliance on the judgment of the Supreme Court in the matter of **Manoj Manu and another v. Union of India and others**.¹
5. Learned State counsel would draw attention of the Court to Clause 12 of the advertisement, wherein it is clearly mentioned that the waiting list should remain valid for a period of one year from the date of issuance.
6. Admittedly, the appointment order was issued on 09.06.2014, therefore, the waiting list remained alive only till 08.06.2015.
7. In view of the above, since on the date of consideration of petitioner's case by this Court, the period of validity of the waiting list is over, a writ of mandamus cannot be issued contrary to the terms of the advertisement. Moreover, there is no documents submitted along with the writ petition to indicate that when the above said two candidates failed to join, whether their appointments were cancelled within a

¹ (2013) 12 SCC 171

period of one year from 09.06.2014? At this stage, learned counsel would submit that the appointment order itself stipulates that in the event of non joining by the appointed candidates, the appointment orders shall stand cancelled after 15 days.

8. Be that as it may, the fact remains that the petitioner did not approach this Court within one year from the date of issuance of appointment order i.e. within the validity period of the waiting list. Merely because a legal notice was served and thereafter a representation was submitted before expiry of period of one year, the same would not extend the validity period of the waiting list.
9. For the foregoing, issuance of writ after the expiry of the validity of the waiting list is not permissible. Accordingly, the writ petition is dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA