

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 6011 of 2007

Rajesh Kumar Nishad S/o Shri Paras Nath Nishad, aged about 30 years, R/o Quarter No. 27, Labour Colony, Rajnandgaon (C.G.).

---Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary (Law), Govt. of C.G. BKS Bhawan, Raipur (C.G.).
2. The Registrar General, Hon'ble High Court of CG, Bilaspur (PO & Dist), CG State.
3. District Judge, Rajnandgaon (C.G.).
4. Secretary (Education), BKS Bhawan, Raipur (C.G.).

---Respondents

For petitioner	:	Shri Anup Majumdar, Advocate.
For respondents No. 2 & 3	:	Ms. Rashul Bhawnani on behalf of Shri Manoj Paranjpe, Advocate.
For State	:	Shri S.P.Kale, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/09/2018

1. The grievance of the petitioner in the instant Writ Petition is non-consideration of the petitioner for promotion from class-IV cadre to class-III cadre. The denial of the petitioner for the class-III cadre was on the ground that, the petitioner does not fulfill the minimum eligibility criteria particularly the qualification prescribed and that in the post there was certain adverse entries also in the Annual Confidential Report of the petitioner.
2. The facts which is not in dispute is that, the petitioner was working as a Peon in the office establishment of the District Court, Rajnandgaon being appointed on 17/09/1997. The service conditions governing the petitioner

envisages a clause where the employees working in the class-III category has certain amount of post reserved in the class-III cadre which has to be filled up by promotion applying the principles of seniority-cum-fitness. The minimum qualification as is required for promotion to the class-III cadre post is 12th or higher secondary pass from recognized board with other eligibility criteria also.

3. The petitioner in the instant case claims himself to have a qualification which is equivalent to the 12th or higher secondary certificate. The petitioner is said to have passed the Madhyam Dwitiya Khand from the Hindi Sahitya Sammelan, Allahabad. This according to the petitioner is equivalent to the 12th or higher secondary certificate from any other recognized board and therefore according to the petitioner, he should have been considered for promotion from the class-IV to class-III cadre along with the other candidates who have been granted promotion.

4. The petitioner was considered for the promotion process which was conducted in the year 2003. The authorities on due scrutiny of the credentials of the petitioner found that, the petitioner does not have requisite qualification of 12th pass or higher secondary certificate from the recognized board and they also found that there was certain adverse entries made in his Annual Confidential Report and therefore the claim of the petitioner for promotion stood rejected.

5. The petitioner prefer a representation against the said rejection to the Registrar General of this High Court who in turn rejected the same on 03/06/2006 which led to the filing of the present Writ Petition.
6. Ignoring the aspect of the adverse entries for the moment, this Court proceeds to consider whether the qualification which the petitioner has that of Madhyam Dwitiya Khand from the Hindi Sahitya Sammelan, Allahabad can be said to be equivalent to 12th or higher secondary board examination.
7. The petitioner tried to refer to certain documents in this regard. One such document was R/4-1 which is a booklet published by the Chhattisgarh Board of Secondary Education, Raipur and the petitioner referring to certain documents filed along with the Writ Petition as also with the reply of the respondents and tried to canvas his arguments that the course which the petitioner has done is equivalent to class-12th as well as higher secondary board certificate.
8. The second contention of the petitioner was that, an identical similar candidate in the District Court, Durg has been granted promotion from class-IV to class-III cadre and therefore on the ground of parity, the case of the petitioner could have been considered.
9. The counsel for the respondents however opposing the petition submits that, the question of equivalence does not arise at all for the reason that, all those documents which the petitioner has referred to itself clearly reflect that, it does not have any sort of recognition of equivalence given by the

State of Madhya Pradesh or for that matter the State of Chhattisgarh at any point of time.

10. According to the counsel for the respondents, Annexure-P/7 which has been relied by the petitioner itself clearly indicates that the same cannot be treated as equivalent to the full fledged certificate or degree or examination to which they have been equated. For ready reference, it has been reproduced herein under:-

“ It is, however, clarified that the recognition granted to these Hindi Examinations is only in regard to the standard of Hindi prescribed in the equivalent examinations, and is not to be treated as equivalent to full-fledged Certificate and/or Degree or the examinations to which they have been equated.”

11. Likewise, also the other documents would also show that, there is no order as such wherein the Madhyam Dwitiya Khand course from the Hindi Sahitya Sammelan Allahabad has been ordered to be treated as equivalent to the 12th pass or higher secondary examination.

12. It is also relevant at this juncture to refer to the judgment of the Hon'ble Supreme Court in the case of Rajasthan Pradesh Vaidya Samiti v. Sardarshahar & Anr. [2010 12 SCC 609] wherein the Supreme Court in a very categorical terms have held that, the qualification undertaken from the Hindi Sahitya Sammelan, Allahabad would not have any sort of recognition for the reason that, it is not a recognized institution or recognized from any board or the Government in that regard. It would be relevant to refer to

paragraphs 30-33 references of various judgments in this regard quoted by the Supreme Court in its judgment.

30. In *Uma Kant Tiwari & Ors. Vs. State of U.P. & Ors.* (2003) 4 AWC 3016, a Division Bench of the Allahabad High Court has considered the issue at length and came to the conclusion that the Hindi Sahitya Sammelan Allahabad/Prayag were only registered societies and not educational institutions. The said societies had no business to impart education in medical sciences. Hindi Sahitya Sammelan, Allahabad was a fake institution whereas Hindi Sahitya Sammelan, Prayag was recognised only from 1931 to 1967.

31. In *Dr. Vijay Kumar Gupta & Ors. Vs. State of U.P. & Ors.* (1999) AWC 1783, a Division Bench of the Allahabad High Court has held that a degree/certificate/diploma from Hindi Sahitya Sammelan, Prayag acquired after 1967 was not recognised and those who obtained the same subsequent to 1967 were not entitled to practice medicine.

32. In *Dr. Vijay Kumar Gupta & Ors. Vs. State of U.P. & Ors.* (1999) 2 UPLBEC 1063, a Division Bench of the Allahabad High Court considered the matter at length alongwith statutory provisions of the Act, 1970 and came to the conclusion that Hindi Sahitya Sammelan, Allahabad had never been empowered to issue such certificates/degrees. However, certificates issued by the Hindi Sahitya Sammelan, Prayag were recognised during the period of 1931 to 1967. Thus, any such certificate subsequent thereto could not entitle a person to practice medicine.

33. In *Virender Lal Vaishya Vs. Union of India & Ors.* 2003 (2) Mah.LJ 64, a Division Bench of the Bombay High Court held that Hindi Sahitya Sammelan, Prayag was not a recognised university/Board and thus could not award degree, diploma or certificate. In *Charan Singh & Ors. Vs. State of U.P. & Ors.* AIR 2004 All 373, the Allahabad High Court considered the issue of validity of certificates issued by Hindi Sahitya Sammelan, Prayag and came to the conclusion that the said institution had absolutely no authority to confer any degree or diploma of "Vaidya Visharad" and "Ayurved- Ratna" after 1967 and any person who has acquired such certificate after 1967 was not entitled to practice at all."

13. As regard the fact that similarly placed person in District Court, Durg has been granted similar benefit is concerned, this Court can only make an observation that only because some person has been wrongly granted advantage at any point of time the petitioner cannot claim the same benefit as it would amount claiming negative equality which otherwise is not permissible under law. If the petitioner is not competent and qualified under the Rules he simply cannot have a right for promotion.

14. Given the aforesaid facts and circumstances of the case so also the judgment of the Hon'ble Supreme Court in the case of *Rajasthan Pradesh Vaidya Samiti (Supra)* this Court is of the opinion that, no strong case has been made out calling for an interference with the decision rejecting his claim for promotion from class-IV to class-III cadre on the ground of his not fulfilling the required educational qualification.

15. The Writ Petition accordingly stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit