

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4669 of 2012

- Deepak Kumar Tiwari S/o Aditya Prasad Tiwari Aged About 34 Years R/o Village Pendra Dist. Bilaspur C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through the Secretary, Department of Technical Education, Manpower Employment, and Science and Technology, Ministry DKS Bhawan, Raipur Chhattisgarh
2. Director Employment. & Training, Woman Polytechnic Campus, Bairan Bazar Raipur C.G.

---- Respondent

For Petitioner	Mr. Yogendra Chaturvedi, Advocate
For Respondent /State	Mr. P.K. Bhaduri, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

26/2/2016

1. Heard.
2. The petitioner has prayed for quashment of the impugned decision of the respondents, whereby, he has been declared ineligible to participate in the selection process for the posts of Training Officer, Computer Operator and Programming Assistant. He has also prayed for quashing the impugned advertisement and a direction to the respondents to issue fresh advertisement

for recruitment on the above said posts.

3. Mr. Yogendra Chatturvedi, learned counsel for the petitioner, would submit that the petitioner holds the Master Degree in Science in the subject of Computer Science from a recognized University and was fully qualified and eligible in accordance with the eligibility norms provided under the C.G. Industrial Training (Non Gazetted) Service Recruitment Rules, 2005 (in short "the Rules, 2005"). However, by inserting the word "Engineering" against the qualification for the posts sought for in the advertisement, the petitioner has been declared ineligible on the ground that the petitioner is not holding an Engineering Degree in Computer Science.
4. The eligibility qualification published in Schedule-III of the Rules, 2005 prescribes qualification for the posts of Training Officer, Computer Operator and Programming Assistant as High School Examination or XI Class Examination or equivalent examination passed from a recognized Board; a degree in Computer Science from a recognized University or correspondence course or BCA/PGDCA or 'O' level Certificate from the Department of Electronics or NTC/NCA or equivalent in the concerned trade.
5. As against this eligibility qualification in the Rules, 2005, the advertisement -Annexure P/3 prescribed the qualification as degree from a recognized University or Board in Computer Science **and Engineering**. The word "Engineering" is an addition in the advertisement which does not find place in the Recruitment Rules. It is this word which has been interpreted by the Recruiting Agency to mean that 'only a candidate having

degree of Engineering in Computer Science would be eligible and not any other candidate who holds a degree in Computer Science but not an Engineering Graduate.'

6. In the opinion of this Court, the petitioner holds educational qualification in terms of the Rules, 2005, therefore, he was eligible to participate in the recruitment.
7. Mr. P.K. Bhaduri, learned counsel for the State, would inform this Court that at present, the recruitment process is already complete and the selected candidates have not been arrayed in this petition, therefore, neither the advertisement nor the selection process can be interfered.
8. In view of the law settled by the Supreme Court in the matter of **Ranjan Kumar and others Vs. State of Bihar and others, (2014) 16 SCC 187**, in cases where the advertisement or the selection process is assailed but the same has attained finality, all the selected candidates should be joined as respondents. In the absence of successful candidates having been joined in this petition, the relief to the above extent cannot be granted to the petitioner.
9. In the above view of the matter, this Court is required to consider as to what relief can be granted to the petitioner when there is an interim order in his favour keeping one post vacant .
10. The writ petition was filed at the initial stage when the petitioner was debarred from participating further in the selection process and not at the stage when the selection process was already over, therefore, at this stage, the only relief admissible to the

petitioner is of a declaration in his favour that under the Rules, 2005, he is eligible to participate and whenever any such recruitment takes place for any post under the Rules, 2005, the degree of M.Sc. (Computer Science) would be sufficient to make him eligible unless the Rules are amended to specifically include the degree of Engineering in Computer Science as eligibility qualification.

11. The writ petition is, therefore, disposed of, in the above stated terms.

Sd/-

Judge

(Prashant Kumar Mishra)

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