

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.557 OF 2019**

Dr. Satyapal Singh S/o Dr. Lallan Singh Aged About 33 Years R/o Brijesh Bhawan, Magadh Nagar, Ring Road No.2, Bilaspur District - Bilaspur Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Health Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District - Raipur Chhattisgarh.
2. Collector, Surajpur, District - Surajpur Chhattisgarh.
3. Chief Medical and Health Officer Surajpur, District - Surajpur Chhattisgarh.

... **Respondent(s)**

For Petitioner	:	Shri Raghvendra Pradhan, Advocate.
For State	:	Shri Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28.01.2019

1. The Challenge in the present Writ Petition is to the advertisement dated 15/01/2019 (Annexure P/1) and the termination order dated 31/07/18 (served on the petitioner on 23/08/2018).
2. The facts of the case is that the petitioner had participated in the recruitment process which took place in the year 2017 for appointment on the post of Dental Surgeon on contractual basis. The petitioner was granted appointment order on 08.06.2018 and he gave his joining on 11/06/2016. Having worked for a period of about 1 and ½ months, the respondent immediately issued an order on 31/07/2018 (Annexure P/2) terminating the services of the petitioner on the ground that the department does not have sufficient funds to meet the expenses. Subsequently another advertisement was issued in September 2018 for filling up of the same post . The said advertisement later on was dropped by the department. It is

pertinent to take note at this juncture that till now i.e. even after the termination of the services of the petitioner and a subsequent advertisement having been floated, the petitioner did not question either the termination order or the advertisement issued in September, 2018 (Annexure P/7). This itself leads to an inference that the petitioner had by this time decided not to challenge the decision (Annexure P/2) passed by the department. It is only now in the year 2019 when fresh advertisement has been initiated by the department for filling up of the post of Dental Surgeon on contractual basis, the petitioner has filed the present writ petition questioning the subsequent advertisement as well as the order of termination dated 31/07/2018.

3. Since, the petitioner has not promptly challenged the termination order before any competent authority or higher authorities in the department, it is to be presumed that the petitioner has waived his right for challenging the termination order at the first instance. The said order of termination has by efflux of time attained finality as it was not challenged before any forum. When the termination order has attained its finality, the natural consequence would be that the department would be at liberty to fill up the post by way of a fresh advertisement. The Department, if now in the year 2019 have issued a fresh advertisement, the same cannot be said to be in any manner arbitrary or bad in law. The Petitioner now at this juncture would not be permitted to challenge the termination order passed as early as on 31/07/18. Moreover it is not a case where the petitioner has been debarred from participating in the fresh recruitment initiated by the

department. What also cannot be lost sight of is the fact that infact the earlier appointment of the petitioner also was substantively as a contract employee for a fixed period of one year. The substantial period of the same is also over and for the last more than six months the post has been lying vacant on account of the service of the petitioner being discontinued.

4. Given the said facts, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned advertisement dated 15/01/2019 (Annexure P-1). The Writ petition thus fails and is accordingly rejected.
5. Needless to mention that for the period the petitioner has discharged his duties, he would definitely be entitled for the remuneration fixed as per the order of appointment and the department is directed to ensure that the same is released to the petitioner.

Sd/-
(P. Sam Koshy)
Judge