

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 640 of 2018**

{Arising out of order dated 16.04.2018 passed by learned Single Judge in Writ Petition (S) No. 1336 of 2012}

- Dhananjay Kumar Das, S/o Shri Ramadhar Das, aged about 39 years, Caste Chamar (Schedule Caste) Occupation Service, Presently Working as Attendant, Grade-2 (Line), Chhattisgarh State Power Distribution Company Limited, Bilaspur, R/o Chandan Awas 278, Near Si Mandir, Block No.2, Rajkishore Nagar, Phase I, Bilaspur, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department of Energy, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh.
2. Chhattisgarh State Power Holding Company Limited, Through Managing Director, Dangania, Raipur, Chhattisgarh.
3. Additional General Manager (Human Resource) Chhattisgarh State Power Holding Company Limited, Through Managing, Director Dangania, Raipur, Chhattisgarh.
4. Deputy General Manager, Chhattisgarh State Power Holding Company Limited, Through Managing Director Dangania, Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Dhiraj Kumar Wankhede with Shri Mayank Kumar, Advocates.
For Respondent No.1/State	:	Shri Gagan Tiwari, Deputy Government Advocate.
For Respondents No.2 to 4	:	Shri K.R. Nair, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu, Judge****Judgment on Board**

Per P. R. Ramachandra Menon, Chief Justice

01.07.2019

1. The correctness and sustainability of the verdict passed by the learned Single Judge, whereby interference was declined and the writ petition came to be dismissed; observing that the writ Petitioner (who is the Appellant herein) lacked the minimum qualifications as prescribed in the notification is challenged at the instance of the Appellant. Since the appeal is belated by 67 days, an application is also filed for condoning the delay.
2. Heard the learned counsel for the Appellant, Shri K.R. Nair, learned Advocate appearing on behalf of Respondents No. 2 to 4 and Shri Gagan Tiwari, learned Deputy Government Advocate appearing for the State.
3. In fact, the matter was heard with regard to the question of delay and also as to the merit.
4. The case put forth by the Appellant is that a notification was issued as per Annexure P/3 dated 08.04.2010 by the 2nd Respondent inviting applications for appointment to various post, including Junior Engineer. The Appellant herein was appointed in the year 2003 and was having all the requisite qualifications and credentials, by virtue of which he aspired to apply for the post and accordingly applied for the same as well. But, the candidature of the Appellant was turned down, which made him to approach the Court by filing WPS No.1336 of 2012 seeking for the following prayers:

“10.1 The Hon'ble Court be pleased to issue appropriate writ for quashing the impugned rejection of representation dated 07.09.2011 (Annexure P-1) insofar as it pertains to the petitioner.

10.2 The Hon'ble Court be pleased to issue appropriate writ in nature of mandamus to direct the respondents to consider the petitioner for the post of Junior Engineer (IT) from department quota.

10.3 Any other relief that the Hon'ble Court may deem fit in the facts and circumstances of the case may also be granted in favour of the petitioners against the respondents.

10.4 Costs of petition be allowed.”

5. The prayer was sought to be resisted by the Respondent-employer by filing a return, pointing out that the Petitioner was not duly qualified and was not having the requisite experience of regular service. The version put forth by the employer was accepted by the learned Single Judge and accordingly, the writ petition came to be dismissed, which, in turn, is challenged as mentioned above.
6. The learned counsel for the Appellant submits that the certificates produced by the Appellant were issued by duly recognized institutions and as such, the same could not have been rejected under any circumstances. However, the learned counsel for the Appellant concedes that the Appellant does not have the requisite minimum extent of regular service as per the notification.
7. The learned counsel for the 2nd Respondent asserts that as per Annexure P/3 notification in respect of the departmental candidates, the candidate ought to have the regular service of '7 years'. The Appellant herein, who was initially appointed in the year 2003 was regularized only in the year 2006 and hence he was not having the requisite minimum extent of '7 years' of regular service when he applied for the post in question. This by itself is more than enough to have had the writ petition dismissed, without any further discussion.
8. With regard to the qualification also, the learned counsel points out that the requisite qualification prescribed is 'ITI', which is of a normal period of 2 years of regular study. In the case of the Appellant, he produced a certificate disclosing the course tenure of 15 months and as such, it is not for liable to be accepted. There is serious objection with regard to the particular 'subjects' covered by the qualification as well.

9. After hearing both the sides, we are of the view that insofar as the notification stipulated that the Departmental candidate should have a minimum 7 years of regular service, which admittedly is not possessed by the Appellant; the claim of the writ Petitioner/Appellant to contest the post in question based on the alleged credentials is not liable to be entertained. The learned Single Judge rightly declined interference. There is no tenable ground to interfere.
10. Interference is declined. The appeal as well as application for condonation of delay stands dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge