CGHC010082512025 2026:CGHC:46614

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1723 of 2025

Nagendra Kumar Parkar S/o Mohan Parkar Aged About 36 Years R/o Maharana Pratap Nagar Azad Chowk Shivpuri, Jamul, Bhilai Chhattisgarh. 490024 District Durg Chhattisgarh.

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary, Employment And Training Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, District Raipur Chhattisgarh.

2 - Director Directorate Of Employment And Training Department, Indrawati Bhawan, Block -4, First Floor, Nava Raipur, District Raipur Chhattisgarh.

3 - Chhattisgarh Professional Examination Board (Vyapam) Through Its Secretary, Vyapam Bhavan, North Block, Sector - 19, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.

... Respondents

For Petitioner	:	Mr. Vedant Shadangi, Advocate.
For Respondents No. 1 & 2	:	Mr. Anish Tiwari, Dy. GA with Mr. Vivek Mishra, PL

For Respondent No.3	:	Ms. Akanksha Singh, Advocate on behalf of Mr. Avinash Singh, Advocate.

Hon’ble Shri Justice Naresh Kumar Chandravanshi, J

Order on Board

(03rd November, 2026)

This petition be delinked from the other connected writ petitions.

2. The petitioner has filed the instant petition under Article 226 of the Constitution of India seeking direction to the respondent authorities to consider the candidature of the petitioner for appointment on the post of Training Officer (Fitter) and issue appointment order in his favour.

3. Facts of the case, in brief, are that respondent No.2/Director, Employment and Training, Raipur issued an advertisement dated 5.5.2023, which was published in the daily newspaper on 6.5.2023, and subsequently amended on 13.5.2023, for filling up various posts of Training Officers in Govt. Industrial Training Institutes. The petitioner, a candidate of OBC (NCL) category, who possessed Bachelor of Engineering degree in Mechanical Branch and also has degree of M.Tech., submitted his application for the post of Training Officer (Fitter). Though he successfully participated in the written examination and secured 121st position in the combined merit list of the candidates for the post of Training Officer of the said Trade (Annexure P/6) and also appeared for the documents verifications, but even then the

respondent authorities did not issue appointment order in his favour. Hence this petition.

4. Learned counsel for the petitioner submits that the last procedure before issuance of appointment order of eligible candidates was documents verification. The petitioner's documents verification was conducted on 30.12.2024, he had secured 121st rank in the merit list, despite that appointment order for the post of Training Officer of the aforesaid Trade has not been issued. He further submits that in reply filed by the respondents/State, it has been stated that since there is overlapping of the period of his experience as Assistant Professor in a private institute and his regular course of M.Tech., therefore, his candidature has been rejected, but no such formal order has been issued or supplied by the respondent authorities to the petitioner. He would submit that the petitioner pursued his M.Tech. course during 2016-2018 but the experience certificate (Annexure P/5) issued to the petitioner by Garv Institute of Management and Technology Purai, Durg clearly demonstrates that the petitioner has worked as Assistant Professor in Mechanical Branch of the said Institute from 6.7.2011 to 18.3.2019. Thus, the petitioner was having experience of teaching in the relevant Branch/Trade of about 8 years. In between 2016-2018 though the petitioner pursued his M.Tech. course and even if this period is excluded from the aforesaid period of experience, then also the petitioner possesses more than the required teaching experience of one year in the concerned Branch/Trade. This being the position, the

respondent authorities were not justified in rejecting the candidature of the petitioner on the aforesaid ground. Lastly he submits that similar issue has already been decided by this Hon'ble Court in WPS No.8625/2023 vide order dated 24th September, 2026 and therefore, this petition may also be disposed of in terms of the said order.

5. Respondents No.1 & 2/State have filed their reply. Learned counsel for the State, referring to its reply, would submit that the petitioner pursued M.Tech. course from 2016 to 2018 as a regular student but as per experience certificate (Annexure P/5) issued by Garv Institute of Management and Technology Purai, Durg, since 6.7.2011 he was also teaching as Assistant Professor in the Mechanical Branch of the said Institute. Thus, there is overlapping of the period of experience and the course of M.Tech. being pursued by the petitioner. Being so, the entire experience certificate (Annexure P/5) of the petitioner stands invalided and as such, his candidature has rightly been rejected by the respondent authorities. In support of his contention, he placed reliance on the judgment of the Hon'ble Supreme Court in the matter of ***Baldev Raj Sharma Vs. Bar Council of India and others, 1989 Supp(2) SCC 91*** and the ***order dated 11.8.2020*** passed by the High Court of Madhya Pradesh, Jabalpur in ***Writ Appeal No.588/2020*** in the case of ***Aditya Upadhyay Vs. National Institute of Fashion Technology***. However, he does not dispute that similar issue has been decided by this Court in WPS No.8625/2023 vide order

dated 24th September, 2026 and he has no objection if this petition is also disposed of in terms of the said order.

6. Learned counsel appearing for respondent No.3, who is a formal party in this case, has supported the contention raised by learned State counsel.

7. Heard learned counsel for the parties and perused the material available on record.

8. Undisputedly, the petitioner participated in the recruitment process pursuant to the advertisement (Annexure P/2) for the post of Training Officer (Fitter) as a candidate belonging to the OBC (NCL) category and secured 121st position in the merit list. He possesses a Bachelor of Engineering degree in Mechanical Branch. As per Clause 3 of the advertisement, the requisite qualification included one year's teaching experience in the concerned Faculty/Trade.

9. The experience certificate (Annexure P/5) issued by Garv Institute of Management and Technology Purai, Durg records that the petitioner worked as an Assistant Professor in the Mechanical Department of the said Institute from 6.7.2011 to 18.3.2019. It is not in dispute that the petitioner pursued his M.Tech. course from 2016 to 2018. The principal objection raised by the respondents is that, since the period of his M.Tech. course overlapped with a part of the period mentioned in his experience certificate, the entire experience certificate was liable to be discarded. However, when a specific query was put to

learned State counsel as to whether any formal order rejecting the petitioner's candidature on this ground had been passed and communicated to him, he fairly submitted that no such order had either been issued or supplied to the petitioner. Significantly, no such order has even been placed on record before this Court to substantiate the stand taken by the respondents in their reply. The rejection of a candidate's candidature, particularly at the stage of selection, cannot rest merely upon an assertion made subsequently in the pleadings when the decision said to have been taken has neither been communicated to the candidate nor placed before the Court. The absence of any contemporaneous order or decision assumes significance in the present case.

10. Even if the period of overlap between the petitioner's M.Tech. course and his teaching experience, i.e. the period from 2016 to 2018 is excluded from consideration, the petitioner would still possess approximately 8 years of teaching experience on the basis of the remaining period mentioned in the experience certificate. Such experience is substantially in excess of the minimum requirement of one year prescribed under the advertisement. Thus, even accepting the respondents' objection to the overlapping period, there appears to be no justification for discarding the petitioner's entire experience certificate and thereby treating him as lacking the requisite experience altogether. The respondents/State have not been able to point out any provision contained in the applicable Recruitment Rules or in the

advertisement which mandates that the entire experience of a candidate must be rendered invalid merely because a part of the period mentioned in the experience certificate overlaps with the period during which the candidate was pursuing a regular higher educational course. The relevant consideration for the purpose of eligibility is whether, after excluding any period which may legitimately be found to be inadmissible, the petitioner still possesses the minimum qualifying experience prescribed under the applicable rules. In the facts of the present case, the answer is clearly in the affirmative.

11. The reliance placed by learned State counsel upon *Baldev Raj Sharma* (supra), does not advance the case of the respondents. In the said case, the Hon'ble Supreme Court was dealing with the effect of a specific restriction contained in the Bar Council of India Rules concerning the activities undertaken by a person while pursuing the law course. When learned State counsel was specifically asked to point out any corresponding provision in the Chhattisgarh Industrial Training (Non-Gazetted, Class-III Service Recruitment) Rules, 2013, which prohibits a candidate from acquiring teaching experience while simultaneously pursuing a higher educational course, no such provision could be pointed out. The facts of the present case are, therefore, materially distinguishable from those considered in *Baldev Raj Sharma* (supra). Likewise, the order dated 11.8.2020 passed by the High Court of Madhya Pradesh in the case of *Aditya Upadhyay* (supra) relied upon by learned State counsel, is also distinguishable on

its facts and the governing conditions applicable therein. In the said case, the experience certificate from Netlink Pvt. Ltd. was alleged to be false/fabricated, and the authorities had undertaken a verification process. The petitioner therein was repeatedly called upon to produce supporting documents such as appointment letter, salary slips, resignation/acceptance letter, etc., but failed to produce them. However, in the present case, there is no such allegation that experience certificate of the petitioner (Annexure P/5) is forged, fabricated or otherwise not genuine. The said decisions, therefore, do not justify rejection of the petitioner's entire experience in the facts and circumstances of the present case.

12. It is a settled principle that the eligibility of a candidate has to be determined with reference to the applicable Recruitment Rules and the conditions stipulated in the advertisement. An authority cannot introduce an additional condition of ineligibility which is neither contained in the applicable rules nor in the advertisement. In the present case, the respondents have failed to demonstrate any statutory or regulatory provision under which the entire experience acquired by the petitioner becomes invalid merely because a part thereof overlaps with the period of his M.Tech. course.

13. In view of the foregoing discussion, the instant petition is allowed. The respondents are directed to reconsider the petitioner's candidature for the post of Training Officer (Fitter), keeping in view the

observations made hereinabove. While undertaking such reconsideration, the respondents shall not reject the petitioner's candidature merely on the ground that a part of the period mentioned in his experience certificate overlaps with the period of his M.Tech. course. The respondents shall, however, be at liberty to duly verify the genuineness and relevance of the experience certificate and assess the petitioner's eligibility strictly in accordance with the applicable Recruitment Rules and the eligibility criteria prescribed in the advertisement.

14. If, upon such reconsideration, the petitioner is found eligible and otherwise entitled to appointment on the basis of his position in the selection process and subject to availability of the post, the respondents shall take consequential action in accordance with law. The entire exercise shall be completed within a period of ninety days from the date of receipt/production of a certified copy of this order.

15. Accordingly, the writ petition stands allowed in the aforesaid terms. There shall be no order as to costs.

16. Pending interlocutory application(s), if any, shall also stand disposed of.

Sd/

(Naresh Kumar Chandravanshi)

Judge

MOHD AKHTAR KHAN
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