

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5550 of 2018**

- Priti S. Bhandarkar W/o Sandeep Bhandarkar Aged About 41 Years R/o Krishak Nagar Near U C O Bank, Jora Police Station Telibandha, Tahsil Raipur, Raipur District Raipur Chhattisgarh

---- Petitioner**Versus**

- Chhattisgarh Kamdhenu Vishwavidyalaya, Through The Registrar, Anjora, 491001, Durg District Durg Chhattisgarh

---- Respondent

For Petitioner : Shri Prateek Sharma, Advocate

For Respondent : Shri A.S. Kachchwaha, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****11/11/2019**

1. Heard.
2. The present petition is preferred for the reason that the petitioner initially pursuant to the advertisement made on 30.03.2013, applied for appointment to the post whereby three posts of Assistant Librarian were published by the respondent University. It is contended on behalf of the petitioner that she was declared the only person fulfilling all the criteria and subsequently she was shortlisted as an eligible candidate to appear for the interview. Subsequently, nothing was heard about, however, when the RTI was sought for, by letter dated 05.06.2018 it was informed that the earlier advertisement has been annulled by order dated 23.11.2016 and fresh advertisement was again made on

12.02.2016 vide Annexure P-2, wherein one post of Assistant Librarian was advertised. It is further contended that the petitioner again filed an application for appointment to the post of Assistant Librarian, however, though the petitioner was found eligible by the list which was published by the University on 05.04.2016, however, thereafter nothing was heard and she was not given any opportunity to appear for the interview or call for it. It is further contended that though the reply of the University would show that since only the single applicant was found eligible who is the petitioner herein for such reason that only single candidate was found eligible, the process of interview has not been carried forward, however, no order exists in this regard. It is stated that in the like manner for the post of Associate Professor, Veterinary Physiology and Biochemistry, Associate Professor Veterinary Anatomy and Professor Veterinary Anatomy though single candidates were found eligible but they were called and after interview they were appointed. It is further contended that as per the law laid down by the Supreme Court in the case of ***East Coast Railway and another Versus Mahadev Appa Rao and others*** {(2010) 7 SCC 678} the right of the petitioner cannot be kept in abeyance in the arbitrary manner.

3. Per contra, learned counsel for the respondent would submit that in order to advance the healthy competition, the earlier advertisement dated 30.03.2013 was canceled and in the second round too since the similar course followed i.e. only one candidate was found eligible, the process for appointment for the post of Assistant Librarian was not carried forward further. He would further submit that according to the regulations of the University for any advertisement made, the University has right to increase or decrease post/advertisement and they cannot be compelled to appoint a person. He would further submit that any

criteria for calling the applicants for interview, it would be the sole discretion of the University and no appeal would lie.

4. I have heard learned counsel for the parties and perused the documents.
5. The Annexure P-1 would show that initially on 30.03.2013 the advertisement was made by the University for three posts of Assistant Librarian. The petitioner was qualified, however, since she was not called for the interview, an RTI application was filed. In reply to the RTI it was replied by the University by letter dated 05.06.2018 that the advertisement No.3736 has been canceled by order dated 23.11.2016. The advertisement No.3736 pertains to the advertisement made on 30.03.2013. In the advertisement of 30.03.2013 as many as 10 posts were advertised. It is not clear that as to whether other posts too were canceled or not and the return is also silent.
6. The records would show that subsequently advertisement afresh was made for as many as 10 posts vide Annexure P-2 dated 12.02.2016, wherein at serial No.9, one post of Assistant Librarian was again advertised. The petitioner therefore, again applied for the post of Assistant Librarian and after due verification a list was published and was signed by 4 members of the selection committee, wherein petitioner was declared eligible and her name appeared at serial No.24 as eligible for the post of Assistant Librarian. Meaning thereby she was found to be eligible for the interview. In the reply the respondent contended that the after advertisement dated 30.03.2013, though 30 applications were received and after scrutiny the candidature of the petitioner was found suitable for the post of Assistant Librarian and she was enlisted as an eligible candidate, however, since the single candidate was found eligible,

therefore, for healthy competition for the said post of Assistant Librarian, the petitioner being the only single candidate it was decided to drop the entire selection process for the post of Assistant Librarian. Accordingly, the selection process for the post of Assistant Librarian was dropped in the year 2016.

7. The document filed along with the petition would show that initially the advertisement was made on 30.03.2013, which finds place in the reply and the petitioner being the one eligible candidate was not selected. However, the document Annexure P-2 would show that subsequent advertisement was made on 12.02.2016, the petitioner claimed that she was found eligible, which is also evident from the document filed as Annexure P-3, wherein the list would show that the name of the petitioner appeared at Serial No.24 and she was held eligible with mark 'E' and the said selection list is signed on 05.04.2016 by four members of the selection committee. The three appointment letters filed as Annexure P-4 of Associate Professor Veterinary, Physiology and Biochemistry, Associate Professor Veterinary, Anatomy and Professor Veterinary, Anatomy shows that for the said post too there were only one single eligible candidate, but were called for the interview. The return of the respondent nothing can be traced out as to what happened to the fact after the petitioner was found eligible in the second advertisement and what was the reason she was not called for interview though similarly placed single eligible candidates of different field were called for.
8. The Supreme Court in the case of ***East Coast Railway and Another Vs. Mahadev Appa Rao and Others*** {(2010) 7 SCC 678} has held thus in para 14 which is reproduced herein below:-

“14. It is evident from the above that while no candidate acquires an indefeasible right to a post merely because he has appeared in the examination or even found a place in the select list, yet the State does not enjoy an unqualified prerogative to refuse an appointment in an arbitrary fashion or to disregard the merit of the candidates as reflected by the merit list prepared at the end of the selection process. The validity of the State's decision not to make an appointment is thus a matter which is not beyond judicial review before a competent writ court. If any such decision is indeed found to be arbitrary, appropriate directions can be issued in the matter.”

9. Applying the aforesaid principles in the facts of this case since there is no doubt that a candidate do not acquire an indefeasible right to the post but merely by shelving the entire issue by isolating the petitioner against the right of equality, the respondent cannot absolve their responsibility as it would be within the trapping of the arbitrariness. The University though may be within the discretion to reduce or annul any post but the same is to be reasoned one. By shelving the issue on sub silentio when similarly persons were allowed the benefit the petitioner cannot be left out in isolation. Consequently, it is directed that the University shall conclude the process of the advertisement of the Assistant Librarian to the logical end according to the advertisement dated 12.02.2016 within a period of two months from the date of receipt of copy of this order.
10. Accordingly, the petition stands allowed to the above extent.

Sd/-

Goutam Bhaduri
Judge