

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 37 of 2019**

*(Arising out of order dated 08.03.2016 passed by the learned Single Judge in Writ
Petition (S) No. 330 of 2005)*

- Dr. Ram Prasad Shukla, aged about 80 years, S/o Late Shri Devi Prasad Shukla, Retired Block Medical Officer, Community Health Center, Dongergaon, R/o Kamthi Line, Rajnandgaon, Distt.- Rajnandgaon (C.G.)

---- Appellant**Versus**

1. State of Madhya Pradesh (Now Chhattisgarh), through the Secretary, Public Health and Family Welfare Department Mahanadi Bhawan, Naya Raipur, Distt.- Raipur (C.G.)
2. The Director Medical Services, Public Health Department, Indrawati Bhawan, Naya Raipur, Distt.- Raipur (C.G.)
3. The Joint Director Medical Services, Public Health Department, Indrawati Bhawan, Naya Raipur, Distt.- Raipur (C.G.)

---- Respondents

For Appellant	:	Shri Rakesh Kumar Thakur, Advocate.
For Respondents/State	:	Shri Gagan Tiwari, Deputy Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****19.02.2019**

1. Heard the learned counsel for the Appellant and the learned Deputy Government Advocate for the State.
2. There is a delay of 979 days in preferring this appeal. There is no ground provided in the condonation application i.e. I.A. No. 1 of 2019 as satisfactory

explanation based on which the delay could be condoned. This makes the appeal vulnerable on the ground of extraordinary delay. The I.A., therefore, is fit to be rejected and we are not satisfied in absence of any reasons as such to condone the delay except that the Doctor's certificate has been annexed showing that the Appellant is suffering from various age related disease.

3. Besides the above fact, we did try to go through the order of the learned Single Judge dated 08.03.2016 to satisfy our judicial conscience whether any serious error or illegality has been committed by the learned Single Judge in dismissing the writ application and refusing to grant any relief by quashing the gradation list which was Annexure A/1 to the writ application as well as give appropriate seniority position to the Appellant by further treating him in service w.e.f. 19.10.1966.
4. The learned Single Judge took note of the fact that there was no substantive appointment of the Appellant. It was a case of engagement on bond on contract in the emergent situation prevalent then and the letter of engagement itself indicates that it is for a fixed period of 6 months subject to regular recruitment to be carried out by the Public Service Commission. No doubt, there is always some delay between the exercise of such recruitment, but admittedly the recruitment was done in the year 1971-72 when two batches of 1971 and 1972 were clubbed together and recruitment was done together with common result declared based on which the seniority position was notified in the gradation list.
5. There was never any challenge to the recruitment of the batch of 1971 and 1972 together. No challenge was thrown to the declaration of result as well as appointment. There is nothing unusual about recruitment of two different batches in a common examination, especially when one of the examination of the earlier batch could not be held or completed for whatever reason it may be.

All this put together coupled with the fact that after publication of the gradation list, it was only in the year 1990 that the Appellant decided to move the State Administrative Tribunal.

6. We do not find that any right had been created in favour of the Appellant which has been taken note of by the learned Single Judge as valid grounds for interfering with the gradation list after so many years as settled positions cannot be unsettled at the asking of litigant lightly. The Appellant never seriously objected to the exercise done all along.
7. It is a desperate effort on the part of the Appellant, therefore, to gain a post and position much after he superannuates for whatever his object and purpose.
8. Even on merits, therefore, there is no infirmity in the order of the learned Single Judge which needs to be rectified in the appeal. The appeal is as lacklustre as the writ application.
9. Appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge