

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1919 of 2013**

Krishna Ram S/o Shri Nand Deo Ram, aged about 33 years, R/o village Chitarpur, Post Dumardih, Police Station Dhourpur, Tahsil Lundra, District Sarguja, Civil & Revenue Sarguja (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Ayurvedic Aushdhalay, Mantralaya, New Raipur, Chhattisgarh
2. The Directorate, Ayurved & Natural Homeopathy, Raipur, Chhattisgarh
3. District Ayurved Officer, Ambikapur, District Sarguja, Chhattisgarh
4. The District Collector Sarguja, District Sarguja, Chhattisgarh
5. Rajesh Kumar S/o G. Kanwal Sai, aged about 32 years, R/o village Turia, Bira, Post Bargidih, Police Station Lundra, Tahsil Lundra, District Sarguja, Chhattisgarh

---- Respondents

For Petitioner	:	Shri D. N. Prajapati, Advocate
For Respondents 1 to 4	:	Shri S. P. Kale, Dy. Advocate General
For Respondent no.5	:	Shri J. K. Saxena, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19.06.2018**

The present petition has been filed challenging the order of appointment issued in favour of respondent no.5 on 27.08.2012 to the post of Aushdhalay Sevak.

2. The grievance of the petitioner is that the Respondents State had

issued an advertisement on 04.04.2012 for filling up various posts and one such post was Aushdhalay Sevak to be appointed under the District Ayurved Officer. The petitioner, respondent no.5 and other candidates had applied for the said post. The minimum qualification that was prescribed for the said post was that of 8th Class pass.

3. It is contended by the counsel for the petitioner that the petitioner in the instant case had scored more marks in 8th Class examination than respondent no.5, therefore, he should have been considered for the said post in stead of respondent no.5 who admittedly had scored less marks in 8th Class examination. Further contention of the counsel for the petitioner is that the respondents on 18.07.2012 framed certain parameters for scrutinizing the candidates and resolved of giving marks for past experience which stood detrimental to the interest of the petitioner. He submits that there was no condition of giving marks for past experience reflected in the advertisement and as such, the guidelines/parameters so framed are bad in law and amounts to changing of rules after recruitment process having been initiated.

4. Per contra, Shri Kale, Dy. Advocate General appearing for the State submits that it is a case where the minimum qualification has been retained as Class VIIIth pass. Since there were large number of candidates who had applied for various posts, the respondents in order to scrutinize and select the best among them formulated certain parameters and resolved that 75% marks would be given for academic qualification and 25% marks would be given for past experience. In the instant case, admittedly respondent no.5 had scored less marks than the petitioner so far as the qualification of Class VIIIth is concerned. But respondent no.5

had past experience on account of which he was given certain marks which helped him in scoring more marks than the petitioner and which enabled him to be appointed on the said post. Therefore, this action of the respondents cannot be said to be changing of rules after recruitment process having been initiated. Thus, State counsel prayed for rejection of the petition.

5. Counsel for respondent no.5 adopted the argument of Dy. Advocate General.

6. Having considered the contentions put forth on either side and on perusal of the record what is relevant to take note is certain date of events. 04.04.2012 was the date of advertisement. Thereafter, the petitioner, respondent no.5 and other eligible candidates had applied for the said post. Taking into consideration the nature of recruitment, on 18.07.2012, the respondents held a meeting and formulated certain guidelines/parameters based upon which the recruitment had to be made. In this meeting that was held on 18.07.2012 it was resolved that 75% marks would be given for academic qualification and 25% marks would be given for past experience. Subsequently, the documents and credentials of each of the candidates were scrutinized on 28.07.2012. Later on appointment order was issued on 27.08.2012.

7. On perusal of the aforesaid date of events, what clearly reflects is that there does not appear to be any malafide on the part of the respondents in framing the guidelines/parameters vide resolution dated 18.07.2012. Rather in the opinion of this Court, the respondents wanted the entire recruitment process to be more transparent and in a systematic way and it was in that process, they had laid down the

conditions/parameters/guidelines. It is also relevant at this juncture to take note of the fact that such guidelines/parameters are at times required to scrutinize a large number of candidates who apply for a post and all of whom have the same qualification.

8. If the respondents in order to channelize the recruitment process had formulated certain parameters/guidelines, the same cannot be said to be either contrary to rules or contrary to the advertisement. Undisputedly, the minimum qualification for the post of Aushdhalay Sevak has been retained as Class VIIIth pass. The petitioner and respondent no.5 both had Class VIIIth qualification but by virtue of past experience, respondent no.5 was allotted certain marks. What is also pertinent to take note is the fact that the petitioner at no point of time has disputed the fact that respondent no.5 did not have any experience which he has claimed and for which he has been allotted marks.

9. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out by the petitioner calling for interference with the impugned order of appointment. The writ petition thus being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
P. Sam Koshy
Judge