

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2703 of 2010**

1. Komal Prasad Nayak, S/o Jai Krishna Nayak, Pharmacist Grade II, aged about 27 years, R/o Village Ichchhapur, Post Chattigirola, Tahsil Saraipali, District Mahasamund (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Public Health & Family Welfare Department, Mantralaya, DKS Bhawan, Raipur (CG)
2. Director, Health Services, Chhattisgarh, Raipur.
3. Chief Medical & Health Officer, Mahasamund, District Mahasamund (CG)
4. Collector, Mahasamund, District Mahasamund (CG)
5. Block Medical Officer, Samudayik Swasth Kendra, Saraipali, District Mahasamund (CG)

---- Respondent

For Petitioner : Shri D. Kushwaha, Advocate.
For Respondent/State : Shri Chitendra Singh, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****09/01/2020**

1. The petitioner was appointed on the post of Pharmacist Grade-II and posted at Primary Health Centre, Patsendri vide appointment and posting orders dated 2.7.2008 and 7.7.2008 respectively. The appointment was made on the strength of his performance in the recruitment process. Subsequently his appointment was cancelled and he was terminated on 24.1.2009 without providing any opportunity of hearing. The petitioner's WPS No.667/2009

was allowed vide order dated 16th March, 2010. However, liberty was reserved in favour of the respondents to proceed in accordance with law.

2. The present impugned order/letter (Annexure-P/1) has been issued stating that the petitioner wrongly added his marks in the subject of Pharmaceutical Jurisprudence in the original exam and supplementary exam and thus higher grading was obtained by the petitioner. If the marks are correctly calculated, the petitioner may not find place in the select list. Therefore, his appointment is required to be cancelled.
3. Even if the entire contents of the impugned order/letter are taken to be true, the fact remains that the petitioner has not withheld any information or deliberately provided such information to the Selection Committee in order to secure employment by committing fraud. If no such act or omission has been committed by the petitioner, it is not open to cancel his appointment merely because the Selection Committee committed some mistake at the time of calculation of marks. The petitioner is continuously working on the post since July, 2008 i.e. for nearly more than 11½ years.
4. In the return filed by the State, the contents of the impugned order/letter have not been defended but only a statement is made that the decision shall be taken after providing opportunity of hearing to the petitioner.
5. In view of the above and particularly for the fact that no malice or fraud has been attributed to the petitioner when he participated in the selection process, there is no need for keeping the matter pending.
6. Accordingly, the impugned order/letter (Annexure-P/1) is quashed and the Writ Petition is allowed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve