

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPS No. 4766 of 2005

1. Chowaram Sirmoure, S/o Bisheshar Prasad Sirmour, Workshop Instructor (Electrical), Government Polytechnic, Korba, Bilaspur (MP) [Presently Dist. Korba (CG)]

---- Petitioner

Versus

1. State of Madhya Pradesh [now Chhattisgarh], through the Secretary, Man Power & Planning, Bhopal (MP) [now Raipur (CG)]
2. Director, Technical Education, Bhopal (MP) [now Raipur (CG)]
3. Principal, Government Polytechnic, Korba, Bilaspur (MP) [Presently Dist. Korba (CG)]
4. Dinesh Singh Chhatri, Electrician, Government Polytechnic, Korba
5. Vinod Kumar Khandalkar, Electrician, Government Polytechnic, Korba

---- Respondent

For Petitioner

Shri Keshav Dewangan, Advocate

For Respondent/State

Ms Fouzia Mirza, Addl. Adv. General

Order on BoardByPrashant Kumar Mishra, J.25-7-2019

1. Petitioner was appointed as ad hoc Electrician at Government Polytechnic, Korba on 11th/17th May, 1990. In a selection

process for appointment to the post of Workshop Instructor (Electrical) the petitioner was called for interview and thereafter he was informed about his selection vide Annexure – A/2 directing him to get his police verification completed. Eventually an order of appointment was issued on 4-3-1995 (Annexure – A/3), however, within 25 days of appointment the impugned order was passed on 27-3-1995 (Annexure – A/4) cancelling his appointment pursuant to the communication issued from the Directorate of Technical Education on 25-3-1995.

2. Shri Keshav Dewangan, learned counsel appearing for the petitioner, would submit that the petitioner had participated in the selection process and was interviewed, therefore, he was never at fault if any illegality was committed during the process of recruitment. Learned counsel would further submit that the impugned order suffers from violation of principles of natural justice.
3. Ms Fouzia Mirza, learned Addl. Advocate General, appearing for the State, *per contra*, would refer to the Directorate's communication dated 25-3-1995 (Annexure – R/3) to argue that as per the relevant rules names should have been called from the Employment Exchange, which was not done in the

process of selection for the subject post, therefore, there being serious illegality the appointment was cancelled. Learned counsel would further argue that since the recruitment process was faulty and tainted, principles of natural justice would not apply.

4. I have heard learned counsel appearing for the parties and perused the material available on record.
5. The communication dated 25-3-1995 of the Directorate of Technical Education would reveal that after the selection process was completed complaints of irregularities and corruption were received on which the Principal, Government Polytechnic College, Bilaspur, was directed to make an enquiry. It was found in the said enquiry that for appointment to the post of Workshop Instructor (Electrical), to which the petitioner was offered appointment, no effort was made to seek names of eligible candidates from the Employment Exchange. Thus, the recruitment was not properly advertised and no effort was made to invite applications from the eligible candidates from open market nor names were called from the Employment Exchange. This being a serious irregularity, the appointment was cancelled.

6. In a case where the recruitment process suffers from inherent defects for the reason that no advertisement for recruitment was issued nor the names were called from the Employment Exchange, it suffers from arbitrariness and illegality of such character which by itself is violative of Article 14 of the Constitution of India.
7. For any selection to a public office proper advertisement is necessary to be issued otherwise eligible candidates available in the open market are kept out of consideration and this by itself would amount to corruption and nepotism while making selection. In such a case there is no violation of principles of natural justice or Article 14 because the recruitment process suffered from inherent arbitrary defects.
8. As a sequel, the writ petition, being bereft of merit, is liable to be and is hereby dismissed, leaving the parties to bear their own cost(s).

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri