

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.3117 of 2013**

Sanjay Kumar Pradhan, S/o Shri Dhvajaram Pradhan, aged about 35 years, R/o village & Post Barekel (Khurd) Via Pithora, PS Pithora, District Mahasamund (CG).

---- **Petitioner**

Versus

1. State of Chhattisgarh Through the Secretary, Department of Urban Administration and Development, New Mantralaya, Zero Point, Mahanadi Bhawan, PS Mandir Hasaud, Naya Raipur (CG).
2. Directorate Urban Administration and Development, Raipur through the Director, PS Raipur, District Raipur (CG).
3. Nagar Panchayat, Tundra, through Chief Executive Officer, Tundra, Post & PS Tundra, District Raipur (CG).

---- **Respondents**

For Petitioner	:	Shri Jitendra Pali, Advocate.
For Respondents/State	:	Shri Bhaskar Pyasi, Panel Lawyer.
For Respondent No.3	:	Shri Sanjeev Sahu, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order On Board

10/03/2017

1. Challenge in this petition is to the order dated 10.09.2013 whereby the order of appointment issued in favour of the petitioner on 11.08.2011 has been cancelled.
2. The brief facts of the case is that, the respondents had issued an advertisement on 28.02.2011 (Annexure P/3) whereby the applications were invited from the eligible candidates for filling up different posts advertised. Applications were also invited for one post of Shiksha Karmi Grade-I (Hindi) along with other posts. After the recruitment process was complete, the respondents admittedly found the present petitioner to be the most meritorious candidate for the said post of Shiksha Karmi-Grade-

I and on the basis of which an order of appointment was issued in favour of the petitioner on 11.08.2011.

3. The complication arose when against the said one post of Shiksha Karmi Grade-I which was advertised, the respondent-Chief Executive Officer, Nagar Panchayat, Tundra, in addition to issuance of an order of appointment in favour of the petitioner being most meritorious candidate, has also issued an order of appointment in favour of one Parmeshwar Lal. It appears that some complaint was lodged against the said recruitment process, therefore an inquiry was ordered to be conducted. The inquiry was conducted by the three Joint Directors under the Local Administration and Development Department. The inquiry team submitted their report vide Ex.P/8. In the said inquiry, the only defect pointed out was that though an advertisement was published for filling up only one post of Shiksha Karmi Grade-I (Hindi), the respondents have appointed two persons against one post advertised. The fact is that along with the petitioner, order of appointment was also issued in favour of one Parmeshwar Lal. Since the said Parmeshwar Lal did not assume his duties, order of appointment was issued in favour of one Sarita Patel by the Chief Executive Officer, Nagar Panchayat, Tundra.
4. The grievance of the petitioner is that the defect which has been pointed out by the inquiry officer was not that of any mischief or any fraud played by the petitioner, but from the inquiry report it clearly reflects that the Chief Executive Officer, Nagar Panchayat, Tundra had illegally made more than one appointment order against one post advertised. The petitioner could not have been removed from service for the reason that

ultimately he is a meritorious candidate and if at all if more than one persons have been appointed against the one post advertised, it is that appointments which have been made against the merit and beyond the advertised number of post which had to go and not the petitioner's appointment.

5. It is also the contention of the petitioner that it is not a case where the entire recruitment process had been held to be defective. It is only the case of all appointments of Shiksha Karmi Grade-I (Hindi) has been cancelled by the respondents on the ground of more than one person being appointed against one post advertised. The petitioner, thus, prayed for quashment/setting aside of the order impugned and for a direction to the respondents to issue an order of reinstatement in favour of the petitioner with all consequential benefits.
6. State counsel however, opposes the petition and submitted that the respondents have rightly cancelled the order of appointment of the petitioner on the ground that admittedly the entire inquiry which has been conducted shows that there was some technical defect which had arisen during the course of recruitment. He further submits that as more than one persons were appointed against only one post advertised, therefore, it cannot be said that cancellation of appointment order is bad in law.
7. At this juncture it is necessary to point out that all the respondents in their reply have admitted the position of the petitioner being the most meritorious candidate.
8. Having heard the rival contentions on the part of all the disputing parties and on perusal of records, certain undisputed facts in the present case

that crops up is that an advertisement was issued on 28.02.2011. As per advertisement, there was only one post of Shiksha Karmi Grade -I (Hindi). The petitioner stood meritorious in the selection process for the said post of Shiksha Karmi Grade-I (Hindi). No allegation of any misrepresentation, fraud or illegality to have been committed by the petitioner have been raised by any of the respondents. So far as petitioner being meritorious also has been admitted by all the respondents in their reply filed in this petition.

9. The only defect which has been detected in the inquiry was that more than one person appointed against one post of Shiksha Karmi Grade-I (Hindi). Under the said circumstances, the only recourse which the respondents should have taken was for canceling the appointment of that persons who was less meritorious and whose appointment have been made in excess to the number of post advertised. Under either of the circumstances, the petitioner's appointment could not have been disturbed as the petitioner was placed at serial No.1 in the order of merit for the post of Shiksha Karmi Grade-I (Hindi).
10. In view of the same, the cancellation of appointment order of the petitioner dated 10.09.2013 is held to be bad in law and is not sustainable.
11. Accordingly, the petition is allowed. The order impugned dated 10.09.2013 is quashed. The petitioner is entitled for reinstatement in the employment with all consequential benefits. No order asto costs.

Sd/-
(P. Sam Koshy)
Judge