

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.2581 of 2013**

Dilip Kumar Singh, Aged about 31 Years, S/o-Shri Gopal Singh, R/o-Gram & Post-Dhardai, Tahsil-Pamgarh, P.S.-Pamgarh, District Janjgir-Champa (CG)

-----Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Technical Education & Man Power Planning Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Naya Raipur (CG)
2. Director, Directorate, Employment & Training Manpower Planning, Department Women Polytechnic Campus Bairan Bazar, Raipur (CG)
3. Joint Director Regional Office, Industrial Training Institute, Bilaspur, District-Bilaspur (CG)

----- Respondents

For Petitioner	: Ms Diksha Gouraha, Advocate
For Respondents/State	: Mr.Animesh Tiwari, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

17/9/2021

1. The petitioner has filed this writ petition seeking appropriate writ / direction claiming that though he was listed in serial No.1 for the post of Assistant Workshop (Electrician) in select list prepared on 25.6.2011 and waiting list prepared on 25.6.2011 for 39 posts, but 15 selected persons have not joined and therefore, the petitioner was entitled to be considered, but respondent No.3 did not make appointment of the petitioner. Therefore, action being arbitrary, appropriate writ / direction be issued for his appointment. Reply has been filed supporting the action of respondent No.3.

2. Ms Diksha Gouraha, learned counsel for the petitioner, would submit that selection was made on 25.6.2011 for appointment of Assistant Workshop (Electrician), but select list was published on 25.6.2011 and appointments were also made on 25.6.2011, but only 24 persons were joined out of 39 posts advertised and 15 persons did not join and therefore, the petitioner has acquired a legal right to be appointed on the said post being candidate of wait list No.1. Therefore, appropriate writ / direction be issued against respondent No.3 to appoint the petitioner on the said post.

3. On the other hand, Mr.Animesh Tiwari, learned Deputy Advocate General for the respondents/State, would submit that though relevant rules does not specifically provide for the period for which the merit list shall remain valid, but ordinarily the vacancies have to be determined only once in a year. In absence of any rule, ordinary period of validity of select list should be one year. He would rely upon the judgments of the Supreme Court in the matters of State of Bihar and others v. Amrendra Kumar Mishra¹ and State of Rajasthan and others v. Jagdish Chopra² to support his submission.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

5. True it is that for 39 posts of Assistant Workshop

1 (2006) 12 SCC 561

2 (2007) 8 SCC 161

(Electrician) the select list was published on 25.6.2011, out of which, 24 persons have joined and 15 persons did not join and the petitioner stood at serial No.1 in waiting list.

6. Admittedly, the relevant recruitment rules do not provide for validity period of select list. However, The Supreme Court in Amrendra Kumar Mishra (supra) followed in Jagdish Chopra (supra) has clearly held that in absence of any rule, ordinary period of validity of select list should be one year. In the matter of Jagdish Chopra (supra) following the decision of Amrendra Kumar Mishra (supra) held as under:-

"9. Recruitment for teachers in the State of Rajasthan is admittedly governed by the statutory rules. All recruitments, therefore, are required to be made in terms thereof. Although Rule 9(3) of the Rules does not specifically provide for the period for which the merit list shall remain valid but the intent of the legislature is absolutely clear as vacancies have to be determined only once in a year. Vacancies which arose in the subsequent years could be filled up from the select list prepared in the previous year and not in other manner. Even otherwise, in absence of any rule, ordinary period of validity of select list should be one year. In State of Bihar v. Amrendra Kumar Mishra (supra), this Court opined: ((SCC p.564, para 9)

"9. In the aforementioned situation, in our opinion, he did not have any legal right to be appointed. Life of a panel, it is well known, remains valid for a year. Once it lapses, unless an appropriate order is issued by the State, no appointment can be made out of the said panel."

It was further held: (SCC p. 565, para 13)

"13. The decisions noticed hereinbefore are authorities for the proposition that even the wait list must be acted upon having regard to the terms of the advertisement and in any event cannot remain operative beyond the prescribed

period."

7. Reverting to the facts of the present case and following the decisions of the Supreme Court in the matters of Amrendra Kumar Mishra (supra) and Jagdish Chopra (supra), it is quite vivid that even if the subject rules under which recruitment is held do not provide for any validity period of select list, but in absence of any rule, ordinary period of validity of select list should be one year as held by the Supreme Court in Amrendra Kumar Mishra (supra) and that has been followed by the Supreme Court in Jagdish Chopra (supra). In the present case, the select list was published on 25.6.2011 and wait list was also published on 25.6.2011 and even validity of select is to be taken as one year in absence of validity period in applicable service rules that has already been expired on 25.6.2012 and the writ petition was filed by the petitioner on 22.8.2013, as such, validity of wait list has already expired and therefore, a writ of mandamus cannot be issued in favour of the petitioner.
8. Likewise, the Constitution Bench of the Supreme Court in the matter of Shankarsan Das v. Union of India³ has held that merely because the candidate is selected and kept in waiting list, does not acquire any absolute right to appointment. It is open to the Government to make appointment or not.
9. In the instant case, the petitioner has even approached after the expiry of period of one year, as such,

3 (1991) 3 SCC 47

respondent No.3 is absolutely justified in not appointing the petitioner after expiry of life of select list. I do not find any merit in this writ petition.

10. Accordingly, the writ petition deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-