

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.323 of 2016

Dr. Amrita Kumari Panda, D/o Late Ishwar Chandra Panda, aged about 33 years, Working and posted as Scientist in the Department of Zoology, Kumaun University, Nainital, Uttarakhand, Permanent R/o Routpenth Street, Berhampur, Ganjam, Odisha.

---- Petitioner

Versus

1. Surguja University, Ambikapur, Through the Registrar, Surguja University, Ambikapur (C.G.)
2. The Vice-Chancellor & Chairman of the Executive Council, Surguja University, Ambikapur

---- Respondents

For Petitioner:	Mr. Rajeev Bharat, Advocate.
For Respondents:	Mr. Hemant Gupta, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

20/04/2016

1. In a duly constituted selection process, the respondent Surguja University appointed the petitioner on the post of Assistant Professor (Biotechnology) by order dated 8-7-2014 but being the resident of Nainital, Uttarakhand, the petitioner could not join on the said post and sought extension to join which was ultimately granted by order dated 1-8-2014 extending the period of joining up to 8-9-2014. In the meanwhile, one Dr. Ayesha Fatima Rizvi filed a writ petition namely W.P.(S)No.2701/2014 questioning the appointment on the post of Assistant Professor including the post

on which the petitioner was appointed in which this Court while entertaining the writ petition directed that any appointment made shall remain subject to final outcome of the writ petition. Thereafter, by order dated 26-8-2014, appointment of the petitioner was suspended/ withdrawn by the respondent Surguja University on account of pendency of W.P.(S)No.2701/2014 against which this writ petition has been filed questioning the said order perverse and being contrary to the order passed by this Court in W.P.(S)No.2701/2014.

2. Mr. Rajeev Bharat, learned counsel appearing for the petitioner, would submit that this Court has not stayed the appointment of the petitioner and has not directed to withdraw the appointment of the petitioner, the appointment was made subject to final outcome of the writ petition but the respondent University acting arbitrarily, withdrawn the order dated 8-7-2014 which is per se illegal and bad in law without affording an opportunity of hearing to the petitioner before cancelling her order of appointment.
3. On the other hand, Mr. Hemant Gupta, learned counsel appearing for the respondents, would however, justify the order suspending/withdrawing the appointment of the petitioner holding that the petitioner did not join within the period specified in the order of appointment dated 8-7-2014.
4. I have heard learned counsel for the parties and perused the documents available on record.

5. It is not in dispute that the petitioner was appointed on the post of Assistant Professor (Biotechnology) and on her request within one month from that order, time to join on the said post was ultimately extended up to 8-9-2014, but before the petitioner could join, a writ petition was filed on behalf of one Dr. Ayesha Fatima Rizvi questioning the selection in which this Court passed an order that any appointment made shall remain subject to final outcome of the writ petition. The order passed by the University suspending the appointment of the petitioner states as under: -

“In view of the pendency of WP(S) No.2701/2014 between Dr. Ayesha Fatima Rizvi Vs Sarguja University and Others the appointment order No.SUA/Estt./TA/1499/ 2014 Dated 08-07-2014 regarding appointment of Dr. Amrita Kumari Panda, Scientist, DST Fast Track, Department of Zoology, Kumaun University, Nainital- 263002 (Uttarakhand) to the post of Assistant Professor Biotechnology is hereby suspended/withdrawn till further order and subject to the decision of the Hon'ble High Court, Chhattisgarh, Bilaspur.

(Approved by the Vice Chancellor)”

Whereas, the operative portion of the order passed by this Court Annexure P-5 dated 19-6-2014 in W.P.(S) No.2701/2014 states as under: -

“Any appointment made shall remain subject to final outcome of the writ petition.”

6. A bare perusal of the order passed by this Court would show that

appointment, if any, to be made shall be subject to “final outcome of the writ petition”. This Court has not directed stay of the order of appointment of the petitioner or has not set aside the order passed by the University in favour of the petitioner appointing her on the said post or appointment of any other candidate. Therefore the order passed by Surguja University suspending the appointment of the petitioner on the post of Assistant Professor (Biotechnology) is contrary to the order passed by this Court.

7. The petitioner is a validly appointed Assistant Professor (Biotechnology) and there is no dispute about her appointment on the said post. Therefore, an opportunity of hearing ought to have been afforded to the petitioner before cancelling her appointment, as withdrawal / cancellation of the petitioner's appointment involves civil consequences and as such, cancellation/withdrawal of her appointment is also bad in law, as the petitioner has not been heard and even minimal opportunity of hearing has not been afforded to her. (See **Shrawan Kumar Jhar v. State of Bihar and others**¹ and **Nisha Devi v. State of H.P. and others**².)

8. Accordingly, the order dated 26-8-2014 (Annexure P-4) is set aside and it is held that the petitioner is entitled to join on the said post. Since the period for joining had already expired, the petitioner be allowed to join within a period of 45 days from the

1 AIR 1991 SC 309

2 2014 AIR SCW 1611

date of order. However, the petitioner's appointment on the said post, as directed by this Court in W.P.(S) No.2701/2014 (Dr. Ayesha Fatima Rizvi v. State of Chhattisgarh and another), shall be subject to final outcome of that writ petition.

9. The writ petition is allowed to the extent indicated herein-above.

No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge