

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.3510 of 2014

Radhe Shyam Kant, S/o Shri Sattam Ram Kant, aged about 30 years,
R/o Ambikapur Road, Near Berrier, Patthalgaon, Civil & Revenue
District Jashpur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Health,
Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur (C.G.)
2. Collector, Jashpur, District Jashpur (C.G.)
3. Chief Medical Officer, Jashpur, District Jashpur (C.G.)

---- Respondents

Writ Petition (S) No.3582 of 2014

Prabhucharan Toppo, S/o Shri M.S. Toppo, aged about 28 years, R/o
Sonquari, Post Manora, Tahsil & District Jashpur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Health and Family
Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur
(C.G.)
2. The Collector, Jashpur, District Jashpur (C.G.)
3. The Chief Medical Officer, Jashpur, District Jashpur (C.G.)

---- Respondents

ANDWrit Petition (S) No.3940 of 2014

Ku. Shashi Tandon, D/o Shri Duj Ram Tandon, aged about 27 years,
R/o Duldula, Police Station Duldula, District Jashpur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Health and Family
Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur
(C.G.)
2. The Deputy Collector, Jashpur, District Jashpur (C.G.)
3. The Chief Medical Officer, Jashpur, District Jashpur (C.G.)

---- Respondents

 For Petitioner in W.P.(S)No.3510/2014: -

Mr. Hemant Kesharwani, Advocate.

For Petitioner in W.P.(S)No.3582/2014: -

Mr. Goutam Khetrapal, Advocate.

For Petitioner in W.P.(S)No.3940/2014: -

Mr. Aman Kesharwani, Advocate.

For Respondents/State: Mr. Animesh Tiwari, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/06/2021

1. Proceedings of these matters have been taken-up through video conferencing.
2. In a recruitment process issued for the post of Pharmacist Grade-II by the Chief Medical and Health Officer, Jashpur – respondent No.3 herein, the petitioners applied for three posts and they were selected and appointed also by order dated 6-12-2012 on probation, but the petitioner in W.P.(S)No.3510/2014 namely, Radhe Shyam Kant and the petitioner in W.P.(S)No.3940/2014 namely, Ku. Shashi Tandon have been terminated on the ground that they have submitted domicile certificate after the cutoff date i.e. 20-6-2012 and submitted the certificate on 30-8-2012 and 14-9-2012 respectively, whereas, the petitioner in W.P.(S)No.3582/2014 namely, Prabhucharan Toppo was dismissed on the ground that he has submitted the Pharmacist's Registration Certificate on 23-7-2012. The petitioners have called in question, the order dated 4-7-2014 in these writ petitions.
3. Mr. Hemant Kesharwani and Mr. Aman Kesharwani, learned counsel appearing for the petitioners in W.P.(S)Nos.3510/2014 & 3940/2014, respectively, would submit that though the petitioners are residents of Chhattisgarh, but they had applied for domicile certificate which was

granted to them on 30-8-2012 and 14-9-2012, therefore, the present petitioners have submitted their domicile certificates later-on, but before the select list was issued on 6-12-2012 and as such, no exception can be taken for the delayed submission of domicile certificate, it is not the case that the petitioners are not the domicile of Chhattisgarh and therefore on that ground, the order of removal is bad in law.

4. Mr. Goutam Khetrapal, learned counsel appearing for the petitioner in W.P.(S)No.3582/2014, would submit that though the present petitioner passed B. Pharmacy on 5-6-2012 in the year 2011-12, but thereafter, he applied for registration in the Chhattisgarh State Pharmacy Council and ultimately, the Pharmacist's Registration Certificate was issued to the petitioner on 23-7-2012 which is also before the issuance of select list on 6-12-2012. As such, it is a pure technical ground that though the petitioner has the eligible qualification for the said post, but his appointment has been cancelled which is unsustainable and bad in law.
5. Mr. Animesh Tiwari, learned State counsel, would submit that the petitioners were not having the requisite qualification on the date of submission of application form and therefore they have been terminated from the said post and the writ petitions deserve to be dismissed.
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. Recruitment for the post of Pharmacist Grade-II was advertised on 8-6-2012 prescribing the submission of domicile certificate of the State

of Chhattisgarh. The select list was issued on 6-12-2012 and appointment order was also issued on the same date and the petitioners were selected on the said post.

8. Radhe Shyam Kant and Ku. Shashi Tandon submitted their domicile certificate on 30-8-2012 and 14-9-2012, respectively, which is admittedly beyond the cutoff date i.e. 20-6-2012, but they have definitely submitted their domicile certificate prior to completion of selection process and issuance of select list / appointment order on 6-12-2012. Merely because there is some delay in submission of domicile certificate it cannot be concluded that they were not qualified for the post of Pharmacist Grade-II. It is their case that they had already made application for domicile certificate, but it could not be issued by the State authorities right in time, therefore, there is some delay occurred in obtaining the certificate and submitting the same before the recruiting authorities, as such, the explanation is quite acceptable and merely because there is some delay, the domicile certificate issued and submitted cannot be a ground for their removal. Even otherwise, there is no mandatory requirement in the advertisement that domicile certificate must have been obtained before the cutoff date i.e. 20-6-2012. As such, the order of removal of petitioners Radhe Shyam Kant and Ku. Shashi Tandon dated 4-7-2014 passed by the Chief Medical and Health Officer, Jashpur, is hereby set aside.
9. Now, coming to the case of petitioner Prabhucharan Toppo, it is apparent on record that he has passed B. Pharmacy on 5-6-2012 in the academic year 2011-12 (page 14 of the writ petition) and thereafter, he applied for registration certificate before the Chhattisgarh State Pharmacy Council and meanwhile, advertisement

for the post of Pharmacist Grade-II was issued on 8-6-2012 and cutoff date was prescribed as 20-6-2012. The Pharmacist's Registration Certificate was issued to the petitioner by the Chhattisgarh State Pharmacy Council on 23-7-2012 and the same was submitted by the petitioner well before the completion of selection process and before the order of appointment was issued on 6-12-2012. Even otherwise, issuance of live registration by the Pharmacy Council takes time, and it is not easy that the eligible person will make application on a particular date and it will be issued on the next date. It is a time taking process and there would be some delay in issuance of certificate by the public office which cannot be ignored and it has to be taken cognizance of by the authorities. Considering the submission that it is too technical to remove a selected candidate for the reason of delay in issuing certificate which the particular candidate is otherwise entitled for appointment, this Court is of the considered view that it will be a drastic consequence on the career of the candidate and he will be deprived of public service which he is otherwise qualified and eligible. As such, the order of removal of petitioner Prabhucharan Toppo dated 4-7-2014 passed by the Chief Medical and Health Officer, Jashpur, is also hereby set aside.

10. The writ petitions are allowed to the extent indicated herein-above.
No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge