

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 4517 OF 2021**

1. Niyati Pandey, D/o Shyam Pandey, aged about 28 years, R/o Quarter No.10F, Street 7, Sector 4, Bhilai, Durg District, Chhattisgarh-490001.
2. Yeetesh Kumar, S/o Yogeshwar, aged about 30 years, R/o House No.5, Village Chicha, Post Bathena, Tehsil Patan, District Durg, Chhattisgarh-491111.

... Petitioners**versus**

1. State of Chhattisgarh, Department of Agriculture Development & Family Welfare & Bio-Technology, through its Secretary, Mahanadi Bhawan, Mantralaya, Nava Raipur, Atal Nagar, Raipur (District), Chhattisgarh. Phone (0771) 2510962, Email: acs-agri.cg@gov.in.
2. University Grants Commission, Ministry of Human Resource Development, Govt. of India, through its Secretary, Bahadur Shah Zafar Marg, New Delhi-110002. Phone (011) 23236288/23239337. Email: secy.ugc@nic.in.
3. Indira Gandhi Krishi Vishwavidyalaya, through its Registrar, Krishak Nagar, Raipur, Chhattisgarh-492012. Phone- (0771) 2442537. Email: regigkv@gmail.com.

... Respondents

For Petitioner	:	Mr. Aagney Sail, Advocate.
For Respondent No.1	:	Mr. Amrito Das, Addl. A.G.
For Respondent No.3	:	Mr. Shashank Thakur, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****26/08/2021**

1. The present Writ Petition has been filed by Petitioners claiming for the following substantial reliefs:-

“10.1 Direct the Respondent No.3 University to withdraw its advertisements dated 14.11.2019 (for the 66 posts of Assistant Professors) and 15.04.2020 (for the 26 posts of Subject Matter Specialists) and issue fresh advertisements in lieu thereof, or in the alternative;

10.2 Direct the Respondent No.3 University to permit resubmitting of applications by the candidates who applied for the posts in response to advertisements dated 14.11.2019 (for the 66 posts of Assistant Professors) and 15.04.2020 (for the 26 posts of Subject Matter Specialists) and were held eligible.”

2. Brief facts of the case are that Respondent No.3 - University had issued an Advertisement on 14.11.2019 for filling up of 66 posts of Assistant Professors and another Advertisement on 15.4.2020 for filling up of 26 posts of Subject Matter Specialists. Petitioners herein, since they had the minimum essential qualification, they had applied for the same and were also called upon to participate in the selection process of Written Test and Interview. Both the Petitioners have been found meritorious and the Department has, on due consideration of the qualification, experience etc., of each of the candidates who were found selected, finally prepared a final score chart. Though the Advertisements were published on 14.11.2019 and 15.4.2020 however the recruitment has till date not been finalized.

3. By efflux of time, the Petitioners herein have acquired more qualification and experience and therefore they firstly want the Respondents to once again make a fresh assessment of the score card on the basis of the experience and qualification that each of the candidates, who have applied and found suitable, has as on date.

4. According to Petitioners, if a fresh assessment of their scores are done, by virtue of the additional qualification that they have gained in the intervening period and also by virtue of the additional experience that they have, their marks would get substantially improved and they could find place at the top of the merit list.

5. The claim of Petitioners is on the basis of both of them having done Ph.D. in the field of Agriculture from Respondent No.3 - University during the intervening period and Petitioner No.1 also in the intervening period has got teaching job with Respondent No.3 - University and that all these would improve their scores substantially. Thus, the present Writ Petition.

6. Another challenge by Petitioners to the two Advertisements is on the ground that in the light of the recent regulations notified by Respondent No.2-UGC, the qualification of Ph.D. is mandatory for appointment to the post of Assistant Professors in respect of regulations made to the post of Assistant Professor on or after 1.7.2021. Since the Respondents have not concluded the recruitment from the above referred two Advertisements, any further recruitment and order of appointment now have to be in accordance with the current UGC regulations that are applicable. For this reason also, according to Petitioners, the Advertisement is bad in law and is liable to be interfered with and the Respondents should either cancel the entire recruitment and going for a fresh recruitment or to revise the merit-list prepared in the light of the Circular of UGC as also in the light of the qualifications that Petitioners have as on date.

7. Learned Counsel for Respondent No.3 - UGC as also learned Additional Advocate General for Respondent No.1 - State, opposing the petition, submit that since the Advertisements issued were that of 14.11.2019 and 15.4.2020 that is much prior to the new regulations issued by Respondent No.2 - UGC and moreover the Advertisements issued were on the basis of then existing vacancies, the entire recruitment process has to be concluded on the basis of then prevailing regulations and guidelines.

It was also their contention that the prayer of Petitioners for revising the score chart of the candidates once again on the basis of qualification, experience and merit of each of the candidates which they possesses as on date, firstly is not permissible under the rules. Secondly, it could be detrimental to many other candidates who were fully eligible for the said post on the date when the Advertisements were issued and who in

between have not been able to acquire any additional qualification or experience and only for the reason that the recruitment was not finalized by Respondents on an early date should not be adversely affecting the claim of those candidates.

8. Having heard the contentions put forth on either side and on perusal of record, what needs to be appreciated at the first instance is that if the prayer of Petitioners to the extent of revising the score chart again in respect of qualification and experience of each of the candidates as on date is permitted, it can cause an adverse impact in respect of those candidates who have not improved upon their qualification during the intervening period. At the same time, it would be fruitful for those candidates, like the Petitioners herein, who during the intervening period firstly have gained additional qualification that of Ph.D. and one of them also has got a teaching job and with that such category of candidates, like the Petitioners, would march ahead of those candidates who did not acquire additional qualification or experience. This would amount to changing the rule of the game in the midst of recruitment process detrimental to some and in favour of few which otherwise is totally impermissible. The Hon'ble Supreme Court as also this Court in a series of judgments has held that the rule of the game subsequent to recruitment process having been initiated cannot be changed.

9. So far as the recruitment and guidelines are concerned, this Court is of the firm view that the contention put forth by learned Additional Advocate General for Respondent No.1-State as also by learned Counsel for Respondent No.3-University that the Advertisements were of a period prior to the amended regulations/guidelines of UGC and also that the Advertisements being in respect of the vacancies that arose on the pre-amended regulations and guidelines period has much force.

10. Another fact which needs to be considered at this juncture is that if the entire recruitment process is permitted now to be concluded accepting the analogy, principle and contention put forth by Petitioners, it would be hit by Article 14 of the Constitution of India as it would amount to the recruitment process being concluded from proceeding further by changing the rules of recruitment, being favouring to those candidates who have gained additional qualification and experience after the cut-off date of obtaining the qualification and experience. Only on account of the inaction on the part of Respondents in not able to conclude the recruitment process early, the chance of the candidates who were otherwise fully eligible when the Advertisements were issued would be at risk of getting eliminated from the recruitment process.

11. Given the facts, the recruitment process in pursuance to the two Advertisements issued on 14.11.2019 and 15.4.2020 has to be concluded strictly in accordance with the terms and conditions prescribed in the two Advertisements and which cannot be permitted to be deviated under any circumstances, particularly at the fag-end of the recruitment process.

12. The fact which also needs to be taken note of at this juncture is that there is no challenge to the Advertisements at all; neither is there any challenge to the clause of the Advertisements which specifically prescribes the cut-off date for the purpose of acquiring the qualification and experience required for recruitment for the post advertised.

13. The reason why the cut-off date is prescribed in an Advertisement for a particular post is precisely for the reason that it is meant for only those candidates who have the minimum essential qualification and eligibility criteria at the time of issuance of Advertisement or by the time the last date of filing of the application form as prescribed in the Advertisement. If there is no system of a cut-off date it can lead to a

situation where many of the candidates who have applied must be getting their qualification on different dates even after the Advertisement is issued and the additional qualification that they have acquired in the course of recruitment process would have to be taken into consideration, which again is neither practical nor permissible under the rules nor is it accepted under the service law jurisprudence, particularly for the High Court in exercising its power under Article 226 of the Constitution of India. Under the Writ jurisdiction conferred upon the Courts, the limited power of judicial review in a recruitment process is to ascertain whether the recruitment process firstly is being carried out strictly in accordance with the service rules governing the field; whether the recruitment process is initiated with *malafides* and arbitrariness; and whether the recruitment process is in contravention to any of the statutory provisions.

14. In the instant case, it is not the case of Petitioners that the recruitment process is contrary to the recruitment rules as it stood on the date of advertisement. There is also no allegation of any *malafides* or any arbitrariness on the part of Respondents in the publication of the final score chart.

15. For all the reasons stated, this Court is of the opinion that the present Writ Petition and the reliefs sought for by Petitioners *sans* merit and therefore the Writ Petition deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge