

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 131 of 2019**

1. State of Chhattisgarh Through The Secretary General Administration Department DKS Bhawan Raipur Chhattisgarh.
2. The Secretary Higher Education Department DKS Bhawan Raipur Chhattisgarh.
3. The Commissioner Office of Commissioner Higher Education Directorate Govt. Science College Campus Raipur Chhattisgarh.
4. The Joint Director Office of Commissioner Higher Education Directorate Govt. Science College Campus Raipur Chhattisgarh.
5. The Principal Govt. College Pakhanjur, District North Bastar Kanker Chhattisgarh.
6. The Principal Govt. College Bhakhara, District Dhamtari Chhattisgarh.
7. The Commissioner Bastar Division District Bastar Jagdalpur Chhattisgarh.

---- Appellants**Versus**

Janak Rao Kridat S/o Late Tribhuvan Rao Kridat Aged About 29 Years R/o Village Post Bhanupratappur In Front Of Maszid District North Bastar Kanker, Chhattisgarh 494669

---- Respondent

For Appellants/State	:	Shri R.S. Baghel, Deputy Advocate General.
For Respondent	:	Shri Vinod Deshmukh, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****19/02/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. I.A. No.01 of 2019 is application for condonation of delay of 76 days in instituting the appeal. For the reasons indicated as such in the said I.A., delay is condoned. The matter is thereafter heard on merits.

2. At the very outset, the Court expresses its anguish against the appeal which has been filed by the State assailing the order passed by the learned Single Judge dated 25.09.2018 passed in favour of the poor employee in the facts and circumstances taken note of by the learned Single Judge.

3. The Court fails to appreciate as to why all the energy, time and resources are spent on such litigations directed against the helpless citizen when the fact stands that in the recruitment and his appointment, there was no error or shortcoming found by the Appellant/State authorities till he came to be selected and appointed on the basis of exercise so done.

4. Short facts are that the private Respondent was appointed on 19.08.2010 on clerical post of Assistant Grade-III. After his appointment, it was alleged that he did not have some of the qualification required for such selection. What was missing was the certificate of Data Entry Operator/Programmer not having been obtained from an approved Government Institution so far as the qualification of Higher Secondary School Certificate Examination and Speed of 25 w.p.m. in Hindi Typing was not disputed.

5. The learned Single Judge had this to say as to the reason for allowing the writ application.

“5. By an interim order dated 29-6-2011 the effect, operation and execution of the impugned order has been stayed and the petitioner is continuing in the services for the last more than 8 years. In the meanwhile, the petitioner has also obtained the required certificate of Data Entry Operator/Programming from the recognised University i.e. Dr. C.V. Raman University, Bilaspur, vide certificate dated 22-10-2012.

6. The petitioner has not withhold any information nor the certificate obtained by him from the Association of State Technology Developments was found to be spurious or forged. The only question was whether the said institute was recognised or not. It was for the respondents to have verified the certificate before issuing the letter of appointment in favour of the petitioner. In absence of petitioner having concealed any information from the recruiting agency or the appointing authority he cannot be blamed or accused of obtaining the order of appointment on misrepresentation or fraud, therefore, for the fact that the petitioner has subsequently obtained the required qualification from a recognised University/Institution would come to his rescue more particularly for the reason that by an interim order passed by this Court

the petitioner continued in service and at present he has rendered more than 8 years of service as AG III, therefore, since as on date the petitioner possesses all the requisite qualifications for the post of AG III, the impugned order dated 14-6-2011 deserves to be and is hereby quashed.”

6. In the facts as well as the law which will apply to such case, this was a fit case where the State should have shown grace by accepting the order of the learned Single Judge and not pursue the matter any further by harassing the helpless employee since he is a low paid employee.

7. We do not get impressed with the submission made on behalf of the learned Deputy Advocate General that there was lack of basic qualification which made him ineligible in the very first place. If it was so he ought not to have been allowed to participate or be appointed in the very first place. Since it was not so the State cannot encash on its own wrong.

8. The learned Single Judge rightly took note of the fact that there was neither any suppression nor misrepresentation and that selection was made with open eyes and the so-called ineligibility is hardly much of significance now, more so, since the employee has now obtained the second certificate from a recognized University of the State in the year 2012 itself.

9. In these circumstances, the writ appeal is dismissed. It was a fit case where cost should have been imposed upon the State for frivolous litigation and harassment being caused to a poor citizen. However, on the earnest request and submission made by the learned Deputy Advocate General, the State is let off with a caution that they should be more circumspect in filing appeals.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE