

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.1137 of 2008

Raj Kumar Kashyap, aged 35 years, S/o Shri Baldau Prasad Kashyap,
R/o Ramsagarpara, Korba, Tehsil and District Korba (C.G.)

---- Petitioner

Versus

1. The Chhattisgarh State Public Service Commission, through the Secretary, Office of the C.G. State Public Service Commission, Raipur.
2. The State of Chhattisgarh, through the Secretary, Department of Home, Raipur (C.G.)
3. Manish Kumar Rathore, aged 36 years, R/o Village and Post Office Nandourkhurd, Via and Tehsil Sakti, District Janjgir-Champa (C.G.)
4. Nilesh Kumar Pandey, aged 32 years, S/o Shri Dinesh Kumar Pandey, R/o 57, Vikash Nagar, 27 Kholi, Bilaspur (C.G.)
5. Sutikshan Yadav, aged 33 years, S/o Shri Trilochan Yadav, R/o Danipara, Kedara Gali, Raigarh (C.G.)
6. Smt. Alka Shrivastava, aged 39 years, W/o Shri S.K. Shrivastava, R/o Kosabadi, Korba (C.G.)
7. Pankaj Sharma, aged 28 years, S/o Shri K.P. Sharma, R/o Sharma Complex, Chameli Chowk, Dhamtari, Tehsil and District Dhamtari (C.G.)
8. Amit Kumar Chaki, 30 years, S/o Shri A.K. Chaki, R/o A-58, Priyadarshini Nagar, Bilaspur, Tehsil and District Bilaspur (C.G.)
9. Krishna Kumar Suryawanshi, aged 32 years, S/o Shri Laxmi Narayan Suryawanshi, R/o H/2-129, Narmada Nagar, Bilaspur, Tehsil and District Bilaspur (C.G.)

---- Respondents

For Petitioner: Mr. Somnath Verma, Advocate.

For Respondent No.1: Mr. B.D. Guru, Advocate.

For Respondent No.2 / State: -

Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

For Respondents No.3 to 9: -

None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/06/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The Chhattisgarh Public Service Commission (CG PSC) invited applications for appointment of Law Officer (Jail) which was published on 22-11-2006 pursuant to which respondents No.3 to 9, the petitioner and some other candidates submitted their candidature for the said post. Thereafter, in accordance with the advertisement, their applications were scrutinized in which the petitioner was found not eligible for interview and the eligible candidates list was published vide Annexure P-10 and thereafter, interview was held on 6-12-2007 and respondent No.3 Manish Kumar Rathore was selected and appointed on the said post of Law Officer. The petitioner submitted objection on that day and thereafter, on 20-2-2008, the writ petition has been preferred.
3. The principal ground which has been raised in the writ petition is that though respondent No.3 Manish Kumar Rathore did not claim the benefit of age relaxation that he is the resident of the State of Chhattisgarh, but yet, the benefit of age relaxation has been given to him and if age relaxation is not given, then he will not be eligible to be considered being over age as per the terms of the advertisement. Secondly, respondent No.3 Manish Kumar Rathore did not submit the requisite experience certificate issued by the Registrar General of the High Court.
4. Return has been filed by the respondents supporting the action of the CG PSC and prayer has been made for dismissal of the writ petition.
5. Mr. Somnath Verma, learned counsel appearing for the petitioner,

would submit that though respondent No.3 Manish Kumar Rathore did not claim the benefit of age relaxation that he is the resident of Chhattisgarh, yet he was granted age relaxation which cannot be granted without being claimed and if relaxation is not given, then he would be over age as per the advertisement and he is ineligible for being appointed on the post of Law Officer. He would further submit that respondent No.3 Manish Kumar Rathore did not have the experience certificate issued by the Registrar General of the High Court for two years. As such, the list Annexure P-10 be quashed and the petitioner be directed to be considered for the post of Law Officer.

6. Mr. B.D. Guru, learned counsel appearing for the CG PSC / respondent No.1, would submit that though respondent No.3 Manish Kumar Rathore did not claim the benefit of age relaxation being resident of Chhattisgarh, but since he is resident of Chhattisgarh and all the candidates who are residents of Chhattisgarh have been granted the benefit of relaxation, respondent No.3 has also been extended the said benefit. Merely on technical ground his application has rightly not been rejected. He would further submit that original record has been requisitioned in which the original experience certificate issued by the Registrar General of the High Court dated 3-1-2006 finds place. He would also submit that thereafter, respondent No.3 has been selected and appointed on 7-12-2007.
7. 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.
8. True it is that respondent No.3 Manish Kumar Rathore did not claim age relaxation on the basis that he is the resident of Chhattisgarh, but it is not disputed that he is the resident of Chhattisgarh and in view of

the advertisement, as a special relaxation, the benefit of age relaxation of five years has been given to him and thereby, he became eligible to be considered for the said post. The fact remains that respondent No.3 is resident of Chhattisgarh and is entitled for the benefit of age relaxation. Merely because it has not been claimed, it cannot be held that he was not eligible to be considered being over aged and his application ought to have been rejected. This ground which was raised by the petitioner appears to be an outcome of afterthought. The petitioner has submitted representation / objection (Annexure P-11) on 25-10-2007 to the Secretary and Chairman of the Public Service Commission, but he has not raised any such objection that the benefit of age relaxation has been given to respondent No.3 by way of favour. As such, this ground is not available to the petitioner to question the selection and appointment of respondent No.3.

9. Similarly, Mr. Somnath Verma, learned counsel for the petitioner, has vehemently contended that respondent No.3 did not enclose the experience certificate issued by the Registrar General of High Court, as required by the advertisement.
10. Mr. Guru, learned counsel for the Chhattisgarh PSC / respondent No.1, has requisitioned the original records and on the basis of records, he would submit that experience certificate dated 3-1-2006 issued by the Registrar General of High Court is available with the original records.
11. There is no reason to disbelieve the submission of learned counsel for the PSC at the Bar. As such, these two objections raised by the petitioner are not born out from the record and therefore the relief prayed for by the petitioner cannot be granted.

12. As a fallout and consequence of the aforesaid discussion, the petition deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma