

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.6574 of 2008**

Anteryami Routiya, S/o. Shri Bhagat Ram Routiya, aged about 28 years, R/o. L-11, New RDA Colony, Tikrapara, Raipur, Tahsil and District Raipur (CG)

----- **Petitioner**

Versus

1. The State of Chhattisgarh, Through : The Secretary, Department of Law, D.K.S.Bhawan, Raipur (CG)
2. Vice Chancellor, Hidayatullah National Law University, Raipur (CG)
3. Registrar, Hidayatullah National Law University, Raipur (CG)
4. Hidayatullah National Law University, Raipur (CG), Through : Registrar, Hidayatullah National Law University, Raipur (CG)

----- **Respondents**

For Petitioner	:	Mr.Raghvendra Pradhan, Advocate
For Res.No.1/State	:	Mr.Ravi Bhagat, Dy.G.A.
For Res.No.2 to 4	:	Mr.Shashank Thakur, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

25.6.2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner herein calls in question legality, validity and correctness of the order dated 10.11.2008 (Annexure P-1) passed by the respondent-Hidayatullah National Law University, Raipur, whereby his selection / letter of appointment dated 03.10.2008 has been cancelled.
3. The respondent-University issued the appointment notification dated 25.4.2008 (Annexure P-2) for

teaching and non-teaching posts including the post of Office Assistant/Peon-cum-Caretaker/Attendant with pay scale of 2550-55-2600-60-3200 and qualification prescribed of the said post was the candidate must have passed Higher Secondary School and two years working experience on similar post. It is not in dispute that the petitioner applied for the said post vide his application Annexure P-3, in which he submitted in para-14 that at present he is working as Office Assistant cum Peon (Daily wages) in the bungalow of Chief Secretary as a collectorate rate from July, 2004 regularly (attached the office of Forest). The petitioner was selected and he was issued letter of appointment on 03.10.2008 (Annexure P-5), he was asked to submit no dues certificate, relieving order and experience certificate. He visited to the office of the respondent-University on next day, but he could not submit no dues certificate, relieving order and experience certificate as desired by the respondent-University. The respondent-University by memo dated 18.10.2008 (Annexure P-9) granted time to the petitioner to produce the above-stated documents up to 31.10.2008. In the meanwhile, on 22.10.2008 the petitioner only along with his letter, faxed the experience certificate issued by the SDO (Forest

Department). He was also issued notice to appear on 21.10.2008, but the petitioner for the reason best known to him could not appear on that day. Thereafter, the Screening Committee of the respondent-University examined the experience certificate submitted along with application form and experience certificate issued on 22.10.2008 and came to the conclusion that both experience certificates filed along with application form on 7.6.2008 and on 22.10.2008 are not one & same and in both experience certificate, name of employer, date of joining and experience is quite different, therefore, experience certificate is not acceptable and on the recommendation of the Committee, the respondent-University annulled the letter of appointment issued in favour of the petitioner, which has been called in question by the petitioner in this writ petition.

4. Mr. Raghvendra Pradhan, learned counsel for the petitioner, would submit that the respondent-University did not correctly appreciate the experience certificate filed. In fact, he was appointed by the Department of Forest and he was attached to the resident of the Chief Secretary, which he has clearly mentioned in para-14 of his application form that though he is working in the bungalow of Chief

Secretary, but he is attached employee of the Forest Department, therefore, the order passed that he is not holding experience on the same post is contrary to the record and the order impugned deserves to be set aside. He would further submit that letter dated 18.10.2008 (Annexure P-9) was served to him very late and therefore, he could not appear before the Screening Committee or before the respondent-University to explain his stand, as such, the impugned order deserves to be set aside and appropriate direction be issued for appointment of the petitioner on the post of Office Assistant/Peon-cum-Caretaker/Attendant, for which he was selected and letter of appointment was issued in his favour on 03.10.2008.

5. On the other hand, Mr. Shashank Thakur, learned counsel for respondents No.2 to 4, would submit that after giving a reasonable opportunity of hearing, the Screening Committee headed by the Registrar of the University on 18.10.2008 considered the experience filed along with application form on 7.6.2008 and on 22.10.2008 and came to the conclusion that the petitioner is not holding experience equivalent to the post of Office Assistant/Peon-cum-Caretaker/Attendant and therefore, annulled the proposal of appointment.

He would further submit that the petitioner even on 22.10.2008 could not produce 'no dues certificate' from the employer, if any and therefore also, he is not entitled for appointment on the post of Office Assistant/Peon-cum-Caretaker/Attendant and the impugned order is in accordance with law.

6. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

7. The respondent-University invited applications for appointment on the post of teaching and non-teaching including the post of Office Assistant/Peon-cum-Caretaker/Attendant with pay scale of 2550-55-2600-60-3200 by appointment notification dated 25.4.2008 in which qualification prescribed for the post was he must have passed Higher Secondary School and must have two years working experience on similar post. Pursuant to which, the petitioner applied and along with application form, he furnished experience certificate dated 7.6.2008 issued by PA of the Chief Secretary that he is working on the post of daily wager (peon) w.e.f. 1.7.2004 and thereafter the petitioner was selected and he was issued with letter dated 10.8.2008, he was required to join along with no dues

certificate, relieving order and experience certificate, he approached the respondents-authorities on 4.10.2010, on examination it was found that the petitioner was not having experience certificate, no dues certificate and relieving order, for which he was given time to produce, which he could not produce. Ultimately, again by memo dated 18.10.2008 he was given time to produce experience certificate, no dues certificate and relieving order. The petitioner on 28.10.2008 along with covering memo only produced experience certificate issued by the SDO (Forest) dated 22.10.2008 stating that he has experienced equivalent to the post of Peon from 25.6.2004 to 17.8.2007. Upon receipt of this experience certificate, the Screening Committee headed by the Registrar of the University examined the issue as to whether both experience certificates produced by the petitioner would amount to experience within the meaning of advertisement issued by the University and then came to the conclusion that the petitioner is not having requisite experience certificate in terms of the advertisement and experience as shown cannot be said to be equivalent in terms of the advertisement issued and further held that in both experience certificates, name of employer, date of joining and

work experience are different and therefore, certificate is not acceptable.

8. The respondent-University has fairly given a reasonable opportunity of hearing to the petitioner to produce the certificate, but finding that in both certificates employers are different, date of joining is different and work experience is different, decided not to accept experience certificate of the petitioner. The respondent-University has clearly mentioned that candidate desiring for the post of Office Assistant/Peon-cum-Caretaker/Attendant must have experience to the equivalent post for two years. Therefore, it was incumbent on the part of the petitioner to file clearcut experience certificate clearly indicating that he has worked on the said post for two years and along with experience certificate, he could have filed no dues certificate and reliving order to induce confidence to mind of the appointing authority that he has requisite experience certificate for two years and therefore, he is eligible for appointment on the post of Office Assistant/Peon-cum-Caretaker/Attendant as advertised by the University, which the petitioner failed.

9. Not only this, the respondent-University while advertising has clearly held that he must have held

experience of the said post for two years. Admittedly, the petitioner at no point of time has held the post of Office Assistant/Peon-cum-Caretaker/Attendant on regular basis. The petitioner's own showing from two documents clearly states that he was daily wager and at no point of time he has held the said post on regular basis. The respondent-authority on fair consideration and after giving a reasonable opportunity to the petitioner that too by the Screening Committee headed by the Registrar of the University has reached to the conclusion that two experience certificates filed by the petitioner did not fulfill the requirement of experience of two years on the same post as required by the University and rightly held that the petitioner did not have experience of two years as Office Assistant/Peon-cum-Caretaker/Attendant, which cannot be said to be either arbitrary or unfair to the petitioner. Therefore, the order passed by the respondent-University requires no interference in the jurisdiction under Article 226 of the Constitution of India.

- 10.** As a fallout and consequence of the above-stated discussion, I do not consider it a fit case for interdicting the order 10.11.2008 (Annexure P-1) holding the petitioner to be not having requisite

experience for the post of Office Assistant/Peon-cum-Caretaker/Attendant.

- 11.** Consequently, the writ petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-