

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 131 of 2018

Dr. Meenakshi Thakur D/o Shri Bajrang Singh Thakur Aged About 36 Years R/o C-44, Rajsawa Colony Chantidih Police Station Sarkanda District Bilaspur Chhattisgarh.

----Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Health And Family Welfare Mantralaya Capital Complex, Mahanadi Bhawan New Raipur Police Station Rakhi District Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission, Raipur Through Its Secretary Chhattisgarh Public Service Commission Raipur Chhattisgarh.
3. Director, Directorate Of Health Service District Raipur Chhattisgarh.
4. Director, Ayurveda, Yoga And Naturopathy Unani Siddha And Homeopathy (Ayush) Directorate G E Road District Raipur Chhattisgarh.
5. Dr. Goldy Lanjewar , S/o Shri Madhukar Lanjewar Aged About 39 Years R/o E W S - 70 Vaishali Nagar Tahsil Durg Police Station Supela District Durg Chhattisgarh.

---- Respondents

For Appellant	:	Mr.Pawan Kesarwani, Advocate.
For the respective respondents	:	Mr. Siddharth Dubey, Dy. GA, Mr. Prateek Sharma, Mr. R. Tripathi on behalf of Mr. B.D. Guru, Advocates.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice &

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

Per Ajay Kumar Tripathi, Chief Justice

15/02/2019

1. Writ application of the appellant was dismissed by learned Single Judge vide his order dated 11.01.2018 refusing to give a direction upon the respondent No.1/State as well as Chhattisgarh Public

Service Commission to appoint her on the post of “Visheshagya Chikatshak” in Ayush Wing on the ground that she was waitlisted '1' against the select list notified and published on 14.10.2011.

2. From the narration of facts it emerges that validity of select list expired on 13.4.2013 and it was only on 11.5.2015 that the appellant preferred to approach the High Court. When the matter was being heard it was brought to the notice of the learned Single Judge that a fresh advertisement had also been issued against the left over vacancy on 16.12.2015 against which selection and appointment of respondent No.5 has been done.
 3. Assertion of the appellant before the writ Court was that against 20 vacancies only 19 candidates were given appointment and one post had fallen vacant.
 4. But from the further questioning it merges that there was no vacant post as such. That vacancy subsisted because of ongoing litigation before the High Court and status of that vacancy came to be decided only after the validity of select list had expired on 13.4.2008.
 5. In this background, the learned Single Judge placing reliance on a decision of the Hon'ble Apex Court has dismissed the writ application which cannot be said to be an erroneous view to take.
- Para 6 of the order impugned reads thus :-

“(6)In the matter of **Gujarat State Dy. Executive Engineers' Association Vs. State of Gujarat and others (1994 Supp (2) SCC 591)** their Lordships of the Supreme Court, while

highlighting the object of preparation of the select list, have held as under :-

“9. A waiting list prepared in an examination conducted by the Commission does not furnish a source of recruitment. It is operative only for the contingency that if any of the selected candidates does not join then the person from the waiting list may be pushed up and be appointed in the vacancy so caused or if there is some extreme exigency the Government may as a matter of policy decision pick up persons in order of merit from the waiting list. But the view taken by the High Court that since the vacancies have not been worked out properly, therefore, the candidates from the waiting list were liable to be appointed does not appear to be sound. This practice, may result in depriving those candidates who become eligible for competing for the vacancies available in future. If the waiting list in one examination was to operate as an infinite stock for appointments, there is a danger that the State Government may resort to the device of not holding an examination for years together and pick up candidates from the waiting list as and when required. The constitutional discipline requires that this Court should not permit such improper exercise of power which may result in creating a vested interest and perpetrate waiting list for the candidates of one examination at the cost of entire set of fresh candidates either from the open or even from service.”

6. There was no occasion for entertaining or appointing the present appellant on the ground that she was wait-listed '1' because there was no vacancy during the subsistence of select list.
7. Accordingly, the appeal has no merit, the same is liable to be and is hereby dismissed.

Sd /-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge