

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4806 of 2018

Kumari Merry Anukampa Kujur D/o Late Khursai Kujur, aged about 27 years, R/o village Shahpur, Post & Tehsil Kusmi, District Balrampur Ramanujganj (C.G.).

---Petitioner

Versus

1. State of Chhattisgarh, Through The Director, Veterinary Services, New Raipur, District Raipur (C.G.).
2. Executive Director, Veterinary Services, Balrampur, District Balrampur Ramanujganj (C.G.).
3. Collector, Balrampur Ramanujganj, District Balrampur Ramanujganj (C.G.).

---Respondents

For petitioner	:	Shri Nishi Kant Sinha, Advocate.
For State	:	Shri Chandresh Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/08/2018

1. The challenge in the present Writ Petition is to the impugned order Annexure P/1 dated 11/07/2018 whereby the order of appointment earlier issued in favour of each of the petitioner stood cancelled.
2. The facts of the case in brief is that, the petitioners had applied for the post of 'Assistant Grade - III' under the physically handicapped quota against the advertisement which was issued on 29/10/2015. The petitioners were found suitable and were granted the order of appointment on 02/03/2016 (Annexure-P/4).

3. Pursuant to the order of appointment, all the petitioners joined their respective post on 08/03/2016 and since then they were continuing to discharge their duties till 11/07/2018 when abruptly the impugned order Annexure P/1 was passed wherein the order of appointment in favour of each the petitioner stood cancelled.

4. The counsel for the petitioners submits that, the impugned order has been passed in total contravention to the basic principles of natural justice. He submits that, the petitioners have not been granted an opportunity to defend their case, nor was atleast an explanation sought from them before the cancellation of the appointment. It was further contended that, the impugned order also does not provide any reason as to what was the illegality committed by the petitioners in obtaining the employment and the order of cancellation of appointment thus is a non-speaking order. He further submits that, since the petitioners had put in about 2 years 4 months of service before their order of appointment was cancelled, the least that was required to be done by the respondents was to provide an opportunity to give explanation to the alleged irregularity or illegality committed by the petitioners in obtaining the employment in the absence of which the impugned order stands vitiated of being violative of the principles of natural justice and therefore the same is not sustainable and deserve to be rejected.

5. Per contra, the State counsel justifying the action of the respondents submits that after the petitioners were issued with an order of appointment, the Collector, Balrampur received a complaint and who in turn got the matter

enquired and in the course of the enquiry it was detected that there was certain irregularities in the recruitment process itself committed in as much as the minimum requirement/minimum eligibility criteria prescribed in the advertisement were not taken into consideration while preparing the merit list. It was further contended by the State counsel that though the recruitment was for physically handicapped persons, but the priority was to be given to the candidates with hearing impairment and this also does not seem to have been followed or taken into consideration while preparing the merit list and as such the appointment issued to the petitioners were contrary to the advertisement and the eligibility criteria prescribed for the post and thus prayed for rejection of the Writ Petition.

6. Having heard the contentions put forth on either side and on perusal of record, some of the admitted position as it stands is that the advertisement was issued for recruitment on 29/10/2015. The petitioners participated in the said recruitment process. The petitioners found their name in the select list and were issued with an order of appointment on 02/03/2016. As per the order of appointment, the petitioners joined their duties on 08/03/2016 and continued to work till the issuance of the impugned order dated 11/07/2018 i.e. for a period of about 2 years 4 months the petitioners have rendered their services. The other admitted factual aspect is that, before the impugned order was passed, no opportunity of hearing was given to the petitioners. Though a complaint was received by the Collector and who in turn had ordered for enquiry, but even in the enquiry none of the petitioners were

called upon to put forth their stand and the entire enquiry conducted was behind the back of the petitioners.

7. It is settled position of law that whenever an order is passed which has an adverse civil consequence, the aggrieved person has to be provided an opportunity of hearing.

8. Perusal of impugned order would reveal that it does not reflect any reasons or details of any illegality alleged to have been committed by the petitioners while obtaining the employment. The enquiry which was conducted at the behest of the Collector, Balrampur and its report does not also given any specific details in respect of each of the petitioners not having requisite minimum eligibility criteria. The enquiry report also does not reveal as to whether there was any candidate handicapped with hearing impairment.

9. Thus, the enquiry report as well as the order of Collector seem to be an order passed in mechanical manner without any specific details available. The said impugned order thus is a non-speaking order and also amounts to an order being passed in violation of principles of natural justice.

10. Thus the impugned order – Annexure-P/1 is not sustainable and the same deserve to be and is accordingly set aside.

11. However, the right of the respondents stands reserved for conducting a enquiry and in the process providing an opportunity of hearing to the petitioners and in the course reach to the conclusion whether the order of

appointment were bad in law or illegal in any manner and thereafter may issue appropriate orders.

12. With the aforesaid observation, the Writ Petition stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit