

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2358 of 2012**

1. Dinooram Sahu, aged about 42 years, S/o Lt. Ramesher Sahu, R/o Vill. & Post Sundara, Tah. & District Rajnandgaon (CG)
2. Sudershan Lal Sahu, aged about 43 years, S/o Lt. Tikaram Sahu, R/o Vill. & Post Sundara, Tah. & District Rajnandgaon (CG)
3. Digvijay Kumar Sahu, aged about 39 years, S/o Lt. Kaushal Ram Sahu, R/o in front of Jain Temple, Sadar Bazar, Dongargaon, District Rajnandgaon (CG)
4. Hemlal Kalar, aged about 36 years, S/o Shri Baharu Ram Sinha, R/o Vill. Tolagaon, Post Tappa, Tah. & District Rajnandgaon (CG)
5. Jeevan Lal Verma, aged about 38 years, S/o Ramji Verma, R/o Vill- Mahrumkkhurd, Post Mahrum Kala Tah. & District Rajnandgaon (CG)
6. Khemchand Sahu, aged about 35 years, S/o Maksudan Lal Sahu, R/o Vill. & Post Baldevpur, Tah. Khairagarh, District Rajnandgaon (CG)
7. Domar Singh Verma, aged about 35 years, S/o Rewaram Verma, R/o Vill. Harduwa, Post Ghumka, Tah. & District Rajnandgaon (CG)
8. Mordhwaj Chandan, aged about 36 years, S/o Khemdas, Post Itar, Tah. Khairagarh, District Rajnandgaon (CG)
9. Rupesh Kumar Sahu, aged about 30 years, S/o Late Bhukhram Sahu, R/o Vill. Bajrangpur Navagaon, Ward No.1, Tah. and District Rajnandgaon (CG)
10. Sant Kumar Janghel, aged about 36 years, S/o Bhikham Janghel, R/o Vill. Vicharpur, Post Bundali, Tah. Chhuikhadan, District Rajnandgaon (CG)
11. Govind Prasad Dewangan, aged about 39 years, S/o Radhelal Dewangan, R/o Ward No.12, Dau Choura, Khairagarh, Tah.- Khairagarh, District Rajnandgaon (CG)
12. Gautamram Sahu, aged about 38 years, S/o Ananadram Sahu, R/o Vill. Charbhata, Post Singarpur, Tah. Khairagarh, District Rajnandgaon (CG)

---- Petitioners**Versus**

1. State of Chhattisgarh, through the Secretary, Department of Public Health and Welfare, Mantralaya, D.K.S. Bhawan, Raipur (CG)
2. Director, Directorate, Health Services, Pension Bada, Raipur (CG)
3. Chief Medical and Health Officer, District Rajnandgaon (CG)
4. Chhattisgarh Paramedical Council, through its Registrar, Chhattisgarh Paramedical Council, D.K.S. Bhawan, Raipur, District Raipur (CG)

---- Respondents

For Petitioners	:	Mr. Rakesh Thakur, Advocate.
For Respondents	:	Mr. Vimlesh Bajpai, Govt. Advocate.

SB: Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

6/9/2021

1. Petitioners have filed this writ petition seeking following reliefs:-

“A. That, this Hon'ble Court may kindly be pleased to call for the entire records relating to the matter of petitioner for the kind perusal of this Hon'ble Court.

B. That, this Hon'ble Court may kindly do issue in the nature of Writ of Mandamus or any other appropriate Writ and direct the respondent no.2 and 3 to consider the candidature of the petitioner and permit the petitioners to participate for appointment for the post of Male Health Worker in Rajnandgaon District.

C. That, this Hon'ble Court may kindly do issue in the nature of Writ of Mandamus or any other appropriate Writ and direct the respondent no.2 and 3 to give age relaxation to the petitioners who have crossed upper age limit for government service as they have been deprived by the State Government from the job opportunities.

D. Any other relief, which may be suitable in the

fact's of the case, may also be granted.”

2. Case of petitioners is that respondent No.3 issued an advertisement on 14.5.2012 inviting applications for appointment on the post of 'Male Health Worker' in District Rajnandgaon. Minimum eligibility qualification prescribed under aforementioned advertisement was Class 10th pass. As per advertisement, preference will be given to those candidates who have passed Class 10th exam with Maths, Science & Biology subjects. Candidates should also have undergone one-year training of Male Health Worker. Grievance of petitioners in this petition is that the State Government has introduced new training course namely 'Paramedical Training Course' to train persons serving in medical field, but in the advertisement under eligibility clause, this course has not been included as one of the qualification for appointment on the post of Male Health Worker. Advertisement for appointment was issued separately in different districts like Raipur, Durg, Rajnandgaon, Dhamtari, Surajpur, Korba, Mahasamund, Baikunthpur, Bilaspur, Raigarh, Balrampur, Balod and Kabirdham. Exclusion of 'Paramedical Training Course' for appointment on the post of Health Worker (Male) is illegal, arbitrary and violative to Articles 14 & 16 of the Constitution of India.
3. Several writ petitions were filed challenging eligibility criteria prescribed for appointment on the post of Male Health Workers by Chief Medical and Health Officers of different

districts of the State. These batch of writ petitions, lead case of which being WPS No.2680/2012, came up for hearing before Co-ordinate Bench on 8.8.2013. After considering the grounds raised by petitioners therein, learned Single Judge has dismissed all these writ petitions. Relevant paragraphs of the order dated 8.8.2013 are extracted below:-

“4.Though, in the year 2010, the Director, Health Services, Chhattisgarh issued advertisement inviting application for appointment to the post of MPHWS (M) for various districts of the State, writ petitions were filed challenging the process of selection mainly on the ground that the advertisement was not in accordance with the provisions of governing rules prescribing educational qualification, one such petition being W.P.(S) No.155/11. Interim order was passed by this Court. Number of petitions were filed. When the matter stood thus, the process of selection initiated by advertisement dated 13.12.2010 was cancelled and information to this effect was published on 5.3.2011 in the Newspaper. Thereafter, no steps were taken by the Directorate to re-advertise the post. In the year 2012, the Chief Medical and Health Officer of different districts in the State of Chhattisgarh issued advertisement for the purpose of filling up vacancies of MPHWS (M). The advertisement was issued in different districts namely Raipur, Durg, Rajnandgaon, Dhamtari, Surajpur, Korba, Mahasamund, Baikunthpur, Bilaspur, Raigarh, Balrampur, Balod and Kabirdham. In the aforesaid 39 petitions, the advertisement issued in the respective districts, as mentioned above, have been challenged by the respective petitioners. Large number of Paramedical practitioners seriously

objected to the eligibility criteria prescribed under the advertisement mainly on the ground that Paramedicals who have obtained Paramedical Training Certificate and registered with Paramedical Council of the State should also be treated as having been possessed of training equivalent to that of M.P.H.W. (M) and, therefore eligible for appointment as M.P.H.W. (M). Objections were also raised by Paramedical practitioners in some districts i.e. Raipur, Surajpur, Ambikapur, Baikunthpur and Bilaspur that the educational qualification prescribed in the advertisement is contrary to the qualifications prescribed in the Rules of 1989 as amended in the year 1997.

5. Learned counsel for the petitioners in all these petitions made elaborate submissions challenging the process of selection and prescription of eligibility criteria under the respective advertisement mainly on the ground that the petitioners in these petitions are Paramedicals who have obtained one year training in Paramedical course and duly registered with Paramedical Council of the State under the provision of the Chhattisgarh Paramedical Council Act, 2001 (for short "the Act of 2001"). The Paramedical Course is in all respect equivalent to the training course of MPH.W. Therefore, the petitioners who are registered Paramedicals are also eligible and qualified for appointment to the post of MPH.W. (M) in the Health Department and, therefore, their exclusion by refusing equivalence is illegal, arbitrary and violative of Articles 14 & 16 of the Constitution of India. Further, contention is that in fact, the correspondences of the State authorities, qualification prescribed for appointment to the post of M.P.H.W. (M) in the advertisement dated 13.12.2010

{Annexure P-9 in W.P. (S) No.2078/12}, prescription of Registrar, Paramedical Council and similitude of syllabus prescribed for the course of instruction for MPHWS and that of Paramedical Course prove that equivalence has already been drawn. In the alternative, it is submitted that identity of syllabus of the two courses of instructions requires that the two training courses should be treated as equivalent for the purpose of eligibility for appointment to the post of MPHWS (M) under the rules of 1989. Further submission is that the Director, Health Services has already proposed equivalence to be drawn, therefore, before decision could be taken by the State Govt, recruitment process in different districts ought not to have been initiated by respective Chief Medical and Health Officers and they should have awaited the decision of the State Govt.. It has also been argued that in the matter of recruitment in the Police Department, for appointment to the post of Head Constable (Nursing), the qualifications of Paramedical Training Course certificate has been recognized. Therefore, there is no reason why in the matter of appointment to the post of MPHWS (M), Paramedical Training Course should not be treated as equivalent to training of MPHWS.

18. The other submission to persuade this Court to draw equivalence is that one year Paramedical course training imparted to the petitioners has been duly recognized and the petitioners have been registered with the Chhattisgarh Paramedical Council. The Council has already observed that training has been imparted on the same syllabus as applicable in the matter of training of MPHWS. Therefore, such registration itself is proof of equivalence of two training courses.

The said contention cannot be accepted because Paramedical Council only provides registration and there is no provision in the act of 2001 under which Council is empowered to declare equivalence of various training courses. The Act of 2001 has been enacted to regulate the practice by Paramedical practitioner and to perform function and exercise powers enumerated under Section 23 thereof. The Schedule appended to the Act enlists as many as 31 categories of Paramedical practitioners. Therefore, registration under the Council is not, by itself, proof of equivalence. It is for the body of experts to examine all those materials and to draw equivalence.

22. Submissions of learned counsel for the petitioner that in the matter of recruitment on the post of Head Constable (Nursing) in the Police Department, qualification of paramedical course training course is being recognized is of no help because in so far as appointment to the post of MPHWS (M) is concerned, the statutory qualification is entirely different.

23. In the result, all the writ petitions are liable to be dismissed and are accordingly dismissed. No order as to costs."

4. The order passed by learned Single Judge was put to challenge in writ appeal by writ petitioners in WPS No.317/2013 which was disposed of vide order dated 30.10.2014 by observing thus:-

".....Without pressing the appeals on merits, it is submitted now that the State Government has taken a policy decision with regard to equivalence of

qualification of the one year training course of Paramedics for appointment as MPHWS and a clarificatory order has also been issued by the Health Department on 31.6.2013 in furtherance of Rules for appointment dated 6.7.2013, the only issue which remains for consideration is of retrospectivity for which the appellants desire to pursue the matter with the State Government. The appeals are disposed of with that liberty. Any such representation filed is expected to be disposed of expeditiously....”

5. As the issue raised in present petition has already been considered and decided in batch of writ petitions and appeal filed by some of petitioners similarly situated to present petitioners, nothing remains in this petition for adjudication.
6. Accordingly, this writ petition is also dismissed. However, petitioners will be at liberty to submit representation to the State Government as observed in order dated 30.10.2014 in Writ Appeal No.530/2013.

Sd/-
(Part Prateem Sahu)
Judge

roshan/-