

HIGH COURT OF CHHATTISGARH, BILASPURWA No.213 of 2021

1. Praveen Shyam Gupta, S/o Suraj Prasad Gupta, Aged About 29 Years R/o Kedarpur, Police Station Kotwali, Ambikapur, District Surguja Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Public Works, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh.
2. Engineer In Chief, Department Of Public Works, Chhattisgarh, Raipur Chhattisgarh.
3. Collector, Ambikapur, Surguja Chhattisgarh.
4. Chief Engineer, Department Of Public Works, Ambikapur, Surguja Chhattisgarh.
5. Superintending Engineer, Department Of Public Works, Ambikapur Division, Ambikapur, Surguja Chhattisgarh.
6. Sumit Kumar Tiwari, S/o Late Shri Markenday Tiwari, R/o Uttari Ring Road, Kedarpur, Near Jaiswal Cement Pipe Factory, Ambikapur, Surguja Chhattisgarh.
7. Sushil Kumar Sharma, S/o Gopal Sharma, R/o Near Petrol Pump, Main Road, Rajpur, District Balrampur - Ramanujanj Chhattisgarh.
8. Tuleshwar Singh, S/o Ramchandra, R/o Village Harra Tikra, Post Jai Nagar, District Surajpur Chhattisgarh.

---- Respondents

For Appellant : Shri C.J.K. Rao, Advocate

For Respondent/State : Shri Chandresh Shrivastava, Dy.
Advocate General

(Proceedings through Video Conferencing)

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ

Hon'ble Shri N.K. Chandravanshi, J.

Judgment on Board

By

Prashant Kumar Mishra, Ag. CJ.

06-08-2021

I.A.No.1

This an application for condonation of delay.

For the reasons mentioned in the application (I.A.No.1) the same is allowed and the delay of 824 days in filing the writ appeal is condoned.

1. Heard on admission.
2. Challenge in the writ petition before the learned Single Judge was to the appointment of the respondents No.6 to 8 on the post of Time Keeper as a result of direct recruitment on the said post.
3. Challenge was thrown on the ground that the appellant (henceforth 'the petitioner') has also passed his Higher Secondary School Certificate Examination with Mathematics as one of the subject and has secured more marks in the Higher Secondary School Certificate Examination, therefore, he should have been preferred for selection on the subject post over and above the private respondents.
4. Requirement for the subject post, as per the advertisement, was that a candidate should have the educational qualification of Higher Secondary or (10+2) examination in Mathematics subject. In the Chhattisgarh Public Works (PWD), Irrigation,

Public Health Engineering etc. Departments Workcharged and Contingency Paid Employees Recruitment and Conditions of Service Rules, 1975 governing the subject recruitment, the necessary qualification is the same as was mentioned in the advertisement. It was the case of the petitioner that he has passed his Higher Secondary School Certificate Examination with Mathematics as one of the subject, therefore, as per the advertisement and as per the recruitment rules he was duly qualified and, as such, he should have been preferred over and above the private respondents.

5. Learned Single Judge has found that Mathematics was not one of the main subject of the petitioner in his Higher Secondary School Certificate Examination whereas the private respondents have passed Higher Secondary School Certificate Examination with Mathematics as one of the main subject.
6. If we peruse the certificate-cum-marksheet of the Higher Secondary School Certificate Examination, 2010 of the petitioner filed as Annexure-P/5 with the writ petition, it carries the mark distribution in the following manner :

Subjects :

Hindi (Special)
English (General)
Physics
Chemistry
Biology

Additional Subject
If any



Mathematics

7. Bare perusal of the marksheet would make it abundantly clear that the applicant (petitioner herein) had chosen Mathematics as one of the additional subject and not main subject. The curriculum/course/syllabus for main subject and additional subject are different. It is as if a candidate opting Mathematics as one of the additional subject has elementary study of Mathematics but has not been taught Mathematics as one of the main subject and precisely for this reason the grand total in the said examination is calculated on the basis of marks secured in the main subjects and the marks obtained in the additional subject is not counted in the grand total.
8. In our considered view, the learned Single Judge has decided the petitioner's contention properly by dealing with the issue in an appropriate manner. There being no error in the order passed by the learned Single Judge there is no substance in this intra Court appeal, which fails and is hereby dismissed at the admission stage itself.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(N.K. Chandravanshi)
Judge

Gowri