

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1404 of 2019

Smt. Sandhya Rathore Wife Of Shri Deepak Rathore, Aged About 23 Years, Resident Of House No.18, Narmada Vihar, Yadunandan Nagar Tifra, Bilaspur District Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Revenue And Disaster Management, Mantralaya, Mahanadi Bhawan, New Raipur Chhattisgarh
2. Collector, Janjgir Champa, District Janjgir Champa, Chhattisgarh
3. Yogesh Kumar Son Of Shri Gopilal, Aged About 25 Years, Resident Of Village Mehendi, Post Bundela, Post Pamgarh, District Janjgir Champa Chhattisgarh
4. Chief Executive Officer, Zila Panchayat, Janjgir Champa And President District Level Recruitment Committee, District Janjgir Champa Chhattisgarh

---Respondents

For Petitioner	:	Mr. D. Kushwaha, Advocate
For State	:	Mr. Saleem Kazi, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/03/2019

1. The challenge in the present writ petition is to the advertisement issued on 27.09.2015 for filling up of the post of Assistant Grade-III. The challenge is also to the select list Annexure P-1 which was published on 18.02.2019 whereby respondent no.3 is said to have been found more meritorious and has been selected.
2. The substantial challenge to the recruitment and the advertisement is on the ground that the advertisement, so far as skill test is concerned, does

not have a minimum prescribed passing marks as is prescribed for the same recruitment in other districts. This according to the petitioner is bad in law and the recruitment thus deserves to be set aside/quashed including the selection of respondent no.3. According to the petitioner, respondent no.3, in the skill test, scored only 9.86 and the petitioner scored 11.56. In the other districts, the minimum marks required in the skill test has been fixed as 40% of 30 marks whereas in the instant case, no such minimum marking was fixed for skill test that has proved detrimental to the interest of the petitioner when final merit list was published.

3. This Court, at the outset, is not inclined to entertain the writ petition for the simple reason that the petitioner took a calculated risk of first participating in the recruitment process and tried her luck in the said recruitment. When the petitioner could not succeed and respondent no.3 was found to be more meritorious, the petitioner has now turned around and challenged the advertisement as well as the select list published therein.
4. The issue in this regard is by now well settled by a catena of decisions of the Supreme Court wherein it has been held that once a candidate accepting the advertisement and the conditions enumerated therein participates in the selection process and becomes unsuccessful, he/she thereafter cannot turn around and question the said advertisement and selection process. Some of the decisions in this regard are as under:
 - i) 1995 (3) SCC 486, Madan Lal & Ors. Vs. State of J & K & Ors.
 - ii) 2010 (12) SCC 576, Manish Kumar Shahi v. State of Bihar

iii) 2013 (11) SCC 209, Ramesh Chandra Shah & Ors. v. Anil Joshi & Ors.

5. Given the legal position as it stands and also on perusal of the record it would reveal that the advertisement in the instant case was published in the year 2015 and the merit list was published in the year 2019 and only after the merit list was published, the petitioner has now filed the writ petition challenging the recruitment process which in the opinion of this Court is not sustainable.
6. The writ petition fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Khatai