

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.1873 of 2015

- Hemant Yadav S/o Late Bodhan Singh Yadav Aged About 28 Years R/o Shakti Ward Bhatapara District Baloda Bazar Bhatapara Civil & Revenue District Raipur Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Rural Engineer Services New Mantralaya, Mahanadi Bhawan Raipur, Chhattisgarh
2. Chief Engineer Department Of Rural Engineer Service Office Of Development Vikas Bhawan, Raipur, Chhattisgarh

---- **Respondents**

For Petitioners	:	Shri Hemant Gupta, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/08/2017

1. Petitioner's candidature for recruitment on the post of Sub Engineer (Civil) has been rejected or refused to be considered by the office of the respondent No.2-Chief Engineer, Chhattisgarh, on the ground that the petitioner was not having live registration from one of the Employment Exchange in the State of Chhattisgarh on the cut off date.
2. It is not in dispute that the petitioner was otherwise included in the tentative merit list, therefore, he was entitled for consideration of his candidature.
3. In **State of Chhattisgarh & Another v. Roshni Sahu¹** and other connected matters, the Full Bench of this Court has passed an order holding

1 WA No.411 of 2014 (Full Bench) decided on 21-10-2016

thus at paras 8 to 14 :

8. Last judgment which has been cited before us is of **Union of India Vs. Pritilata Nanda** [2010 (11) SCC 674]. In this case, the Apex Court held that it was not mandatory to appoint only those persons who were sponsored by the Employment Exchange. The issue before the Apex Court was whether the candidates who had not been sponsored by the Employment Exchange but had been permitted to take part in the selection process and had been successful in the selection process could be denied employment on the ground that their names have not been sponsored by the Employment Exchange. Dealing with this issue the Apex Court held as follows :

“20. The issue deserves to be considered from another angle. It was neither the pleaded case of the appellants before the Tribunal and the High Court nor was any evidence produced by them to prove that notification/ advertisement dated 31.1.1987 was sent to all the employment exchanges including the special employment exchanges in the State of Orissa. Before this Court also, no document has been produced to show that the advertisement was circulated to the employment exchanges in the State. In this backdrop, it is not possible to approve the stance of the appellants that the respondent was not appointed because she did not get her candidature sponsored by an employment exchange.

21. We also agree with the High Court that once the candidature of the respondent was accepted by the authorities concerned and she was allowed to participate in the process of selection i.e., written test and viva voce, it was not open to them to turn around and question her entitlement to be considered for appointment as per her placement in the merit list on the specious ground that her name had not been sponsored by the employment exchange. In our considered view, by denying appointment to the respondent despite her selection and placement in the merit list, the appellants violated her right to equality in the matter of employment guaranteed under Article 16 of the Constitution.”

9. As far as the present cases are concerned, in Writ Appeal No. 411 of 2014 the advertisement was issued on 7.2.2013. Last date for submission of application was 23.2.2013 and at the time when the application was submitted the respondent-applicant was not registered with the Employment Exchange. After she submitted her application, she got herself registered with the Employment Exchange on 25.3.2013. Despite the fact that she was not registered, the appellant-State permitted her to appear in the examination. She was successful in the written test. Only after she was found eligible for employment,

was an objection raised that since her name was not on the live registration of the Employment Exchange at the time when the application for the post was filed her candidature was rejected.

10. As far as Writ Appeal No. 360 of 2014 is concerned, the advertisement was issued on 28.4.2012 and the last date for submission of documents was 31.5.2012. When the respondent applicant submitted his application he was not registered with the Employment Exchange. He however got himself registered on 28th September, 2012. Despite the fact that he was not registered with the Employment Exchange he was permitted to appear in the written test. After he was successful in the written test he was permitted to appear in interview and in fact in the first select list his name was mentioned as one of the successful candidates but later on an objection was raised that he was not registered with the Employment Exchange at the time when the application was filed and therefore his candidature was cancelled.

11. In Writ Petition (S) Nos. 3336 and 3334 of 2015, the advertisement was issued on 2.7.2013 and the last date for submission of the documents was 23.9.2013. The petitioners were registered with the Employment Exchange in August, 2013. They were permitted to appear in the examination. Though there were no proof of their registration at that time, the petitioners were permitted to appear in the written test and thereafter also in the physical test. It was only after they were successful that their candidature was cancelled on the ground that at the time when their applications were submitted they were not registered with the Employment Exchange.

12. As far as these four cases are concerned, we are clearly of the view that these are squarely covered by the judgment of Pritilata Nanda (*supra*), especially by the observations of the Apex Court made in paragraph 21 quoted herein above. This is also the view taken by the Division Bench of this Court in Writ Appeal Nos. 322 and 323 of 2014, decided on 16th September, 2014. We agree with the view expressed in this case.

13. In this view of the matter, the cases of the petitioners will have to be accepted and therefore it is not necessary for us to enter into the second question and the decision thereof is left open.

14. In view of the above discussion, Writ Appeal Nos. 411 and 360 of 2014 are dismissed and Writ Petition (S) Nos. 3336 and 3334 of 2015 are allowed. The Petitioners in the Writ Petition (S) Nos. 3336 and 3334 of 2015 be considered for appointment if otherwise eligible.

4. In the present case, the petitioner got himself registered with the

Employment Exchange on April, 2016 i.e. after the cut off date, however, the fact remains that he was allowed to participate in the recruitment process and his name is included in the tentative merit list, therefore, petitioner's case is squarely covered by the judgment rendered by the Full Bench of this Court in Roshni Sahu (supra).

5. Consequently, the writ petition is allowed. Respondents are directed to consider the petitioner's case for appointment, if she is otherwise eligible and meritorious. Sd/-

SD/-
(**Manindra Mohan Shrivastava**)
Judge