

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 7411 of 2018**

1. Sudhir Rajpal S/o Shri S.D. Rajpal Aged About 43 Years R/o H.I.G. 29, Parijat Castle, Ring Road No. 2, Bilaspur, Chhattisgarh 495001
2. Human Ram Yadu S/o Shri Ges Kumar Yadu Aged About 40 Years Village - Jagraha, Post - Risdi, District Korba, Chhattisgarh, 495683
3. Rajkumari Markam W/o Shri Ram Khilawan Markam Aged About 34 Years R/o C/o Shri NS Sidar, B-656, B - Block, Yamuna Vihar, Korba, Chhattisgarh, 495450
4. Jyoti Yadav D/o Shri SS Yadav, Aged About 30 Years R/o E/17, Subhash Block, SECL, Korba, Chhattisgarh. 495766

---- Petitioners**Versus**

1. State of Chhattisgarh Through Principal Secretary, Department Of Health And Family Welfare, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, Atal Nagar, Chhattisgarh
2. Chhattisgarh Public Service Commission, Through Its Chairman, Having Its Office At Raipur, Chhattisgarh
3. Director (Medical Education), Directorate Medical Education, Department Of Health And Family Welfare, Government Of Chhattisgarh, Indravati Bhawan, Atal Nagar, Chhattisgarh. And Old Nurses Hostel, Dks Bhawan, Compound, Raipur Chhattisgarh

---- Respondents

For Petitioners	:	Shri S.S. Rajput, Advocate with Shri Sharad Mishra, Advocate
For Respondents/State	:	Shri Kunal Das, PL
For Respondent No.2	:	Shri Ashish Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****20/11/2019**

1. Heard.
2. The instant petition is filed for the following reliefs:-

“(i) That, this Hon'ble Court may kindly be pleased to allow the present writ petition preferred by the petitioners and kindly call for the records pertaining to the present case.

(ii) That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction to the respondents to issue appointment /joining /posting order to the respective petitioners in pursuance to the Final Selection List dated 24-12-2016.

(iii) That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction to the Respondents to compensate the petitioners because of the loss they have suffered due to the irresponsible, negligent, arbitrary, unreasonable and discriminatory acts of the Respondents.

(iv) That any other order/relief which this Hon'ble Court may deem fit, proper and just in the facts and circumstances of the present case may also kindly be awarded to the petitioner in the ends of justice & equity.

(v) That the cost of the petition may kindly also be awarded to the petitioner.”

3. Pursuant to the advertisement dated 23.04.2014, whereby the four posts were advertised to be filled in as PTI/Sports Officer by the P.S.C. for the department of Health & Family Welfare (Medical Education), the selection process was conducted and the four persons were shortlisted and selected to be appointed. The final list (Annexure P-3) was issued by the PSC. The final list would show that the name of the four petitioners were selected for the post of PTI/Sports Officer for the Health & Family Welfare (Medical Education) Department. The petitioners were selected in the main selection list, who are before the Court. Apart from these petitioners other posts were also advertised and different persons were selected and appointed. In the advertisement the pay-scale for the PTI/Sports Officer was mentioned as 15600-39100+5400/-, however, the appointment order to the petitioners, who were duly selected after due selection process, were not issued for the reason that certain anomaly exists in government records with respect to the pay scale. So this petition.
4. The reply filed by the State would show that the appointment/posting orders could not be issued for the reason that the services of the PTI/Sports Officers are being governed by the Chhattisgarh Medical Education (Gazetted) Service

Recruitment Rules, 2013 (for short 'the Rules, 2013') and as per Schedule I, Sr. No.35 the pay-scale of PTI/Sports Officer were of 15600-39100 having grade pay of 5400/-. The reply further shows that though the advertisement was issued and the pay-scale was described according to the Rule but it came to the knowledge of the State that there are discrepancies in the sanctioned pay-scale of the PTI/Sports Officer in the different medical colleges. It is submitted that the sanctioned pay-scale for four colleges were 5200-20200+1900/- Grade Pay though it was inconsistent with the Rules, 2013, therefore, the respondent Director, Medical Education wrote a letter to the State on 06.05.2017 for amendment in the pay-scale as per Rule, 2013. The copy of the same is filed as Annexure R-2. The reply further purports that subsequent to the correspondence dated 18.08.2017 approval has been sought from the State for amendment in this pay-scale of the medical college and it was under consideration. Under these background, the appointment orders could not be issued on the basis of merit list. It is finally submitted that since there was discrepancies in the pay-scale advertised and the sanctioned pay-scale in the four medical colleges, the appointment order could not be issued and appropriate steps were being taken and the final decision on the said issue would be taken expeditiously. The reply further purports that the grievance of the petitioners is yet to be adjudicated and after adjudication of the same, appropriate orders keeping in view the merit list would be made. According to the State as the discrepancy was existing which resulted in not issuing the appointment order.

5. Learned counsel for the petitioners would submit that the pay-scale which was advertised was in consonance to the Rules, 2013 and there is no anomaly in pay scale shown in advertisement and Rule of 2013. It is stated that the

petitioners cannot be deprived for appointment for the reason that there are certain differences in pay scale in between four colleges exist. It is stated that in any case, they are entitled for the pay-scale as was published in the advertisement which falls in line to pay-scale described in the Rules, 2013. He further submits that the issue is of 2014 and on the some pretext or the other till date the petitioners have been deprived of their appointment letter whereas others have been granted appointment on the basis of same selection list.

6. Learned State counsel opposes the arguments advanced by learned counsel for the petitioners and would submit that he would adhered to the return filed by the State and would submit that as and when the anomaly is removed about the discrepancies of the pay-scale, the appointment orders would be issued, therefore, no illegality can be attributed to the State.
7. I have heard learned counsel for the parties and perused the documents.
8. Perusal of the documents would show that for PTI/Sports Officer advertisement was issued wherein four posts were published along with other different posts in respect of Health & Family Welfare (Medical Education) Department and for PTI/Sports Officer pay-scale of 15600-39100+5400/- was published. The rules under which the selection was carried out is known as Chhattisgarh Medical Education (Gazetted) Service Recruitment Rules, 2013 and as per Schedule I of the said Rules at Sr. No.35 for PTI/Sports Officer, the pay-scale is shown as Rs.15600-39100 with grade pay of Rs.5400/-. Therefore, the prima facie in the advertisement the pay-scale for the PTI/Sports Officer was shown correctly, which is not against the Rules.
9. The contention of the State that since in four colleges different pay-scale is given and therefore, the anomaly exists it is for the State to resolve the issue.

The petitioners who are selected after due process by the PSC cannot be deprived for the reason that in respect of the different colleges different pay-scale is given in departmental papers of the State. In any case, the petitioners cannot be deprived of their right as prescribed under the Rules, 2013 and there cannot be a estoppel against the law as the Rules, 2013 are made under Statute. Furthermore, for the reason that some clarification inter se correspondence are being made in between the State department, the right of the petitioners cannot be shelved and kept in abeyance for the time immemorial as the facts would suggest that the procedure of selection was completed in the year 2014 and except petitioners others were selected. Under these circumstances, the reasons for delay in issuance of appointment letters to the petitioners, who were duly selected cannot be further arrested for the internal overlapping of facts and want of clarity of State the petitioners cannot be made sufferers. Therefore, it is directed that the State shall issue the appointment letters to the petitioners within a period of 30 days from the date of receipt of the copy of this order and the petitioners shall be allowed to join at the pay-scale which is payable to them according to the Rules. In the meanwhile, the anomaly which is existing according to the State at their end may be rectified by suitable amendment to the Rule, if so advised.

10. It is made clear that the petitioners in the facts of this case shall not be entitled for any payment from the date of selection as appointment letters were not issued on the principle of "no work no pay"

With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge