

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5641 of 2008**

Bishhat Ram Sahu S/o Kartik Ram Sahu, aged about 52 years, R/o village & Post Surasha, Bandha Via Rajim, District Raipur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Forest Department, DKS Bhawan, Raipur (CG)
2. Sub-Divisional Forest Officer, Raipur (East) Forest Mandal, Raipur (CG)
3. Conservator of Forest & Appellate Authority, Raipur Division (CG)

---- Respondents

For Petitioner	:	Shri Tarun Dansena, Advocate
For State	:	Shri R. K. Gupta, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27.09.2018**

The challenge in the present writ petition is to the order Annexure P-9 dated 23.02.2008 (wrongly mentioned in the prayer clause of the writ petition as 23.03.2004) and the order Annexure P-11 dated 19.08.2008. Vide Annexure P-9 the services of the petitioner were terminated on account of the fact that he had obtained employment by fraudulently entering in the service book of having passed VIIIth standard whereas he was only a Vth pass candidate. Annexure P-11 is an order whereby the appeal preferred by the petitioner against the order of termination has been rejected.

2. Contention of the counsel for the petitioner is that the petitioner was

initially appointed on 26.08.1986 as a Forest Guard and he continued to serve the respondents till 23.02.2008 i.e. for a period of about 22 years and thereafter, abruptly his services were terminated vide impugned order dated 23.02.2008. Counsel for the petitioner submits that when the petitioner was initially appointed, it was only the past experience of the petitioner that he had rendered from 1977 to 1986 which was taken into consideration and he was given appointment. At that point of time it was not the requirement that the petitioner should have cleared Class 8th examination. He submits that the petitioner at no point of time had made any misrepresentation to the Department of having Class VIIIth qualification rather the petitioner all along had intimated the respondents of his being a Class Vth pass candidate. He submits that even if there was a minimum qualification prescribed, the respondent authorities could have relaxed the same for the petitioner considering the service/experience that he had rendered with the Department since 1977. Counsel for the petitioner pleaded ignorance in respect of the entry made in the service record of the petitioner of having passed Class VIIIth standard and prayed for interference with the order of termination as also the order of rejection of the appeal.

3. Per contra, counsel for the State referring to the records filed along with the writ petition submits that the State Govt. had as early as on 22.11.1977 brought the amendment in the Recruitment Rules where the minimum qualification prescribed for appointment to the post of Forest Guard was fixed of Class VIIIth pass. Therefore, while granting appointment, the petitioner was specifically intimated for producing relevant records pertaining to his VIIIth pass as is evident from Annexure P-1 itself.

State counsel further referred to the relevant portion of the service book of the petitioner which bears the signature of the petitioner where there is a specific endorsement with no tampering and overwriting that the petitioner is a Class 8th pass candidate. This according to the State counsel is a material misrepresentation made by the petitioner for the purpose of obtaining appointment and when it was detected, the petitioner was called upon to produce the original mark sheet pertaining to his having cleared 8th standard. When the petitioner failed to produce the marks sheet of having passed 8th standard, the impugned order of termination was passed and therefore, there is no scope of interference left for this Court in exercise of its power under Article 226 of the Constitution of India.

4. Having heard the contentions put forth on either side and on perusal of the record particularly from document Annexure R-2 it clearly reflects that the minimum qualification prescribed for appointment of a Forest Guard was Class 8th pass since November, 1978 onwards. The petitioner was appointed in the year 1986. Now it would be relevant to refer to Annexure P-1 in this regard, the relevant portion of which is reproduced hereinunder:

“प्रतिलिपि संबंधित तेदुपत्ता वन रक्षकों की सूचनार्थ एवं आवश्यक कार्य हेतु अग्रेषित उनके नाम समक्ष दर्शाए गए वृत्त कार्यालय में शैक्षणिक योग्यता संधित प्रमाण पत्र सहित अविलम्ब उपस्थित होंवे ”

5. A plain reading of the aforesaid provision would clearly reflect that the petitioner was called upon to produce the proof of his educational qualification while issuing the order of appointment dated 26.08.1986. Further from the pleadings available with the record particularly the documents attached with the writ petition itself would reveal that on 16.05.2003 the petitioner was again called upon to produce the documents

pertaining to his educational qualification and to produce the original marks sheet regarding his qualification. The petitioner though has given a reply to this notice intimating that he had already submitted the same in the office at the time of appointment, the said reply provided by the petitioner not being found satisfactory he was issued with a charge sheet on 09.11.2004. Thereafter a detail departmental enquiry was constituted and finally on the basis of the finding arrived at, the services of the petitioner stood terminated vide Annexure P-9 and an appeal preferred against the same also stood rejected vide Annexure P-11.

6. On a query being put to the counsel for the petitioner as to whether after the order of appointment till the date of termination the petitioner had acquired the qualification prescribed i.e. VIIIth pass, he fairly submits that the petitioner has only cleared Class Vth. Even if the petitioner had acquired the qualification of VIIIth pass till now, there would have been a possibility of the matter being sympathetically considered considering the length of service that the petitioner had put with the respondents that also has not been achieved by the petitioner.

7. Given the said facts and circumstances of the case, since the minimum qualification required was Class VIIIth pass and the order of appointment reflected that the petitioner was to produce documents of his educational qualification at the earliest which he could not produce, the authority concerned was left with no other option but to reach to the conclusion that the petitioner's appointment was not proper, legal and justified.

8. Another aspect which cannot be brushed aside is that in the service book which has been entered by the petitioner it has been shown that the

petitioner is VIIIth pass candidate which again has been found to be incorrect. The said service record also bears the signature of the petitioner therefore it cannot be doubted that the petitioner was aware of the entries made in the service record. Therefore, on this ground also the petitioner cannot plead ignorance of the entry made in the service book.

9. For all the aforesaid facts and circumstances of the case, this Court does not find any strong case made out by the petitioner for interfering with the impugned orders.

10. The writ petition thus being devoid of merit deserves to be and is accordingly dismissed.

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