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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4890 of 2012**

Kamlesh Kumar Sahu Son of Shri Balram Sahu, aged about 40 years, residence of Bhawani Chowk, Aamapara, kanker, Police Station and Post Kanker, District Uttar Bastar Kanker, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh through Health and Family Welfare Department, DKS Bhawan, Mantralaya, Raipur, Police Station City Kotwali, Raipur, District Raipur, Chhattisgarh
2. Divisional Joint Director, Health Services, Bastar Division, Jagdalpur P.S. City Kotwali, Jagdalpur District Jagdalpur, Chhattisgarh
3. Chief Medical and Health Officer, Kanker, Uttar Bastar Kanker, PS Kanker, District Uttar Bastar Kanker, Chhattisgarh
4. Mahendra Jain S/o Late Ramprasad Jain, Aged About 29 Years, village Mayana, Post Puri, Tah. Charama, P.S. Charama Dist. Kanker presently working at Community Health Center, Dhanelikanhar, PS Charama, District Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Shri C. Jayant K. Rao, Advocate
For State	:	Shri S. P. Kale, Dy. Advocate General
For respondent no.4	:	Ms. Sofia Khan, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****05.09.2018**

The challenge in the present writ petition is to the order dated 25.08.2012 passed by the respondents granting appointment to respondent no.4 on the post of driver under respondent no.3.

2. The brief facts relevant for adjudication of the present writ petition are that an advertisement was issued on 22.02.2012 for the post of driver among the reserve category candidates. One post was reserved for OBC category. The petitioner so also respondent no.4 belong to OBC category. After selection process was complete, the respondent Department found respondent no.4 to be the most meritorious candidate and accordingly granted appointment vide order dated 25.08.2012.

3. The solitary contention assailing the appointment of respondent no.4 was that respondent no.4 did not have a live licence for driving heavy vehicle and therefore he was not eligible for the said post. According to the petitioner, the condition attached to the advertisement itself was that the candidate should have a live heavy vehicle driving licence. According to the petitioner, the driving licence of respondent no.4 was only permitting him to drive a motorcycle with gear and light motor vehicle, therefore, he was ineligible for the appointment.

4. Per contra, counsel appearing for the respondents, submit that the licence of respondent no.4 bears an endorsement of the licensing authority which authorizes the petitioner to drive a transport vehicle and the said endorsement was made w.e.f. 04.12.2010. As per the Motor Vehicles Act, the definition of transport vehicle is provided under Section 2 (47) where "transport vehicle" means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle which is inclusive of heavy vehicle. Therefore, respondent no.4 cannot be said to be ineligible or incompetent to participate in the recruitment process and prayed for dismissal of the writ petition.

5. Having heard the contentions put forth on either side and on perusal

of the record particularly the reply of the State Govt. more particularly the document Annexure R-1 attached to the return in which it reflects that the name of respondent no.4 was at serial no.1 in the order of merit list after scrutiny of all the candidates in OBC category among those who had applied and the name of the petitioner in the said list stood at serial no.14. The respondent no.4 had scored total 70.38 marks whereas the petitioner had scored 49.63 marks. What further is evident from the said document is that between respondent no.4 and the petitioner, there are 12 more candidates in the same category to which the petitioner belongs and who have scored more than what the petitioner has scored. Therefore even if the writ petition for argument sake is allowed, the petitioner would not get any benefit as it is the candidate whose name appears at serial no.2 and down the line who would be having a claim for the said post ahead of the petitioner. It is also important to take note of the fact that none of the candidates who are placed at serial no.2 to 13 have questioned the selection or appointment of respondent no.4.

6. Given the aforesaid facts, this Court does not intend to further proceed with the writ petition to decide the other factors as the determination of the petition may only be of academic interest so far as the petitioner is concerned and he is not going to get any benefit even if the petition is allowed. For the said reason, this Court finds the writ petition to be devoid of merit and the same deserves to be and is accordingly dismissed.

**Sd/-
P. Sam Koshy
Judge**