

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 298 of 2021**

Kiran Shrivastava D/o M.D.Shrivastava, aged about 57 years, R/o Dalli-Rajhra, District Durg, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh, through the Principal Secretary, Panchayat and Rural Development Department, D.K.S. Bhawan, Raipur, Chhattisgarh.
2. Collector, District Durg, Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat, Durg, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat, Dondi District Durg, Chhattisgarh.

---- Respondents

(Cause Title taken from Case Information System)

For Appellant : Mr. Bhaskar Payasi, Advocate.

For Respondents 1 & 2 : Mr. Siddharth Dubey, Deputy Government Advocate

For Respondent No. 3 : Mr. Pawan Shrivastava, Advocate.

Date of hearing : 22.11.2021

Date of Judgment : 10.12.2021

Hon'ble Mr. Arup Kumar Goswami, Chief Justice

Hon'ble Mr. Goutam Bhaduri, Judge

C.A.V. Judgment

Per Arup Kumar Goswami, Chief Justice

Heard Mr. Bhaskar Payasi, learned counsel for the appellant. Also heard Mr. Siddharth Dubey, learned Deputy Government Advocate for the respondents No. 1 and 2 as well as Mr. Pawan Shrivastava, learned counsel for the respondent No. 3.

2. This appeal is directed against an order dated 27.07.2021 passed by the learned Single Judge in Writ Petition (S) No. 4370 of 2010, whereby the writ petition of the appellant was dismissed as being devoid of merit.

3. The case of the appellant, as projected in the writ petition, is that pursuant to an advertisement issued in the month of January, 2008 by the respondent No. 3-Chief Executive Officer, Zila Panchayat, Durg, for recruitment to the post of Shiksha Karmi Grade-I, II and III, the appellant had applied for the post of Shiksha Karmi Grade-I. The appellant had appeared in the examination held on 06.04.2008, the result of which was declared on 31.05.2008. According to the appellant, she was placed at serial No. 10 of the merit list in respect of commerce faculty and was at serial No. 7 amongst women category. The grievance expressed in the writ petition was that despite several posts lying vacant, the appellant was not appointed. It was also stated that the validity of the select list was extended by a period of three months upto 31.08.2009 by

the Special Secretary, Panchayat & Rural Development Department, which, however, was again reduced by him by order dated 27.06.2009 to a period of 13 months upto 30.06.2009 with a direction to fill up the vacant posts from the waiting list.

4. In the affidavit filed by the respondents, it is stated that the examination and recruitment was conducted in terms of the Chhattisgarh Shiksha Karmi (Recruitment and Conditions of Service) Rules, 2007 (for short, 'the Rules of 2007') and that the appellant was placed in the waiting list. In terms of Rule 6(7)(xi) of the Rules of 2007, the validity of the select list and the waiting list is to remain valid for one year after declaration of the examination result. Though the validity of the waiting list was extended for a period of further three months upto 30.08.2009 by a circular dated 30.05.2009, in a writ petition instituted by Union of B.Ed/ D.Ed, the same was quashed and subsequently, the State Government amended the Rules of 2007 and the validity of the select list was extended for a period of 13 months. The validity of the list finally expired on 30.06.2009. It is also stated that by the time the writ petition was filed, another examination was conducted in the year 2009.

5. The learned Single Judge held that the writ petition was filed on 08.08.2010 after expiry of the validity of the select list on 30.06.2009 and as the fresh recruitment process undertaken in the year 2009 for appointment of Shiksha Karmi Grade-I had been completed and Shiksha Karmis were also appointed, no relief could be granted to the appellant and, accordingly, dismissed the petition.

6. Though the appellant had stated that she was at serial No. 10 in the merit list, the stand taken in the affidavit of the respondent is that she was in the waiting list and this statement has not been controverted by the appellant by filing rejoinder-affidavit in the writ petition.

7. Own case of the appellant is that the select list had expired on 30.06.2009.

8. Relying on the case of *Dinesh Kumar Kashyap v. South East Central Railway & Others*, reported in (2019) 12 SCC 798, the learned counsel for the appellant submits that the discretion not to appoint candidates from the select list despite existence of vacant post available has to be exercised for cogent reasons, and in the instant case, no reasons have been assigned as to why the appointments could not be made.

9. In *State of Bihar v. Amrendra Kumar Mishra*, reported in (2006) 12 SCC 561, the Hon'ble Supreme Court had observed that once the life of a panel lapses, unless an appropriate order is issued by the State, no appointment can be made out of the said panel.

10. Even without going into the question as to whether the appellant was in the merit position at serial No. 10 or she was in the waiting list, the fact remains that the appellant chose to question her non-appointment much after the validity of the select list had expired and that too, after completion of another recruitment process in the year 2009. It is in that circumstance that the learned Single Judge had observed that no relief could be granted to the appellant.

11. In the attending facts and circumstances, we are in accord with the view expressed by the learned Single Judge.

12. Accordingly, we find no good ground to interfere with the order of the learned Single Judge and consequently, the appeal is dismissed.

No cost.

Sd/-
(Arup Kumar Goswami)
CHIEF JUSTICE

Sd/-
(Goutam Bhaduri)
JUDGE