CGHC010265672026 2026:CGHC:45636

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HIGH COURT OF CHHATTISGARH AT BILASPUR

RAHUL JHA
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WPS No. 5361 of 2026

Vinayak Sharma S/o Shri Rupnarayan Sharma Aged About 22 Years R/o Village Dullapur, Post Raveli, Tehsil Kawardha, District Kabirdham (C.G.)

Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Home (Police), Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (C.G.)

2 - Director General Of Police Police Headquarters, Sector-19, Naya Raipur, District Raipur (C.G.)

3 - Inspector General Of Police Rajnandgaon Range, District- Rajnandgaon (C.G.)

4 - Superintendent Of Police Kabirdham, District Kabirdham (C.G.)

Respondent(s)

(Cause-title taken from CIS)

For Petitioner(s)	**:**	Ms. Ruchi Nagar, Advocate
For Respondent(s)	**:**	Mr. Gary Mukhopadhaya, Addl. Advocate General

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

28.10.2026

1. By way of the present petition, the petitioner has called in question the legality and validity of the communication/order dated 18.06.2026 (Annexure P-8), passed by respondent No. 4, whereby the petitioner's claim for appointment was summarily closed.

2. Learned counsel for the petitioner submits that the petitioner was a wait-listed candidate in the recruitment process conducted for appointment to the post of Constable (Driver) pursuant to the recruitment process of 2023–2024. She submits that the petitioner secured the first position in the waiting list published on 15.12.2025. However, despite the availability of vacant posts in the Unreserved category, the petitioner has not been offered appointment. Learned counsel for the petitioner, by referring to page 34 of the writ petition, submits that, as per the information furnished by the office of the Superintendent of Police, District Kabirdham, under the Right to Information Act, 2005, vide communication dated 18.05.2026, against the sanctioned strength of 32 posts of Constable (Driver), 25 posts are occupied and 7 posts are lying vacant. The category-wise breakup of the vacant posts indicates that 4 posts in the Unreserved category and 1 post each in the OBC, Scheduled Caste and Scheduled Tribe categories are vacant. It is, therefore, contended that four vacancies in the Unreserved category are available in District Kabirdham. She further submits that the waiting list in question was issued by the Superintendent of Police, District Khairagarh-Chhuikhadan-Gandai, in respect of recruitment to the post of Constable (Driver) for District Kabirdham. According to learned counsel, since the requisite vacancies remain unfilled and the waiting list is still operative, the petitioner's claim for appointment could not have been rejected by the impugned communication without due consideration of the applicable recruitment rules. Learned counsel for the petitioner further places reliance upon the judgment rendered by the Division Bench of this Court in Writ Appeal No. 351 of 2023 and connected cases, wherein the scope and applicability of Rule 13(2) of the Chhattisgarh Police

Executive Force Constable (Recruitment and Conditions of Service) Rules, 2007, were considered. She submits that the Division Bench, while interpreting the aforesaid provision, recognised the applicability of the waiting list for filling up vacancies arising during the prescribed period of its validity. It is, therefore, contended that, as the waiting list dated 15.12.2025 remains in force and the prescribed period of its validity has not expired, the respondents are required to consider the petitioner's claim in accordance with Rule 13(2) of the Rules of 2007 and the law laid down by the Division Bench of this Court. Learned counsel accordingly prays that the impugned communication dated 18.06.2026 be quashed and the respondents be directed to consider the petitioner's candidature for appointment to the post of Constable (Driver) against the available Unreserved vacancies in District Kabirdham, in accordance with law.

3. *Per contra,* learned Additional Advocate General, appearing for the State, submits that the petitioner's name is indeed included at Serial No. 1 in the waiting list published on 15.12.2025 and that the period of validity of the waiting list has not yet expired. However, he submits that the actual availability of vacancies against which the petitioner can be considered for appointment requires verification by the competent authority. He further submits that the Rules of 2007 were subsequently amended on 13.02.2026. In view of the aforesaid submissions, learned Additional Advocate General prays that the petition may be disposed of with a direction to the Superintendent of Police, District Kabirdham, to examine the petitioner's claim, including the availability of vacancies, in accordance with the applicable rules.

4. I have heard learned counsel for the parties and perused the material available on record.

5. The principal issue arising for consideration is whether the petitioner's claim for appointment warrants examination by the competent authority, particularly when her placement at Serial No. 1 in the waiting list dated 15.12.2025 and the subsistence of the said waiting list are not disputed by the State, whereas the actual availability of vacancies requires verification.

6. In this regard, it is relevant to refer to the judgment rendered by the Division Bench of this Court in W.A. No. 351 of 2023 and connected matters, decided on 01.02.2024. While considering Rule 13(2) of the Chhattisgarh Police Executive Force Constable (Appointment and Conditions of Service) Rules, 2007, the Division Bench held that the said provision contemplates filling up vacancies arising on account of promotion, retirement, death, cadre change, termination or other reasons from the waiting list, subject to the applicable rules and the period of validity of such list. The Division Bench, accordingly, set aside the restriction imposed by the learned Single Judge excluding certain vacancies arising during the currency of the waiting list.

7. In the present case, the petitioner claims that four vacancies in the Unreserved category are available in District Kabirdham. In support of the said contention, reliance has been placed upon the information furnished by the office of the Superintendent of Police, District Kabirdham, vide communication dated 18.05.2026, as referred to hereinabove. The said communication indicates that, against the sanctioned strength of 32 posts of Constable (Driver), 25 posts were occupied and 7 posts were vacant, including

4 posts in the Unreserved category. However, the learned Additional Advocate General submits that the actual availability of vacancies against which the petitioner may be considered for appointment requires verification by the competent authority. In these circumstances, it would be appropriate to direct the competent authority to examine the vacancy position and consider the petitioner's claim in accordance with law.

8. So far as the objection raised by the learned Additional Advocate General regarding the amendment of the Rules of 2007 dated 13.02.2026 is concerned, it is not in dispute that the recruitment process in question pertains to the year 2023–2024 and that the waiting list was published on 15.12.2025, prior to the aforesaid amendment. It is a settled principle of law that, ordinarily, a recruitment process is governed by the rules applicable at the time of its commencement, and a subsequent amendment cannot be applied retrospectively so as to adversely affect the rights of candidates participating in such process, unless the amended provisions expressly or by necessary implication provide for retrospective operation. In the present case, in the absence of any material indicating that the amendment dated 13.02.2026 has been given retrospective effect so as to govern the recruitment process in question, the petitioner's claim cannot be rejected solely on the basis of the subsequent amendment.

9. In view of the aforesaid discussion, and particularly the submissions advanced on behalf of the State, this Court considers it appropriate to dispose of the writ petition with a direction to the competent authority to examine the petitioner's claim in accordance with law.

10. Accordingly, the writ petition is **disposed of** with a direction to respondent No. 4, namely, the Superintendent of Police, District Kabirdham, to examine the petitioner's claim for appointment to the post of Constable (Driver), particularly in view of her placement at Serial No. 1 in the waiting list dated 15.12.2025, the vacancy position reflected in the communication dated 18.05.2026, and the law laid down by the Division Bench of this Court in W.A. No. 351 of 2023 and connected matters. If, upon such examination, any vacancy is found to be available against which the petitioner is entitled to be considered for appointment in accordance with the applicable rules, the competent authority shall issue the necessary appointment order in her favour within a period of 30 days from the date of receipt of a copy of this order, subject to fulfillment of the prescribed eligibility conditions and verification of her credentials.

Sd/-

(BIBHU DATTA GURU)
JUDGE

Rahul