

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 173 of 2020**

Pradip Kumar, S/o Raj Pothi, Aged About 39 Years, R/o Durgesh Kirana Store,
Ganesh Chowk, Camp 2, Bhilai, District- Durg, Chhattisgarh

---- Appellant**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of Agriculture, Mahanadi Bhawan, Atal Nagar, (Naya Raipur), PO And PS Rakhi, Raipur, District - Raipur Chhattisgarh
2. Director, Directorate Of Agriculture, Raipur, District Raipur Chhattisgarh
3. Director, Soldier Welfare Department, Kachari Parisar, Behind Home Guard Office Raipur, District -Raipur, Chhattisgarh

---- Respondents

(Cause-title taken from Case Information System)

For Appellant : Mr. Ishan Verma, Advocate

For Respondents/State : Mr. Arijit Tiwari, Panel Lawyer

Hon'ble the Chief Justice Shri Arup Kumar Goswami**Hon'ble Justice Shri Goutam Bhaduri****Judgment on Board****Per Arup Kumar Goswami, C.J.****20/10/2021**

Heard Mr. Ishan Verma, learned counsel for the appellant and Mr. Arijit Tiwari, learned State counsel appearing for the respondents.

2. This Writ Appeal is presented against an order dated 18.06.2019 passed by learned Single Judge in WPS No.4174 of 2019 dismissing the Writ Petition.

3. An advertisement dated 02.03.2017 was issued for 123 posts of Surveyor. Out of the aforesaid posts, 10% posts were reserved for ex-servicemen. 10% of 123 posts is 12 but the petitioner pleaded that 11 posts were reserved for ex-servicemen. It appears that the petitioner did not participate in the selection process. It transpires that

only one candidate belonging to the category of ex-servicemen was selected and remaining posts reserved for ex-servicemen were not filled up.

4. For the purpose of disposal of the present appeal, it is not relevant as to whether 11 posts or 12 posts were kept reserved for ex-servicemen.

5. We may also, at the very outset, indicate that the advertisement is not part of the record and it is also not clear from the pleadings in the writ petition as to which authority had issued the aforesaid advertisement. Learned Single Judge has, however, observed that the State Government had issued the advertisement.

6. It appears that after the selection process was over, which also included written test, the Additional Director, Agriculture had addressed a letter to the Director, Sainik Welfare Board on 03.04.2018 requesting him to send names of eligible/ qualified candidates in terms of the advertisement published for the purpose of consideration for appointment in the vacant posts in the wake of 10 posts remaining vacant in the concluded selection process. It also appears that the Commander, District Sainik Welfare Officer, Durg had addressed a letter dated 26.05.2018 to the Directorate of Sainik Welfare Board furnishing five names in which the name of the petitioner figured.

7. Subsequently, a letter dated 01.06.2018 came to be issued by the Air Commodore, Directorate of Sainik Welfare Board, Chhattisgarh to the Director, Agriculture forwarding the said names. On receipt of the above names, the Director, Agriculture, addressed a letter dated 13.08.2018 to the Secretary, Government of Chhattisgarh, Department of Agriculture and Bio-Technology, seeking guidance as to whether they can be considered for the purpose of appointment.

8. The petitioner had prayed for quashing of the aforesaid letter dated 13.08.2018 and had prayed for a direction to the respondents to consider his candidature for the post of Surveyor.

9. Learned Single Judge opined that the petitioner does not have any substantive right for appointment, he having not participated in the selection process and that no right is also created in his favour on the strength of internal correspondences on which the petitioner had relied upon.

10. Drawing attention of the Court to Annexure A-4 at page 13 of the appeal papers, Mr. Verma, learned counsel for the appellant, has submitted that on the basis of the correspondence that had ensued in relation to the vacancy in ex-servicemen quota, on 15th May, 2018 publication of 'Bhilai Patrika', an advertisement was issued inviting applications from the ex-servicemen to be submitted before the Sainik Welfare Board. He has submitted that since steps have been taken by the Director for consideration of the cases of eligible candidates and since an advertisement was also issued, at that point of time there was no occasion for the Director, Agriculture to have written a letter to the Government asking for a clarification as to whether appointment could be offered on the basis of names forwarded by the Sainik Welfare Board. It is submitted that on the strength of those communications, the petitioner has legitimate expectation that his case will be considered and the learned Single Judge failed to consider this aspect of the matter and therefore, the order of the learned Single Judge is liable to be interfered with and appropriate direction may be issued by this Court for consideration of his case for appointment.

11. Learned State counsel, on the other hand, while relying on the order of the learned Single Judge, contends that response to the letter dated 13.08.2018 was also prepared by way of a note-sheet, which is annexed as Annexure R-1 to the affidavit of the respondents, wherein it was categorically spelt out that no further action with regard to names forwarded by the Sainik Welfare Board ought to be taken as they had not participated in the selection process.

12. We have considered the submissions of learned counsel for the parties and have perused the material on record.

13. In the matter of public employment, a transparent procedure has to be followed and keeping that objective in view, an advertisement came to be issued for the purpose of appointment of Surveyors reserving 10% of the notified 123 posts for ex-servicemen category. For reasons not known, the petitioner did not respond to such advertisement. It is not understood why after initiating the correspondence with the Sainik Welfare Board, the letter dated 13.08.2018 had to be issued by the Director, Agriculture. If he or the Additional Director had no authority, they should not have taken the steps to find out names of eligible candidates for the purpose of consideration of appointment. It is also not understood why the Director/Additional Director, Agriculture had to obtain names of eligible ex-servicemen when appointment is to be made by way of a selection process. As noticed earlier, the selection process comprised of a written test. It is, however, not known how many candidates belonging to ex-servicemen category had responded and participated in the selection process. Even though some communication had ensued to find out as to whether there are any available candidates belonging to ex-servicemen category possessing the requisite qualification and in the process, some names were furnished, in our considered opinion, no right accrues to such persons whose names were forwarded for consideration of their cases for appointment

14. The argument advanced by Mr. Verma that an advertisement was published in "Bhilai Patrika", subsequent to the correspondence between Director/Additional Director, Agriculture and Sainik Welfare Board, is without any basis, as the same was only a newspaper report.

15. The argument advanced by the learned counsel for the appellant that the petitioner has legitimate expectation for consideration of his case is without any merit.

There was no clear or unequivocal promise that he will be considered for appointment and further, a legitimate expectation cannot be harboured contrary to law. If there are any vacancies, such vacancies have to be filled up by a process known in law, which is by way of publishing of an advertisement, so that all eligible candidates, who are interested, can offer their candidature.

16. The view taken by the learned Single Judge, in our considered opinion, does not warrant any interference and therefore, we see no good ground to interfere with the order passed by the learned Single Judge.

17. Resultantly, the Writ Appeal is dismissed. No Costs.

Sd/-

(Arup Kumar Goswami)
Chief Justice

Sd/-

(Goutam Bhaduri)
Judge

Ashu