

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4604 of 2018

1. Homanlal Hirwani S/o Shri Guhariram Hirwani, Aged About 49 Years, Occupation- Shiksha Karmi, Grade-II, (Physical Education Teacher) At Government High School Kotagoan, Block And Tahsil- Dondi, District- Balod, Chhattisgarh.
2. Nikhar Santoshwar S/o Shri J. J. Santoshwar, Aged About 44 Years, Occupation- Shiksha Karmi, Grade-II (Physical Education Teacher) At Government High School Bhainsbod, Block And Tahsil- Dondi, District- Balod, Chhattisgarh.
3. Shivram Vaidya S/o Shri Goverdhan Singh, Aged About 50 Years, Occupation- Shiksha Karmi, Grade-II (Physical Education Teacher) At Government High School Khallari, Block And Tahsil- Dondi, District- Balod, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh Through- Its Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur District- Raipur, Chhattisgarh.
2. Zila Panchayat Balod, Through- Chief Executive Officer, Zila Panchayat, Balod, District- Balod, Chhattisgarh.
3. Zila Panchayat Durg, Through- Chief Executive Officer, Zila Panchayat, Durg, District- Durg, Chhattisgarh.

---Respondents

For petitioners : Shri Vivek Kumar Agrawal, Advocate.
 For State : Shri Syed Majid Ali, Dy.G.A.

Hon'ble Shri Justice P. Sam KoshyOrder on Board17/07/2018

1. The petitioners in the present Writ Petition have sought for relief of seniority from the year 2010 with other persons who were granted appointment from the same recruitment process that was initiated in the year 2010.

2. The contention of the counsel for the petitioners is that, at the first instance, the claim of the petitioners was rejected on the ground of the petitioners having crossed the age limit permitted whereas since the petitioners had undergone the family planning programme, they were entitled for same relaxation under the Government rules.

3. The facts of the case in brief is that, the petitioners filed a Writ Petition which was registered as WPS No.3065/2010 which stood allowed vide order dated 27/07/2012. By virtue of the Writ Petition being allowed, the petitioners were considered and granted appointment immediately in the year 2013. Thereafter the petitioners continued in service without any complaint whatsoever.

4. Suddenly, the petitioners in the year 2017 had filed a Writ Petition claiming for seniority at par with the people who were appointed from the same advertisement in the year 2010. The said Writ Petition WPS No.7325/2017 stood disposed off on 04/01/2018 directing the respondents to consider and decide the representation of the petitioners which they shall make.

5. Pursuant to that, the representation which the petitioners had made stood decided on 18/06/2018 which has been assailed in the present Writ Petition.

6. The contention of the counsel for the petitioners is that, the petitioners are entitled for seniority from the year 2010 along with the persons who were appointed in the same recruitment in which the petitioners had also

participated. According to the petitioners for the inaction on part of the respondents, they could not get appointment along with the others and were granted appointment only after the order passed by this Court on 27/07/2012.

7. According to the counsel for the petitioners, this action on part of the respondents is highly detrimental to the interest of the petitioners and thus prayed for setting aside the impugned order and the respondents may be directed to grant proper seniority to the petitioners from the date the others have been appointed from the same advertisement from which the petitioners also were selected.

8. The aforesaid contention of the counsel for the petitioners would not be sustainable at this juncture for the reason that, the relief which the petitioners are seeking should had been prayed by the petitioners at the first instance when the Writ Petition filed i.e. WPS No.3065/2010 was filed.

9. The petitioners have been granted appointment as per directives given by this Court.

10. If at all if the petitioners wanted a relief of appointment or seniority to be given from back date, the petitioners ought to have made a suitable prayer in this regard at the first instance when they had filed the Writ Petition seeking appointment.

11. The petitioners not having claimed so at that point of time cannot now be permitted to reagitate the same claim after a considerable lapse of time.

12. Moreover, if we take into consideration the contents of Annexure-P/1 it clearly reflects that, the petitioners have been granted seniority from the date of appointment and the said decision which has been arrived at by the respondents cannot be found fault with, for the simple reason that, the authorities concerned have only to look into the service record of the petitioners wherein the order of appointment of the petitioners shows them to have been appointed in the year 2013 and they have been granted seniority from the year 2013 onwards beyond which the respondents could not have taken a decision and the petitioners at an appropriate time when they had filed the Writ Petition did not pray for the said relief as such they have foregone their claim then and confined the relief to only grant of appointment. Hence the same cannot now be reagitated by the petitioners.

13. The Writ Petition thus being devoid of merits deserve to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit