

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2667 of 2019

Horilal Yadav S/o Malikram Yadav Aged About 34 Years R/o CIMS Colony, D-01, Type -03, Guru Ghasidas University, Bilaspur, Police Station Koni, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Guru Ghasidas University Bilaspur (A Central University Established By The Central University Act 2009, No. 25 of 2009), Through The Registrar, Guru Ghasidas University, Bilaspur, District Bilaspur Chhattisgarh.
2. Vice Chancellor Guru Ghasidas University, Bilaspur, District Bilaspur Chhattisgarh.

---Respondents

For Petitioner	:	Ms. Hamida Siddiqui, Advocate
For Respondents	:	Mr. Neeraj Choubey, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/04/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 08.03.2019, which is an advertisement issued by the respondent No.1 for filling up of the posts of Professors, Assistant Professors and Associate Professors.
2. The challenge has been made by the petitioner on the ground that the petitioner on an earlier occasion was appointed on 20.12.2011 (Annexure P/2) as an Assistant Professor (for the Management Studies). The said appointment of the petitioner was terminated by the respondents during the probation period vide order dated 26.08.2013. The reason for terminating the services of the petitioner was on account of the petitioner getting involved in a criminal case pertaining to the death of his wife under suspicious circumstances.

3. The petitioner meanwhile was prosecuted for the offence under Sections 302 & 306 of Indian Penal Code and was finally convicted vide judgment dated 27.01.2015 in Sessions Case No. 185/2013 and was convicted for the offence under Section 306 of the Indian Penal Code and sentenced to rigorous imprisonment for a period of 10 years with fine of Rs.200/-. The said judgment of conviction is already challenged in an appeal i.e. Criminal Appeal No. 178/2015 and the petitioner has been released on bail in the said criminal appeal.
4. According to the petitioner, since the petitioner was terminated from service on account of his being involved in a criminal case, if ultimately the petitioner succeeds in the criminal appeal, the petitioner should be considered by the respondents for employment on the post of Assistant Professor. According to the petitioner, this claim of the petitioner would get frustrated, if the respondents as of now are permitted to carry out the recruitment as per the advertisement (Annexure P/1), which includes the post, against which the petitioner was also working.
5. This Court at this juncture does not find it to be a strong case calling for an interference with the advertisement for the reason that the petitioner stood terminated way back in August, 2013, the petitioner as on date is a convicted person, the criminal appeal of the petitioner is of the year 2015. It cannot be expected from the respondent No.2 University to keep the post of Assistant Professor in the subject Management Studies vacant till the criminal appeal of the petitioner is finally decided.
6. The University also has to take care of the students, who enroll in the Colleges under the University and their carrier is also of paramount importance In case if ultimately the petitioner succeeds in the criminal

appeal, he would have a right for challenging his termination order dated 26.08.2016 afresh by way of a fresh proceedings and whatever direction that this Court would be passing in that writ petition would ultimately depend upon the relief, which could be granted to the petitioner as also the direction which could be granted to the respondents.

7. This Court, at this juncture finds it difficult for keeping the said post of Assistant Professor (Management Studies) vacant till that time. Reserving the liberty of the petitioner as he has already got in WPS No. 804/2016, the present writ petition in its present form stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved