

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4543 of 2021**

Khemraj Sahu S/o Shri Ghanshyam Sahu Aged About 30 Years R/o Village Nahana Chandi, Tehsil Abhanpur, District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare And Medical Education Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh
2. Directorate Health Services, Through Its Director, Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.
3. Divisional Joint Director Health Services Raipur Division, Raipur Chhattisgarh.
4. Chief Medical And Health Officer Raipur, Chhattisgarh
5. Harishankar Sao S/o Shri Govind Ram Sao Aged About 30 Years Currently Posted At Primary Health Centre, Singhoda, Saraipali, District Mahasamund Chhattisgarh.
6. Ashish Soni S/o Shri Devendra Soni Aged About 26 Years Currently Posted At Community Health Centre, Thankhamariya, District Bemetara Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Abhyuday Singh, Advocate
For State	:	Mr. Ayaz Naved, G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/09/2021**

1. The grievance of the petitioner in the present writ petition is the rejection of his representation/objection, so far as granting of additional marks towards the experience that he has got.
2. The petitioner in the instant case has participated in the recruitment process to the post of Medical Lab Technician. The recruitment of the petitioner was under the **Chhattisgarh Health and Family Welfare Department Non-ministerial Para-medical and Nursing (Directorate of Health Services) Class-III Services Recruitment Rules, 2013**. The

petitioner participated in the recruitment process and when the merit list was published, the name of the petitioner stood at serial No.1 in the waiting list.

3. The grievance of the petitioner is that had the petitioner been given 3 more marks for the experience i.e. 15 instead of 12, which has been awarded by the Department, the merit position of the petitioner would have substantially improved and he would have been found meritorious under the unreserved category.
4. According to the petitioner, he had submitted an experience certificate dated 24.08.2020, whereby it was reflected that the petitioner was in service under the Chief Medical and Health Officer, Raipur for a period of 4 years, 11 months and 21 days i.e. 9 days short of 5 years and considering the previous services rendered by him in the Department to the experience certificate, he has completed 5 years of service and more and therefore he was entitled for additional 3 marks towards the experience and he should have been awarded 15 instead of 12, which has been awarded by the Department which would have improved upon his merit position considerably.
5. The State counsel on the other hand opposing the petition submits that as far as awarding of marks for the experience is concerned, the guidelines in this regard itself was very clear that for every completed one year of service 3 marks could be given. He drew the attention of the Court that to Clause 19.3 and since the petitioner in the instant case from the experience certificate reflected that he was worked only for the 4 years, 11 months and 21 days, which shows that it was more than 4 years and

less than 5 years and therefore he was awarded only 12 marks for the completed 4 years of service that he had worked.

6. Learned State counsel further submitted that on the date of verification of documents, it is the date of experience certificate, which is relevant and which admittedly was 24.08.2021. The respondents were not required to inquire, as to whether the petitioner was in service beyond the date of experience certificate. If at all if the petitioner intended to improve upon his credentials, so far as experience is concerned for the period beyond 24.08.2020 also he should have submitted additional documents, which admittedly was not available with the Department, while awarding marks for the experience, therefore the respondents cannot be said to have committed an error or mistake in the process of awarding marks.
7. This Court finds force in the submission of the State counsel, for the reason that there was no material available with the respondent authorities even on the date of document verification, which would have established this stand of the petitioner that he had already completed more than 5 years of service enabling him to claim 3 more marks for the 5th year of his service. Without a document in this regard being brought before the respondent authorities, even at the stage of documents verification, it cannot be expected of the respondents to draw a presumption or for verification of the further experience part only on the oral submission made by the candidate before the authorities. Moreover, it is not a case where the respondent authorities have discriminated with any other candidates of awarding 3 marks for a period less than 12 months and therefore the decision of the respondents also cannot be said

to be arbitrary. For the reason that they have uniformly applied the principles of awarding 3 marks only on the completion of 12 months.

8. Given the said facts, this Court is of the opinion that no strong case warranting interference in the rejection of the representation of the petitioner, so also on the merit list that was published, which is under challenge in the present writ petition has been made out.
9. The writ petition sans merit and deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved