

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.6960 of 2010

1. Vinod Kumar Yadav, S/o Shri Puni Ram Yadav, aged about 47 years, Post U.D.T., Address At+Post Portha, Tahsil Sakti, District Janjgir-Champa (C.G.)
2. Santosh Kumar Tiwari, S/o Shri Madhusudan Tiwari, aged about 43 years, Post U.D.T., Address At Post Bargan, Tahsil Pamgarh, District Janjgir-Champa (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through the Secretary, School Education Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. The Director, Public Instructions, Secretariat, Pension Bada, Raipur (C.G.)
3. The District Education Officer, District Janjgir-Champa (C.G.)

---- Respondents

 For Petitioners: Mr. Vinod Kumar Sharma, Advocate.
 For Respondents/State: Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board27/07/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioners have filed this writ petition calling in question the order dated 8-11-2010 by which the petitioners' representation has been rejected refusing petitioner No.1's promotion on the post of Lecturer. (Petitioner No.2 has already been promoted by order dated 1-6-2017.)
3. Return has been filed stating that petitioner No.1 is not entitled for promotion on account of qualification in terms of Rule 8(2) of the Chhattisgarh School Shiksha Rajpatrit (Shala Stariya) Bharti Tatha

Padonnati Niyam, 2008 (for short, 'the Rules of 2008') and Schedule 3 appended with the said Rules which came into effect from 13-8-2008, therefore, petitioner No.1 is not entitled for promotion and relaxation cannot be granted in view of the mandatory rules in force for promotion on the post of Lecturer.

4. Mr. Vinod Kumar Sharma, learned counsel appearing for the petitioners, would submit that the petitioners though were appointed in the year 1988, could not appear in the B.Ed. and BTI examination, as there was ban from the Government for undertaking those courses, therefore, relaxation should have been granted to petitioner No.1 for promotion on the post of Lecturer.
5. Mr. Ravi Kumar Bhagat, learned State counsel, would submit that Rule 8(2) of the Rules of 2008 read with Schedule 3 clearly prescribes qualification for the post of Lecturer i.e. the candidate must have either post-graduation degree or he must possess B.Ed./B.L.Ed./BTI or he must have five years experience on the post of Upper Division Teacher (UDT) in a Government / Panchayat School on the date of promotion which petitioner No.1 is lacking and therefore his candidature has rightly been refused.
6. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
7. It is true that Rule 8(2) of the Rules of 2008 which came into force on 13-8-2008 prescribes that a candidate for promotion on the post of Lecturer must have either post-graduation degree or degree of B.Ed./B.L.Ed./BTI or he must have 5 years experience on the post of UDT. Since the petitioners who were Assistant Teachers, did not have the

said qualification or the experience, therefore, they were not promoted which they questioned in W.P.(S)No.6743/2009 and this Court by order dated 1-9-2010 relegated the petitioners to submit representation which they submitted and now, it has been rejected holding that petitioner No.1 is not having the requisite qualification of B.Ed./B.L.Ed./BTI and no relaxation is permissible under the Rules being regulated by the State Government clearly holding that petitioner No.1 lacks qualification in terms of Rule 8(2) of the Rules of 2008 read with Schedule 3 of the said Rules. The said finding recorded by the State Government is clearly based on the Rules of 2008 which is neither perverse nor contrary to the record. Since petitioner No.1 lacks qualification for promotion on the date of consideration, he has rightly been refused promotion on the post of Lecturer and relaxation has rightly been not granted being not permissible under the Rules of 2008. I do not find any merit in the writ petition. The writ petition deserves to be and is hereby dismissed. However, in future date, if petitioner No.1 fulfills his qualification, dismissal of this writ petition will not be a bar for his consideration in future as per the rules. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge