

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 281 of 2019**

*(Arising out of the order dated 29.03.2019 passed in writ petition WPS No.1451/2019
by the learned Single Judge)*

- Sankalp Bharti S/o N.R. Bharti Aged About 22 Years R/o Mahuapara, Post Fundurdihari, Police Station Gandhinagar, Tahsil Ambikapur, District Surguja Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department Of Panchayat Mantralaya Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh
2. Secretary, General Administrative Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh
3. Chief Executive Officer Zila Panchayat Surguja, Ambikapur District Surguja Chhattisgarh

---- Respondents

For Appellant : Mr. C. Jayant K. Rao, Advocate

For Respondents/State : Ms. Richa Shukla, GA for the State/respondents
No.1 & 3

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice

Hon'ble Shri Goutam Bhaduri, Judge

Judgment on Board

Per P.R. Ramachandra Menon, C.J.

21/06/2019

1. The selection and appointment to the post of steno typist in the department of Zila Panchayat, Surguja is the subject matter of challenge in this writ appeal.

The Learned Single Judge declined interference as the case projected by the

appellant/petitioner did not appear to be one involving any tenable grounds so as to call for the interference.

2. Heard Mr. CJK Rao, learned counsel for the appellant as well as Ms. Richa Shukla, the learned Government Advocate representing the State at length.
3. The sequence of the events reveals that annexure A-2 notification/advertisement was issued by the Chief Executive Officer, Zila Panchayat Surguja for filling up the post of driver and steno-typist stipulating the minimum qualifications and such other requirements. The case of the appellant/petitioner is that the department was proceeding to fill up the post of steno-typist without conducting any 'skill test', which is mandatory as per the relevant norms and the attempt was only to give entry to candidates of their choice through back door. According to the appellant/petitioner, 'skill test' is mandatory and that appellant/petitioner is having all the requisite qualifications. As such interference of this Court is necessary to interdict the respondents from pursuing any further. It was with this intent, that the writ petition was filed with the following prayers:-

“(1) That, this Hon'ble Court may kindly be pleased to quash the advertisement dated 11.09.2018 issued by respondent No.3 and also directed to respondent No.3 to appear in the exam for the post of steno-typist.

(2) Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner together with cost of the petition.”

4. The nature of challenge was considered by the learned single judge and it was observed that the guidelines produced as Annexure P-2 and the advertisement Annexure P-1 did not have any substantial variation at all. It was accordingly, that interference was declined and the writ petition was dismissed, which in turn

has been taken by the writ petitioner in this appeal.

5. The respondent State has filed the reply/statement pointing out the facts and figures, particularly that the appellant was never an applicant to the post notified as per Annexure P-1 and further that there is absolute no basis for the averment that no 'skill test' is being conducted. It is very much stipulated in advertisement and that the selection would be finalized and proceeded also on the basis of skill test. The learned counsel for the appellant submits that the guidelines issued by the General Administration Department produced as Annexure A-3 been simply given a 'go-bye', while issuing the advertisement. According to the learned counsel though the appellant possessed all the requisite qualifications it was only by virtue of the stipulation wrongly given in the advertisement, contrary to the norms prescribed by the GAD that the petitioner was not in a position to apply for the post.
6. Learned Government Advocate submits that the idea and understanding of the appellant with regard to the applicability of the GAD circular at Annexure A/3 is thoroughly wrong and misconceived. It is stated that the said circular is only a general one, issued to all the departments, so as to be taken as a guideline and it is for the individual department to have it adopted to the requisite extent, with modification or otherwise, issuing a separate gazette notification. There is no dispute to the fact that there is no recruitment rule as such, with regard to the post in question. It is also pointed out that the department of Panchayat has not adopted the GAD circular of 2013. In such circumstances, it is perfectly the prerogative of the said department to stipulate the norms as notified by annexure P-1. Further, the allegation that no 'skill test' is being conducted by the department is not correct. This aspect has already been noted by this Court

when the matter came up for consideration on the last occasion. The learned counsel was required to reconcile the position with regard to the averments in this regard and the contents of the Annexure P-2 advertisement. After mentioning the essential qualifications required for the post in question in Annexure P-2, it is further stipulated under the head 'अन्य शर्तें' particularly under clause 4 in the following words "उम्मीदवारों का चयन, शैक्षणिक योग्यता, कौशल परीक्षा एवं अनुभव के आधार पर मेरिट एवं आरक्षण रोस्टर अनुसार चयन समिति द्वारा किया जावेगा". This by itself is an indicator to the effect that the department had never taken a decision to do away with the skill test (कौशल परीक्षा) and this was clearly notified in the Annexure P-2 itself. This being the position, the pleadings raised and the submission made across the bar stand virtually contrary to the actual facts & figures. It stands repelled accordingly.

7. In response to the Annexure P-2, the fact remains that no application was preferred within the prescribed time i.e. on or before 25.09.2018. The only explanation offered by the appellant is that he could not make the application because of the wrong clause or stipulation in the advertisement contrary to the GAD circular, as already mentioned above. The GAD circular as such is not applicable to the department, in view of the submission & assertion made by the State, which is not controverted by the appellant, despite filing a rejoinder virtually reiterating the stand in the writ petition. It is relevant to note that the advertisement was issued inviting the application for the post in question way back on 11.09.2018. The last date for submitting the application was 25.09.2018. The appellant approached this court by filing the writ petition, raising the challenge in the terms mentioned above, only about 6 or 7 months later, on 26.02.2019. He was virtually sleeping on arm chair. If he had a real

grievance, that he was not in a position to submit application by virtue of the adverse clauses notified in the advertisement, he should have approached this Court then and there, at any rate before the last date for submitting application, so as to permit him to participate in the process of selection. Having not chosen to do so, the petitioner can only curse his fate. We are of the firm view that this is not a fit case to call for interference. The verdict passed by the learned Single Judge is perfectly within the four walls of law.

8. The writ appeal fails. It is dismissed accordingly.

Sd/-

(P.R. Ramachandra Menon)

Chief Justice

Sd/-

(Goutam Bhaduri)

Judge