

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.4765 of 2008**

Y.M.Meher Raj S/o Shri Y.L. Muni Raj, aged about 40 years, presently working as Sub-Engineer (Civil) office of the Assistant Engineer, P.H.E. Department Katghora Distt. Korba (CG)

----- **Petitioner**

Versus

- 1.State of Chhattisgarh, Through the Secretary, Department of Public Health Engineering, D.K.S. Building, Mantralaya, Raipur (CG)
- 2.Department of General Administration, Through the Secretary, D.K.S. Building Mantralaya, Raipur (CG)
- 3.The Engineer in Chief, Department of Public Health Engineering, Raipur (CG)

----- **Respondents**

For Petitioner	:	Mr.Aman Saxena, Advocate appears on behalf of Mr.Ashish Shrivastava, Advocate
For Respondents	:	Mr.Ravi Bhagat, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

9.6.2021

- 1.Proceedings of this matter have been taken-up through video conferencing.
- 2.The petitioner was earlier working as Sub-Engineer in erstwhile State of Madhya Pradesh. He was allocated to the State of Chhattisgarh upon reorganization of State of Chhattisgarh w.e.f.1.11.2000. Before he could be allocated to the State of Chhattisgarh, he was also selected by the Madhya Pradesh Public Service Commission on 25.5.1999 by way of direct recruitment,

but he was not appointed and he continued as Sub-Engineer and allocated to the State of Chhattisgarh. For the first time on 9.9.2005, the petitioner filed a writ petition being Writ Petition No.4629 of 2005 before this Court for his consideration on the post of Assistant Engineer, in which this Court on 07.10.2005 directed for consideration of his representation, which the respondent-State considered and ultimately, by order dated 28.11.2005 (Annexure P-11) rejected his representation holding that there is no post available for appointing the petitioner on the substantive post of Assistant Engineer by way of direct recruitment, against which, the petitioner has filed this writ petition on 7.7.2008 after a period of approximately 3 years.

3. Mr.Aman Saxena, learned counsel for the petitioner, would submit that the petitioner was selected by the Madhya Pradesh Public Service Commission on the post of Assistant Engineer, but he could not be appointed and in the meanwhile, he was allocated to the State of Chhattisgarh and his representation has been rejected totally on untenable grounds. He would further submit that the petitioner is meritorious candidate and therefore, the respondent-State be directed to consider his case on the post of Assistant Engineer.

4. On the other hand, Mr. Ravi Bhagat, learned Deputy Government Advocate for the respondents/State, would oppose the writ petition and submit that upon representation being made by the petitioner and pursuant to order of this Court, the petitioner's case has been considered by the State of Chhattisgarh and by order dated 28.11.2005 his representation has been rejected holding that there is no post available for appointment by way of direct recruitment and that order has not been challenged by the petitioner in this writ petition. Therefore, order rejecting representation dated 28.11.2005 (Annexure P-11) has become final as there is no post available and as such, the writ petition deserves to be dismissed.
5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
6. It is not in dispute that the petitioner while working as Sub-Engineer in the State of Madhya Pradesh was also selected by the Madhya Pradesh Public Service Commission on 25.5.1999 vide Annexure P-3 and he was subsequently allocated to the State of Chhattisgarh. For the first time, on 8.9.2005 he filed a writ petition for consideration of his case for appointment

on the post of Assistant Engineer, in which this Court directed for deciding a representation and pursuant to order of this Court, the petitioner made representation to the respondent-State, which was decided by the State of Chhattisgarh on 28.11.2005 in which the State of Chhattisgarh has clearly held that there is no post of Assistant Engineer for direct recruitment is available and thereafter, after appropriately 3 years, this writ petition was filed on 7.7.2008, but there is no challenge to the order rejecting representation dated 28.11.2005, in which the State Government has clearly held that post of Assistant Engineer for direct recruitment is not available, as such, finding of the State Government that there is no post of Assistant Engineer for direct recruitment is available has become final in absence of valid challenge to that order. As such, no direction can be issued as the State Government has clearly held that no post of Assistant Engineer for direct recruitment is available and that order has not questioned by the petitioner in this writ petition.

7. Similarly, the petitioner was selected on 25.5.1999 by the Madhya Pradesh Public Service Commission and first writ petition i.e. Writ Petition No.4629 of 2005 was filed by him on 9.9.2005. When his representation was

rejected by the State Government on 28.11.2005, again the present writ petition was filed by him after appropriately 3 years on 7.7.2008. Even otherwise, in order of selection of the petitioner on 25.5.1999 he was stood No.2 in supplementary list and it has clearly been stated in the order dated 25.5.1999 that if there will be no candidate in main list, then he will be appointed. Nothing has been brought on record to hold that at that point of time he became entitled to be appointed as candidate to be appointed from supplementary list as per order.

8. For the foregoing reasons, I do not find any merit in this writ petition. The writ petition being devoid of merit is liable to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-