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HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 486 of 2011**

Kumari Seema Anchal, D/o. Bhagat Prasad Anchal, Aged about 38 years, R/o. Kasturba Nagar, Near Sanjay Bhawan, Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Higher Education Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Chhattisgarh Public Service Commission, Shankar Nagar, Raipur, Chhattisgarh

----Respondents**WPS No. 6432 of 2010**

Mrs. Bhavana Shrivastava, W/o. Shri Prakash Kumar Shrivastava, Aged about 40 years, R/o. Plot No.11, State Bank Colony, Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Higher Education Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Chhattisgarh Public Service Commission, Shankar Nagar Road, Raipur, Chhattisgarh

----Respondents**WPS No. 4318 of 2010**

Smt. Richa Tiwari, Aged about 38 years, W/o. Shri Sonal Tiwari, R/o. Rarijat Colony, Bilaspur, Tahsil & District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, through its Secretary, Department of Higher Education, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh.
2. The Public Service Commission, Chhattisgarh, Through its Secretary, C.G. P.S.C., Raipur, Chhattisgarh
3. University Grant Commission, through its Secretary, Bahadurshah Zafar Marg, New Delhi-110002

----Respondents

For respective Petitioners:

Mr. Mateen Siddiqui, Advocate
Mr. Alok Dewangan, Advocate
Mr. Shailendra Dubey, Advocate

For State	:	Mr. Shashank Thakur, Govt. Advocate
For Respondent/P.S.C.	:	Mr. Y.C. Sharma, Advocate Mr. B.D. Guru, Advocate
For Intervenor	:	Mr. Chandra Bhushan Kesharwani, Advocate

Hon'ble Shri Justice P. Sam Koshy
C.A.V. ORDER

Delivered on 07/08/2018

1. These are three writ petitions which have been filed, challenging the recruitment process, initiated by the Chhattisgarh Public Service Commission for the post of Assistant Professors under the Higher Education Department of the State of Chhattisgarh. The advertisement under dispute is dated 15.05.2009.
2. The substantial grievance of the petitioners is that initially the respondents had published a list of eligible candidates, wherein the names of the petitioners were found in the list of eligible candidates. However subsequently another list was published, wherein the names of the petitioners did not appear.
3. The substantial challenge in all these writ petitions are that in the respective subjects to which the petitioners had applied; the respondents/Commission has not applied the ratio of 1:3, while declaring the list of eligible candidates. According to the petitioners, if perhaps the respondents would have applied the ratio of 1:3, then the petitioners would have become eligible. The petitioners relied upon the decision of this Court in the case of “***Suparna Shrivastava v. State of Chhattisgarh & Another***”, in WPS No. 4626/2010, decided on 04.02.2013 in support of their contentions.

4. During the course of arguments, it was agreed upon between the parties that the respondent/Public Service Commission may find out the actual position of the petitioners now as to whether in case if the ratio of 1:3 is applied whether the petitioners would still be eligible for the said recruitment.
5. So far as the case of Seema Anchal and Bhavana Shrivastava is concerned, i.e. WPS Nos.486/2011 and 6432/2010, the two petitioners had applied for the post of Assistant Professors in the subject Hindi and Zoology.
6. So far as the Hindi subject is concerned, the number of post advertised was 85 and applying the ratio of 1:3, the total candidates to be called were 255, whereas the respondent/Public Service Commission had only called upon 233 candidates, thus there was a shortfall of 22 candidates, who were eligible, but were not called.
7. Similarly, so far as the Zoology subject is concerned i.e. so far as the petitioner in WPS No. 6432/2010 is concerned, the total number of seats were 46 and applying the ratio of 1:3 the total candidates to be called were 138, whereas the respondent/Public Service Commission had called 130, thus there was a shortfall of 8 candidates, who were otherwise eligible, but were not called and who were declared ineligible.
8. So far as the petitioner in WPS No. 4318/2010 in the case of Richa Tiwari is concerned, she had applied for Chemistry subject and in the said subject, the posts for unreserved category were 55. That applying the ratio of 1:3, the total candidates in the unreserved category to be called were 165, however the total candidates called were only 157 that means there was a shortfall of 7 eligible candidates, who were entitled

to be called applying the ratio of 1:3 as has been held by the judgment of this Court in the case of "Suparna Shrivastava" (supra), which has been affirmed up till Hon'ble Supreme Court, but have not been called.

9. Given the aforesaid statistic as provided by the counsel for the Public Service Commission all that now we have to see is whether the aforementioned three petitioners would become eligible if the merit list of their is ascertained or whether it would be a case where even if these writ petitions are allowed, since the petitioners' stand much lower in the ranking, they would therefore still not be able to make up to reach within the number of eligible candidates, who have been left out.
10. The respondents have produced a note-sheet after due verification of the status of each of the three petitioners vide note-sheet dated 02.08.2018, which is taken on record and in the course of perusal of the note-sheet, it is found that the petitioner in WPS No. 486/2011 Seema Anchal was next ranked 34 after the total candidates, who have already been called for interview and the number of eligible candidates, who were not called were 22, and therefore even if the petitioner's petition is allowed, even then the petitioner does not fall within the 22 candidates immediately below the 233 candidates already called for interview.
11. So also in the case of Bhavana Shrivastava i.e. the petitioner in WPS No. 6432/2010, the number of eligible candidates, who were not called for interview was 8 and according to the Public Service Commission, the petitioner's position stood 15th in the list of candidates after the 130 candidates already called. That under the circumstances, the said petitioner also even if her writ petition is allowed would not become eligible for being called.

12. Under the circumstances as aforementioned in the case of two writ petitioners i.e. WPS No. 486/2011 in the case of Seema Anchal and in WPS No. 6432/2010 in the case of Bhavana Shrivastava, this Court is inclined to dismiss the writ petition at this juncture for the simple reason that the ranking of the petitioners were much lower than the total shortfall of the eligible candidates, which the P.S.C. was required to call applying the ration of 1:3 but were not called and these two writ petitions accordingly deserves to be and are dismissed. However, so far as the case of the Richa Tiwari is concerned, i.e. the petitioner in WPS No. 4318/2010, she was a candidate in the Chemistry subject and had applied in the unreserved category. She also being a female candidate would be eligible for female reservation. The total number of posts for the said subject in the unreserved category was 55 and the number of candidates called by the department was 157, thus there was a shortfall of 8 candidates, who were otherwise eligible, but were not called.
13. According to the counsel for the Public Service Commission, the said petitioner Richa Tiwari's position after the 157 candidates called was placed at 4th. Considering the said submission of the counsel for the Public Service Commission, particularly taking note of the fact that the ranking of the petitioner as of now stands 4th after the 157 candidates already called when in fact the respondents were supposed to call candidates up to the rank of 165 i.e. there was a shortfall of 8 candidates and if 8 persons are now called, the petitioner would find her place in that list. Thus this Court has no hesitation in reaching to the conclusion that in the light of the judgment of this Court in the case of "Suparna Shrivastava" (supra), the exclusion of the petitioner from the

said list of candidates called for interview was bad in law, illegal and unsustainable and therefore applying the judgment of “Suparna Shrivastava” (supra), the petitioner herein also is held and declared eligible for participation in the further recruitment process. That, it is directed that the respondents shall forthwith call upon the petitioner for being considered for the post of Assistant Professor in Chemistry subject to and if found fit and fulfilling all other requisites, the petitioner should be granted appointment giving her the benefits of seniority from the date from which the candidates from the original list were issued order of appointment. That, since the petitioner was not in any manner responsible for being excluded from the list of eligible candidates. Further, it was the erroneous preparation of the list by the respondents particularly in not applying the ration of 1:3 which deprived the petitioner from being considered along with the other eligible candidates at the first instance she should not be deprived of the seniority. The benefits of seniority, which the petitioner would be given, would however only be notionally applied and that she would actually receive the monetary benefits only from the date actual appointment is granted and on which she joins. The WPS No. 4318/2010 thus deserves to be and is accordingly allowed in the aforesaid terms.

14. As a consequence, WPS Nos. 486/2011 & 6432/2010 stand dismissed and WPS No. 4318/2010 stands allowed with consequential benefits as aforementioned.

Sd/-
(P. Sam Koshy)
Judge