

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 500 of 2017

1. Prasaduram S/o Dhodhiram Aged About 27 Years Caste Rajwar R/o Village And Post Karji Tahsil Ambikapur District Surguja Chhattisgarh. , Chhattisgarh
2. Prakashram S/o Ramlal Aged About 28 Years Caste Rajwar , R/o Village And Post Karji Tahsil Ambikapur District Surguja Chhattisgarh. , District : Surguja (Ambikapur), Chhattisgarh

---- Appellants

Versus

1. State Of Madhya Pradesh Now Chhattisgarh Throuhg Chief Secretary Vallabh Bhawan Bhopal M. P. Now Mahanadi Bhawan Mantralaya Naya Raipur Chhattisgarh. , Chhattisgarh
2. Principal Government Girls Higher Secondary School Kusmi District Surguja M.P. Now Chhattisgarh. , District : Raipur, Chhattisgarh
3. The Collector, Surguja M. P. Now Chhattisgarh. , District : Surguja (Ambikapur), Chhattisgarh
4. Assistant Commissioner , Tribal Development Ambikapur District Surguja M. P. Now Chhattisgarh. , District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

WA No. 8 of 2018

- Bishundhari S/o Kanhairam Aged About 48 Years Caste Kahar, R/o Surajpur, Tahsil And Post Surajpur, District Surguja Now Surajpur Chhattisgarh., Chhattisgarh

---- Petitioner

Versus

1. State Of Madhya Pradesh Now Chhattisgarh S/o Through Chief Secretary Vallabh Bhawan Bhopal Madhya Pradesh Now Mahanadi Bhavan Mantralay, Naya Raipur Chhattisgarh., Chhattisgarh
2. Principal Govt. Girls Higher Secondary School, Kusmi District Surguja Madhya Pradesh Now Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
3. The Collector Surguja Madhya Pradesh Now Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
4. Assistant Commissioner Tribal Development Ambikapur, District Surguja Madhya Pradesh Now Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Appellants	:	Shri HB Agrawal, Sr. Advocate
For Respondents	:	Shri Vikram Sharma, Dy. Government Advocate

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

Order on Board

Per P.R. Ramchandra Menon, CJ;

23/08/2019

1. Inference declined by learned Single Judge with regard to challenge raised against the proceedings whereby the services of the petitioners/appellants were put to an end, forms the subject matter for consideration in these writ appeals.
2. Heard learned Senior Counsel representing the appellants, as also learned counsel representing the State.
3. Factual matrix discussed by the learned Single Judge in the judgment under challenge reveals that the appointment was obtained by the petitioners/appellants as 'Contingency Paid Daily Wage Employee' and 'Laboratory Assistant' respectively, in spite of the fact that there was no open vacancy and further, there was no need to have appointed any employee as a 'Daily Wage Employee or Laboratory Assistant'. It is also revealed during the course of submissions, that the appointments given were subsequently cancelled, just within a couple of months, on finding that the same was obtained and given in a fraudulent manner. It is also worthwhile to note that the State machinery had proceeded with prosecution proceeding against the persons concerned in respect of the offences stated as committed by them. The cancellation of appointment was put to challenge in the writ petition filed by the petitioners/appellants.
4. After hearing both the sides, the learned Single Judge referred to the sequence of events and placing reliance on various judgements rendered by the Apex Court, particularly in the matter of SP Chengalvaraya Naidu (dead) by LRs v. Jagannath (Dead) by LRs and others reported in (1994) 1 SCC 1, it was held that the writ petitioners were not entitled to get the reliefs as claimed by them, in turn dismissing the writ petitions as per common judgment dated 10.3.2016, which is put to challenge in these appeals.

5. Learned Senior Counsel for the appellants submits that the criminal case registered against the culprits ended up in acquittal and hence the matter requires consideration.
6. Learned counsel representing the State submits that the acquittal was granted by extending 'benefit of doubt', observing that the prosecution had not established the charges levelled against the accused persons beyond any reasonable doubt. There is no case of the appellants that the criminal case was registered as a measure of malafide exercise and no incidence of any malicious prosecution is raised in any manner. That apart, no malice is specifically pleaded or established with reference to any reliable material and that the acquittal by the criminal Court by itself will not tilt the balance so as to sustain the employment given/procured without undergoing any process of selection, that too without existence of any post and without any requirement to have the appellants engaged as "Contingency Paid Daily Wage Employee' and 'Laboratory Assistant' respectively.
7. After hearing both the sides, we are of the view that the learned Single Judge has discussed the facts and figures in the light of relevant provisions of law and precedents. The finding recorded is well supported by reasoning. In *United India Insurance Co. Ltd. vs. Rajendra Singh & Ors.* AIR 2000 SC 1165, the Apex Court observed that "Fraud and justice never dwell together" (*fraus et jus nunquam cohabitant*) and it is a pristine maxim which has never lost its temper over all these centuries.
8. We do not find any tenable ground for interference. The appeals fail. They are dismissed accordingly.

Sd/-

(P.R. Ramchandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

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