

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 5208 OF 2017**

- Sarvesh Kumar Yadav, S/o Shankar Lal Yadav, aged about 31 years, R/o Village and Post Pucheli, Tahsil Champa, District Janjgir-Champa (C.G.) **... Petitioner**

versus

1. State of Chhattisgarh, through the Secretary, Finance Department, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur (C.G.)
2. The Additional Secretary, Finance Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)
3. Chhattisgarh Public Service Commission, through the Secretary, Shankar Nagar, Raipur, District Raipur (C.G.) **... Respondents**

For Petitioner	:	Mr. Prateek Sharma, Advocate.
For Respondent-State	:	Mr. Ishan Verma, Panel Lawyer.
For Respondent-CGPSC:	:	Mr. Anand Mohan Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****[14/09/2021]**

1. Petitioner has filed the present Writ Petition seeking for an appropriate direction to the Respondents to grant joining to the Petitioner on the post of Accounts Officer and with all consequential benefits and seniority.

2. According to Petitioner, he belongs to Other Backward Classes category. He had participated in the State Services Examination, 2015 pursuant to an Advertisement which was issued by Respondent No.3 on 2.12.2015 for recruitment under the State Services. He being eligible participated in the said examination. Merit list was published on 20.1.2017 and his name was included in the merit-list. Based on the merit-list, an order of appointment on the post of Accounts Officer was issued on 11.5.2017. In terms of the order of appointment, the Petitioner was granted 15 days' time for joining i.e. till 26.5.2017.

3. As per the Petitioner, since he was already in a government employment and was working as a Food Safety Officer in the office of the Controller, Food and Drugs Administration under the State of

Chhattisgarh, he had moved an application before Respondent No.3 for grant of one month's time for joining. The said application was left unattended. Since there was no response from the Respondents, the Petitioner again moved an application on 28.6.2017 seeking for grant of further one month's time for joining on the new post, but the second application also was left unanswered and the Respondent Authorities proceeded further treating the Petitioner having not joined as in terms of the order of appointment issued in his favour. It is subsequently that the Petitioner has filed the present Writ Petition seeking for relief of permission to grant joining, with all consequential benefits and seniority.

4. Learned Panel Lawyer appearing for Respondent-State on the contrary opposing the Petition submits that once when the order of appointment is issued, unless an extension of time is granted, it is required that the candidate has to give his joining within the stipulated time, which in the instant case was mandatorily to be made within 15 days from the date of issuance of the order of appointment.

5. According to learned Panel Lawyer, in the instant case, since the Petitioner was already in a government employment and was working as a Food Safety Officer, he was reluctant to give his joining at that juncture and therefore the Petitioner now at a belated stage cannot be granted any relief.

6. Further contention of learned Panel Lawyer is that the order of appointment was issued on 11.5.2017 for joining by 26.5.2017, and therefore for all practical purposes, even if the Petitioner intended to seek extension for time, he should have moved an application immediately on receipt of the appointment order dated 11.5.2017 and should not have waited for 15 days and thereafter move an application on 15th day seeking extension of time, which shows *mala fide* on the part of the Petitioner and

therefore it has to be inferred that the Petitioner was not serious in accepting the joining on the post of the Accounts Officer.

7. It is also the contention of learned Panel Lawyer that from the pleadings enclosed along with the Petition, it is evidently clear that the Petition being filed as late as on 21.9.2017, the Petitioner had almost more than four and half months at his disposal and, if at all, if he wanted to show his *bonafide* he would have at-least tendered his resignation to his employer where he was working and then could have sought for the extension of time for joining. In the absence of any such initiation on the part of the Petitioner, he cannot pray for any relief at this juncture. Learned Panel Lawyer thus prayed for the dismissal of the Writ Petition.

8. Having heard the contentions put forth on either side and on perusal of record, admittedly, the Petitioner had participated in the State Services Examination, 2015. He was found meritorious and an order of appointment was also issued on 11.5.2017. Undisputedly, the Petitioner was already in government employment working on the post of Food Safety Officer. The Petitioner, as in the case of other candidates, was granted 15 days' time for joining. The fifteen days' period was coming to an end on 26.5.2017. During this 15 days' period, the Petitioner did not take any steps for resignation from his existing employment so as to give his joining in terms of the order of appointment dated 11.5.2017. Moreover, what is also reflected is that the Petitioner had for the first time made an application seeking extension of time for joining on the 15th day i.e. on 26.5.2017 and even by that time the Petitioner has not tendered his resignation.

9. Another aspect which needs consideration is that after the filing of the Writ Petition on 21.9.2017, this Court as an interim measure had ordered for keeping one post of Accounts Officer vacant till the next date

of hearing. Petitioner has even thereafter not tendered his resignation and sought for permission from the Court to give his joining. Petitioner continues to still discharge his duties as the Food Safety Officer and enjoys all the benefits attached to the said post for all this period. Another aspect which needs to be considered is that the select-list when once published has a validity of a period of one year and if extended it gets further validity of six more months, i.e., total one and half years. The validity of select-list as such by efflux of time has also got lapsed.

10. Petitioner had sufficient time at his disposal for tendering his resignation and giving his joining timely, for the reason that the merit-list of the Examination conducted in the year 2015 was published on 20.1.2017 wherein the name of the Petitioner was reflected as a meritorious candidate and he knew that he would be appointed and would have to give his joining. He could have tendered his resignation by that time or at-least could have given a notice of resignation awaiting the appointment order. Even thereafter when the appointment order was issued on 11.5.2017 even then the Petitioner had sufficient time to tender his resignation with one month's notice or one month's salary in lieu of notice in terms of the Rules governing the service conditions and could have given his joining. Non of these steps have been shown to have been taken by the Petitioner to show his *bonafides* for the relief that he has sought for in the present Writ Petition.

11. Thus, for all the aforesaid reasons, this Court is of the opinion that no strong case as such has been made out by the Petitioner for issuance of a Writ of Mandamus exercising extraordinary Writ jurisdiction of this Court under Article 226 of the Constitution of India.

12. Writ Petition therefore being devoid of merits deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sbarad/