

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.1424 of 2015

Rakesh Kumar Khatri, Aged about 37 years, S/o Late Misrilal Khatri,
R/o Village Gurur. P.S. & Tahsil Gurur, District Balod (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Department of Food and Civil Supplies, Mahanadi Bhawan, Rakhi, New Raipur, District Raipur (C.G.)
2. Director, Department of Food and Civil Supplies, Block No.2, IIIrd Floor, Indravati Bhawan, New Raipur, District Raipur (C.G.)
3. Controller, Chhattisgarh Vyavsaahik Pariksha Mandal (C.G. Vyapam), Madhayamik Shiksha Mandal Parisar, Pension Bada, Raipur (C.G.) 492001
4. Ramendra Kumar Pandey, Aged about 37 years, S/o Radheshyam Pandey, R/o Shastri Nagar, Belgahana, Bilaspur (C.G.)
5. Raghavendra Pratap Singh, S/o Ram Niwas Singh, Aged about 36 years, R/o 43/2, Radhika Nagar, Supela, Bhilai, Durg, District Durg (C.G.)
6. Gour Singh Jatre, S/o Kartik Ram Jatre, Aged about 36 years, R/o House No.605/2, Sai Nagar (Jora), Post Krishak Nagar, Raipur (C.G.)
7. Lakeshwar Prasad Verma, S/o Kaliram Verma, R/o Housing Board Colony, LIG-213, Hatkeshar, Dhamtari, District Dhamtari (C.G.)

---- Respondents

For Petitioner: Mr. Sushobhit Singh, Advocate.

For Respondents No.1 and 2/State: -

Mr. Sangharsh Pandey, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

06/02/2018

1. Private respondents No.4 to 7 were appointed on the ex-servicemen

category on the post of Assistant Development Extension Officer on 26-12-2012 and 26-3-2013 and thereafter, the post of Food Inspector was advertised by the State Government for which the petitioner and respondents No.4 to 7 also applied and merit list of the said post was declared on 12-12-2013 and appointment order was issued on 5-11-2014 onwards. The petitioner, who could not get berth in the said recruitment on account of his position below respondents No. 4 to 7, decided to file this writ petition.

2. Mr. Sushobhit Singh, learned counsel for the petitioner, submits that respondents No.4 to 7 could not have given the benefit of ex-servicemen category as they have already availed the benefit of circular dated 2-5-1985. He further submits that though the circular dated 2-5-1985 was in force, it is only reiteration of the earlier circular issued by the Central Government. The Central Government has issued the circular on 14-8-2014. He relied upon a decision of the Supreme Court in the matter of **State of Bihar and others v. Ramesh Prasad Verma (Dead) Through LRs**, decided on 31-1-2017, to buttress his submission.
3. On the other hand, Mr. Sangharsh Pandey, learned State counsel, submits that the State Government for the first time issued the circular on 12-3-2015.
4. The fact remains that the merit list of Food Inspector, in which the petitioner and the private respondents participated, was issued on 12-12-2013 and thereafter, appointment order has been passed. The State Government for the first time, on 12-3-2015, has accepted the circular

of the Central Government dated 14-8-2014 and made it applicable and the appointment of respondents No.4 to 7 as Food Inspector has already been made even prior to 14-8-2014 and the appointment orders were issued in November, 2014. Apart from this, the petitioner and respondents No.4 to 7 participated in the recruitment process and also allowed respondents No.4 to 7 to participate in the selection process and since, the petitioner could not be selected, as respondents No.4 to 7 were more meritorious, he took a calculated chance to appear and participate in the recruitment process and when he did not find any berth, he decided to file this writ petition to question the selection which cannot be done in light of the decision rendered by the Supreme Court in the matter of **Madan Lal and others v. State of J & K and others**¹.

5. In view of the above, the writ petition is liable to be dismissed and it is accordingly dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

1 (1995) 3 SCC 486