



2026:CGHC:20568



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 635 of 2026**

1 - Tikeshwar Kumar Sahu S/o Late Bhagtu Ram Sahu Aged About 36 Years R/o Surya Nagar, Station Maroda Bhilai, District Durg C.G.

--- Petitioner**Versus**

1 - State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur C.G.

2 - Commissioner Cum Director, Directorate Of Health Services, Chhattisgarh, Indrawati Bhawan, Nava Raipur, Atal Nagar, District Raipur C.G.

3 - Chief Medical And Health Officer, Durg, District Durg C.G.

4 - Chhattisgarh Professional Examination Board, Through Examination Controller, Vyapam Bhawan, North Block, Sector- 19, Atal Nagar, Raipur C.G.

--- Respondents**WPS No. 1681 of 2026**

1 - Reena Netam W/o Savinay Netam, Aged About 34 Years R/o Village Mohbhattha Bemetara District Bemetara C.G.

---Petitioner**Versus**

1 - State Of Chhattisgarh Through Secretary, Department Of Health And Family Welfare, Mantralaya, New Raipur C.G.



2 - Commissioner-Cum-Director, Directorate Of Health Services, Swasthya Bhawan, Raipur C.G.

3 - Joint Director Directorate Of Health Services, Swasthya Bhawan, Iii Floor Atal Nagar, New Raipur (C.G.)

4 - Chief Medical And Health Officer, District Bemetara C.G.

--- Respondents

WPS No. 1224 of 2026

1 - Girdhar Lal S/o Devraj Aged About 33 Years R/o Village Hathoud, Police Station Balod, District Balod (C.G.)

---Petitioner

Versus

1 - State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur (C.G.)

2 - Commissioner Cum Director Directorate Of Health Services, Chhattisgarh, Indrawati Bhawan, Nava Raipur, Atal Nagar, District Raipur (C.G.)

3 - Chief Medical And Health Officer Bemetara, District Bemetara (C.G.)

4 - Chhattisgarh Professional Examination Board Through Examination Controller, Vyapam Bhawan, North Block, Sector-19, Atal Nagar, Raipur (C.G.)

--- Respondents

WPS No. 3120 of 2026

1 - Sapna Baghel D/o Shri Jaisingh Baghel Aged About 32 Years R/o Awantika Colony, Jagdalpur, District Bastar, C.G.

2 - Payal Baghel D/o Shri Rampat Lal Baghel Aged About 37 Years R/o Jamkot Para, Ward No. 4, Kondagaon, District Kondagaon, C.G.

3 - Dainee Patel D/o Shri Ramesh Patel Aged About 36 Years R/o Kopabedpara, Kondagaon, District Kondagaon, C.G.



4 - Smt. Gulapi Nag W/o Shri Prafull Kumar Nag Aged About 41 Years R/o Bijaguda Para, Binjoli, Kondagaon, District Kondagaon, C.G.

5 - Padmini Patel D/o Shri Jageshwar Patel Aged About 36 Years R/o Kopebeda, Nursery Road, Kondagaon, District Kondagaon, C.G.

6 - Ku. Pramila Nag D/o Late Shri Jaya Nag Aged About 38 Years R/o Dnk Colony, Behind Durga Ground, Kanera Road, Kondagaon, District Kondagaon, C.G.

---Petitioners

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Public Health And Family Welfare, Ministry, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur, C.G.

2 - The Director Directorate Of Health Services, Government Of Chhattisgarh, Swasthya Bhawan, North Block, Sector- 19, Atal Nagar, Naya Raipur, District Raipur, C.G.

3 - The Controller Chhattisgarh Professional Examination Board (Vyapam), Vyapam Bhawan, North Block, Sector-19, Atal Nagar, Naya Raipur, District Raipur, C.G.

4 - Joint Director Department Of Health And Family Welfare, Government Of Chhattisgarh, Swasthya Bhawan, Third And Fourth Floor, Sector 19, New Raipur, Atal Nagar, District Raipur, C.G.

5 - The Collector Kondagaon, District Kondagaon, C.G.

6 - The Chief Medical And Health Officer Department Of Health And Family Welfare, District Kondagaon, C.G.

--- Respondents

WPS No. 1680 of 2026

1 - Kavita Sinha W/o Prem Prakash Sinha Aged About 38 Years R/o Near Rajesh Atta Chakki Ram Nagar, Supela, Bhilai, District Durg C.G.

---Petitioner



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Versus

1 - State Of Chhattisgarh Through Secretary, Department Of Health And Family Welfare, Mantralaya New Raipur C.G.

2 - Commissioner-Cum- Director, Directorate Of Health Services, Swasthya Bhawan, Raipur C.G.

3 - Joint Director Directorate Of Health Services, Swasthya Bhawan, liird Floor Atal Nagar New Raipur C.G.

4 - Chief Medical And Health Officer, District Dhamtari C.G.

--- Respondents

WPS No. 1225 of 2026

1 - Hemant Kumar Kumbhkar S/o Vishnu Prasad Aged About 34 Years R/o Village Sonpur, Police Station Patan, District Durg Chhattisgarh

2 - Krishna Kumar Kamde S/o Deepak Kumar Kamde Aged About 36 Years R/o Village Bagdehi, Police Station Kurud, District Dhamtari Chhattisgarh

3 - Rakesh Kumar S/o Shri Chhannu Lal Aged About 35 Years R/o Village And Post Chandkhuri, Police Station Pulgaon, District Durg Chhattisgarh

---Petitioners

Versus

1 - State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh

2 - Commissioner Cum Director Directorate Of Health Services, Chhattisgarh, Indrawati Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh

3 - Chief Medical And Health Officer Durg District Durg Chhattisgarh

4 - Chief Medical And Health Officer Bemetara, District Bemetara Chhattisgarh



5 - Chhattisgarh Professional Examination Board Through Examination Controller,
Vyapam Bhawan, North Block, Sector-19, Atal Nagar, Raipur Chhattisgarh

--- Respondents

WPS No. 635/2026

For Petitioner : Mr. C.J.K Rao, Advocate
For Respondents-State : Mr. Yashwant Singh Thakur, Additional Advocate
General along with Ms. Anuja Sharma, Dy.

For Respondent No. 4 : Government Advocate
Mr. Avinash Singh, Advocate

WPS No. 1681/2026

For Petitioner : Mr. Manoj Kumar Yadav, Advocate
For Respondents-State : Mr. Yashwant Singh Thakur, Additional Advocate
General along with Ms. Anuja Sharma, Dy.

Government Advocate

WPS No. 1224/2026

For Petitioner : Mr. C.J.K Rao, Advocate
For Respondents-State : Mr. Yashwant Singh Thakur, Additional Advocate
General along with Ms. Anuja Sharma, Dy.

Government Advocate

For Respondent No. 4 : Mr. Avinash Singh, Advocate

WPS No. 3120/2026

For Petitioners : Mr. Alok Kumar Dewangan, Advocate
For Respondents-State : Mr. Yashwant Singh Thakur, Additional Advocate
General along with Ms. Anuja Sharma, Dy.

Government Advocate

For Respondent No. 3 : Mr. Avinash Singh, Advocate

WPS No. 1680/2026

For Petitioner : Mr. Manoj Kumar Yadav, Advocate
For Respondents-State : Mr. Yashwant Singh Thakur, Additional Advocate
General along with Ms. Anuja Sharma, Dy.

Government Advocate

WPS No. 1225/2026

For Petitioners : Mr. C.J.K Rao, Advocate
For Respondents-State : Mr. Yashwant Singh Thakur, Additional Advocate
General along with Ms. Anuja Sharma, Dy.

Government Advocate

For Respondent No. 5 : Mr. Avinash Singh, Advocate

SB: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER ON BOARD

01/05/2026

1. As common issue has been raised in all these writ petitions by petitioners, therefore, they are being heard together and disposed of by this common order.



2. For convenience of this Court, WP (S) No. 635 of 2026 is taken as lead case, in which following reliefs have been sought:-

“10.1 That this Hon'ble Court may kindly be pleased to direct the respondent authorities to award experience marks to the petitioner and further to consider the petitioner for the post of Rural Health Organizer (Male) with all consequential benefits.

10.2. That this Hon'ble Court may kindly be pleased to direct the respondent authorities to provide the marks of experience to the contractual employees as the bonus marks are provided to the temporary employees who worked in the Covid period for a period of 6 months.

10.3. That this Hon'ble Court may kindly be pleased to direct the respondent authorities that similar approach may be adopted for both the employees contractual as well as temporary employees, who were appointed during the Covid period or further direct the respondents not to provide the bonus marks to the temporary employees who were appointed during the Covid period.

10.4. That, this Hon'ble Court may kindly be pleased to grant any other relief as it may deems fit and appropriate.”

3. Learned counsel for the respective petitioners submits that the petitioners have filed these writ petitions primarily pleading therein that the petitioners are engaged by the respondent department on different posts on contract basis. While they were working on contract basis, they came across an advertisement issued by the Director, Health Services, Chhattisgarh dated 16.06.2025 for appointment of Rural Health Coordinator (Male) for different districts as mentioned therein within the State of Chhattisgarh. The Respondent No. 2/Director has further issued an advertisement on 01.09.2025 for appointment of the Rural Health Coordinator (Female) for appointment on the districts as mentioned therein.
4. Petitioners have submitted their application Forms according to their category/gender along with all requisite documents as asked for in the advertisement. When the recruitment proceedings were in process, the Joint Director had issued a notice dated 13.01.2026 mentioning that the



persons who are working with the government health institutions for 06 months in a year during COVID – 19 period would be awarded additional marks/bonus marks and they were directed to submit an experience certificate after obtaining the same from the competent authority. He contended that in the said notice, there is no mention of the order dated 07.12.2021 which provides for the award of 10 bonus marks of experience.

5. It is the submission of the counsel for the respective petitioners herein, that there is no mention in the advertisement for award of bonus marks, however, issuance of notification in this regard by the Joint Director to award bonus marks to the persons who have been working in the government health institutions during COVID-19 period for 06 months in a year and therefore, petitioners who are also working in government health institutions on contract basis for last more than 05 years have been deprived from the said benefit. They contended that the Respondent No. 2 has issued a circular dated 10.01.2023 for awarding additional marks on the basis of their experience, 3 marks for each year and maximum to which of 15 marks. As petitioners have worked for more than 05 years including the COVID-19 pandemic period and therefore, they are also entitled for the additional marks to be added for their experience. By not issuing notice in terms of the circular dated 10.01.2023 in favour of the employees like petitioners who have worked on contract basis is discriminatory in nature and therefore, the respondents be directed to award additional marks with their experience as per the circular issued by the State Government dated 10.01.2023.
6. On the other hand, learned counsel for the Respondents/State submit that the petitioners can claim benefit based on the clauses as mentioned in the advertisement. There is no mention of award of bonus marks/additional marks towards the experience in the advertisement and



therefore, the petitioners cannot claim as a matter of right for additional marks towards the work experience. He however, do not dispute the submission of counsel for the petitioners that there is no mention for award of the bonus marks for the persons who have worked in the COVID – 19 pandemic period for the relevant period as mentioned. However, he submits that notice has been issued in this regard by the officials of the Health Department.

7. I have heard learned counsel for the respective parties and perused the documents enclosed along with the writ petitions.
8. The claim of the petitioners is that the petitioners are contract employees engaged by the respondent department, are working on contractual basis and have also worked during the COVID – 19 pandemic period and therefore, they are also entitled for the additional marks for their experience as is being provided to the other persons who have worked for six months in a year in the same institutions during COVID – 19 pandemic period.
9. There is no dispute on the submissions made by the counsel for the Respondent/State that in the advertisement, there is no clause specifying that any additional marks is to be awarded on the basis of experience certificate, however, it is also true that in the advertisement, there is no mention of awarding bonus marks to the employees who have worked during the COVID-19 period for 06 months in a year and if the respondent authorities have thought it proper to award the bonus marks to an employee working for 06 months in a year during the COVID – 19 pandemic period, subsequent to the last date of submission of the application form and by way of notice only, without making any corrigendum, adding the clause in the advertisement, based on the order of the State Government dated 07.12.2021, in the opinion of this Court, the action of the respondents not giving benefit of awarding additional



mark to petitioners/contract employees according to the circular dated 10.01.2023 is discriminatory. The State Government could have also issued the notice or the corrigendum in this regard like the notice issued for submission of experience certificate to the other persons who have worked during the COVID – 19 pandemic period in the government health institutions, which mentions order no. F-167/2021/17/1 dated 17.12.2021 which is for awarding 10 bonus marks to temporary health workers who worked for 06 months continuously during COVID – 19 pandemic period.

10.The advertisement was issued by the Director, Health Services on 16.06.2025. In the advertisement, there is no mention of any clause of submitting experience certificate by the candidates who have earlier worked for 06 months in government health institutions/centres during COVID – 19 pandemic period or mention of award of additional/bonus marks for such work. Joint Director, Directorate of Health Services had issued notice on 13.01.2026 for submission of the experience certificate which is extracted below for ready reference:-

सूचना

संचालनालय स्वास्थ्य सेवाये छ.ग. का पत्र क्रमांक /स्था.अवि./37/2025/210, दिनांक 28.03.2025 के द्वारा संभाग एवं जिला स्तरीय तृतीय एवं चतुर्थ श्रेणी (स्टाफ नर्स, ग्रामीण स्वास्थ्य संयोजक पुरुष, ग्रामीण स्वास्थ्य संयोजक महिला, वार्ड ब्वॉय एवं वार्ड आया) के कुल 525 पदों को सीधी भर्ती करने हेतु विज्ञापन प्रकाशित की गई थी। व्यापम द्वारा स्टाफ नर्स, ग्रामीण स्वास्थ्य संयोजक पुरुष / महिला, वार्ड ब्वॉय, वार्ड आया का परीक्षा आयोजित कर, परीक्षा परिणाम वेबसाईट में अपलोड किया जा चुका है। छत्तीसगढ़ शासन, लोक स्वास्थ्य एवं परिवार कल्याण विभाग मंत्रालय का आदेश क्रमांक एफ 1-67/2021/सत्रह /एक, दिनांक 07.12.2021 एवं आदेश दिनांक 03.02.2023 के द्वारा कोरोना वैश्विक महामारी के दौरान छत्तीसगढ़ राज्य के शासकीय स्वास्थ्य संस्थाओं में नियुक्त एक वर्ष में 6 माह का कार्य अनुभव प्रमाण पत्र हेतु व्यापम द्वारा आयोजित परीक्षा में सम्मिलित अभ्यर्थियों के द्वारा 15 दिवस के भीतर संबंधित जिले के मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी को आवेदन कर अनुभव प्रमाण पत्र प्राप्त कर अनुभव प्रमाण पत्र प्रस्तुत करेंगे। अभ्यर्थियों हेतु निर्देश:-

1. अभ्यर्थियों द्वारा कोरोना वैश्विक महामारी के दौरान जिस जिले में कार्य किये है उसी जिले के मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी छ.ग. को आवेदन प्रस्तुत कर, अनुभव प्रमाण पत्र निर्धारित प्रपत्र (परिशिष्ट अ) में प्राप्त करेंगे।
2. अभ्यर्थियों द्वारा कोरोना वैश्विक महामारी के द्वारा नियुक्त किये गये कार्यदिश, ज्वार्निंग व वेतन संबंधी दस्तावेज प्रस्तुत करेंगे।



3. मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी के द्वारा जारी अनुभव प्रमाण पत्र ही मान्य किये जायेंगे।

4. अभ्यर्थियों द्वारा दिनांक 14.01.2026 से 29.01.2026 तक अनुभव प्रमाण पत्र मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी कार्यालय में केवल स्पीड पोस्ट के माध्यम से कार्यालयीन समय में जमा करेंगे। उक्त संबंध में कार्य संपादित करने की संभावित समय-सारणी:-

1. अभ्यर्थियों द्वारा दिनांक 14.01.2026 से 29.01.2026 तक अनुभव प्रमाण पत्र मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी कार्यालय में जमा करेंगे।

2. संभाग स्तरीय समिति द्वारा अभ्यर्थियों द्वारा प्रस्तुत अनुभव प्रमाण पत्र को दिनांक 30.01.2026 से 08.02.2026 तक सत्यापन का कार्य करेंगे।

3. संभाग स्तरीय समिति द्वारा अनुभव प्रमाण पत्र का सत्यापन उपरांत 09.02.2026 को संचालनालय को प्रस्तुत करेंगे।

4. संचालनालय द्वारा दिनांक 10.02.2026 से 18.02.2026 तक मेरिट सूची जारी किया जावेगा।

5. मेरिट में दावा आपत्ति हेतु दिनांक 19.02.2026 से 24.02.2026 तक अभ्यर्थियों द्वारा आवेदन प्रस्तुत करेंगे। अभ्यर्थियों द्वारा प्रस्तुत दावा आपत्ति का निराकरण पश्चात् मेरिट सूची का प्रकाशन विभागीय वेबसाईट www.cghealth.nic.in में दिनांक 10.03.2026 तक अपलोड किया जावेगा।

संचालक, स्वास्थ्य सेवायें द्वारा अनुमोदित

संयुक्त संचालक (अविज्ञप्त/नर्सिंग)
संचालनालय स्वास्थ्य सेवाएँ
छत्तीसगढ़

11. Perusal of the above-extracted notice dated 13.01.2026 would show that it mentions about the circular dated 07.12.2021 and order dated 03.02.2023. The circular dated 07.12.2021 deals with an award of 10 bonus marks which is also mentioned in the circular dated 10.01.2023. This circular is also relevant in the facts of the case and therefore, it is extracted below for ready reference:-

संचालनालय स्वास्थ्य सेवायें
छत्तीसगढ़

तृतीय तल, इन्द्रावती भवन, अटल नगर नवा रायपुर

क्रमांक/स्था.अवि./04/2023/23

नवा रायपुर, अटल नगर, दिनांक 10/01/2023

प्रति.

1. समस्त संभागीय संयुक्त संचालक स्वास्थ्य सेवायें (छत्तीसगढ़)

2. समस्त मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी (छत्तीसगढ़)

विषय :-नियमित पदों पर भर्ती हेतु अनुभव एवं बोनस अंक प्राप्त किए जाने के संबंध में।



उपरोक्त विषयांतर्गत लेख है कि छत्तीसगढ़ शासन स्वास्थ्य एवं परिवार कल्याण विभाग के पत्र क्रमांक एफ 1-67/2021/सत्रह / एक, दिनांक 21.03.2022 द्वारा तृतीय श्रेणी सेवा भर्ती नियम 2013 संशोधित नियम 2020 के नियम 6 के उपनियम 5 में प्रावधानिक शैक्षणिक योग्यता अनुभव के अंक जोड़कर (शैक्षणिक योग्यता हेतु अंक 85 तथा अनुभव हेतु अधिकतम 15 अंक कुल 100 अंक) मेरिट लिस्ट के आधार पर निर्धारित आरक्षण रोस्टर अनुसार चयन हेतु कार्यान्तर सहमति प्रदान की गई है।

अवस सचिव, छत्तीसगढ़ शासन, स्वास्थ्य एवं परिवार कल्याण विभाग मंत्रालय का आदेश क्रमांक/एफ 1-67/2021/सत्रह / एक दिनांक 07.12.2021 द्वारा कोरोना वैश्विक महामारी के दौरान छत्तीसगढ़ राज्य के शासकीय स्वास्थ्य संस्थाओं में नियुक्ति एवं 6 माह तक लगातार सेवा देने वाले अस्थायी स्वास्थ्य कर्मियों को विभाग के तृतीय एवं चतुर्थ वर्ग के पदों पर चयन हेतु 10 बोनस अंकों को लाभ दिया जाये।

उक्त संबंध में लेख है कि जो कर्मचारी कोरोना के दौरान नियुक्त एवं 06 माह तक लगातार सेवा दिया हो उन्हें 10 बोनस अंक दिया जाना है एवं सामान्य स्थिति में नियुक्त संविदा (अनियमित) कर्मचारी है उन्हें अनुभव के अधिकतम 15 अंक तक दिया जाना है। इस प्रकार एक ही कर्मचारी को दोनों अनुभव के अंक नहीं दिया जाना है। ऐसी स्थिति में शैक्षणिक योग्यता 85 अंक एवं अनुभव के 15 अंक अथवा 10 अंक दिया जाना है जो कुल 100 अंक से अधिक नहीं होना चाहिये।

अतः उपरोक्तानुसार कुल 100 अंक से ही मेरिट सूची का निर्धारण किया जाना सुनिश्चित करें।

सही/-
हस्ताक्षर
संचालक स्वास्थ्य सेवार्ये
छत्तीसगढ़

12. In the above circular published by the Directorate of Health Services, there is mention of award of bonus marks and also, award of marks towards experience to the persons who have worked on contract, maximum of which would be 15 marks. The circular dated 07.12.2021 provides for award of 10 bonus marks to person who had worked continuously for a period of 06 months as temporary health employee for their selection on Class - III and Class IV posts.

13. By issuing notice on 13.01.2026, the respondent authorities have taken a decision to grant additional bonus marks to the particular set of the applicants therein. It is not a case where the advertisement is issued for the first time after period of COVID – 19 pandemic, but earlier also recruitment was made of Class – III and Class – IV posts which is evident from Annexure P/7. The circular dated 10.01.2023, when once, the



officials of the State Government and the head of one of the said institutions have taken a decision to award additional marks to candidates based on their earlier work may be for their engagement during the COVID – 19 pandemic period, then petitioners who have also worked during COVID – 19 pandemic period in the government institutions/centers even if while they were working on contract basis, they will also be entitled for the same benefit. This aspect has been considered by the same authority in the earlier recruitment proceedings and have granted the said benefit to the temporary engaged employees during COVID – 19 pandemic and also, the employees who have worked/employed on contract basis while issuing the circular dated 10.01.2023.

14. Non-award of the similar benefits to employees engaged in contract and have worked during COVID-19 pandemic period will lead to discrimination between the two persons, one who worked as temporary employee and one who worked on contract basis (is also temporary employee) during the same period and thereby, violative to Article 14 of the Constitution of India. Hon'ble Supreme Court in the case of ***Ramana Dayaram Shetty Vs. International Airport Authority of India & Ors.*** reported in ***(1979) 3 SCC 489*** has observed that where corporation is an instrumentality or agency of the government, it would in exercise of its power or discretion be subject to the same constitutional or public law limitations as government and has observed thus:-

"20.....The rule inhibiting arbitrary action by Government which we have discussed above must apply equally where such corporation is dealing with the public, whether by way of giving jobs or entering into contracts or otherwise, and it cannot act arbitrarily and enter into relationship with any person it likes at its sweet will, but its action must be in conformity with some principle which meets the test of reason and relevance.



21. This rule also flows directly from the doctrine of equality embodied in Article 14. It is now well-settled as a result of the decisions of this Court in E.P. Royappa v. State of Tamil Nadu [(1974) 4 SCC 3 : (1974) 2 SCR 348] and Maneka Gandhi v. Union of India [(1978) 1 SCC 248] that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It requires that State action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory; it must not be guided by any extraneous or irrelevant considerations, because that would be denial of equality. The principle of reasonableness and rationality which is legally as well as philosophically an essential element of equality or non-arbitrariness is projected by Article 14 and it must characterise every State action, whether it be under authority of law or in exercise of executive power without making of law. The State cannot, therefore, act arbitrarily in entering into relationship, contractual or otherwise with a third party, but its action must conform to some standard or norm which is rational and non-discriminatory. This principle was recognised and applied by a Bench of this Court presided over by Ray, C.J., in Erusian Equipment and Chemicals Ltd. v. State of West Bengal where the learned Chief Justice pointed out that

“the State can carry on executive function by making a law or without making a law. The exercise of such powers and functions in trade by the State is subject to Part III of the Constitution. Article 14 speaks of equality before the law and equal protection of the laws. Equality of opportunity should apply to matters of public contracts. The State has the right to trade. The State has there the duty to observe equality. An ordinary individual can choose not to deal with any person. The Government cannot choose to exclude persons by discrimination. The order of blacklisting has the effect of depriving a person of equality of opportunity in the matter of public contract. A person who is on the approved list is unable to enter into advantageous relations with the Government because of the order of blacklisting A citizen has a right to claim equal treatment to enter into a contract which may be proper, necessary and essential to his lawful calling It is true that neither the petitioner nor the respondent has any right to enter into a contract but they are entitled to equal treatment with others who offer tender or quotations for the purchase of the goods”.

It must, therefore follow as a necessary corollary from the principle of equality enshrined in Article 14 that though the State is entitled to refuse to enter into relationship with any one, yet if it does so, it cannot arbitrarily choose any person it likes for entering into such relationship and discriminate between persons similarly circumstanced, but it must act in conformity with



some standard or principle which meets the test of reasonableness and non-discrimination and any departure from such standard or principle would be invalid unless it can be supported or justified on some rational and non discriminatory ground”

15. In the case at hand, learned counsel for the Respondents-State could not be able to point out as to on what basis, the petitioners who are working or worked on contract basis with the government health institutions during COVID – 19 pandemic period have not been awarded any marks, even towards their experience or shown some rationale in this regard.

16. Hon’ble Supreme Court in the case of ***E.P. Royappa Vs. State of Tamil Nadu & Anr.*** reported in ***(1974) 4 SCC 3*** has observed thus:-

“20.....From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14.....”

Article 14 strikes the arbitrariness in State action and ensures fairness and equality of treatment, principles of reasonableness as an essential element of equality or non-arbitrariness.

17. Hon’ble Supreme Court in the case of ***A.L. Kalra Vs. Project and Equipment Corporation of India Ltd.*** reported in ***(1984) 3 SCC 316*** following the principles laid down in the case of Royappa (Supra) has held that arbitrariness is a doctrine distinct from discrimination and observed thus:-

“19.....It thus appears well-settled that Article 14 strikes at arbitrariness in executive/administrative action because any action that is arbitrary must necessarily involve the negation of equality. One need not confine the denial of equality to a comparative evaluation between two persons to arrive at a conclusion of discriminatory treatment. An action per se arbitrary itself denies equal of (*sic*) protection by law. The Constitution Bench pertinently



observed in *Ajay Hasia case* [(1981) 1 SCC 722 : 1981 SCC (L&S) 258 : AIR 1981 SC 487 : (1981) 2 SCR 79 : (1981) 1 LLJ 103] and put the matter beyond controversy when it said “wherever therefore, there is arbitrariness in State action whether it be of the Legislature or of the Executive or of an “authority” under Article 12, Article 14 immediately springs into action and strikes down such State action”. This view was further elaborated and affirmed in *D.S. Nakara v. Union of India* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : AIR 1983 SC 130 : (1983) UPSC 263] . In *Maneka Gandhi v. Union of India* [(1978) 1 SCC 248 : AIR 1978 SC 597 : (1978) 2 SCR 621] it was observed that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It is thus too late in the day to contend that an executive action shown to be arbitrary is not either judicially reviewable or within the reach of Article 14.....”

18. In the case of *D.S. Nakara & Ors. Vs. Union of India* reported in (1983) 1 SCC 305, Hon’ble Supreme Court has observed that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It is thus, too late in the day to contend that an executive action shown to be arbitrary is not either judicially reviewable or within the reach of Article 14.
19. For the foregoing discussion and decisions of Hon’ble Supreme Court as referred to the above, I am of the considered view that the act of the respondents in issuing the notice dated 13.01.2026 for submitting of experience certificate for the purpose of awarding additional bonus marks as per the circular dated 07.12.2021 only to the applicants who have worked for 06 months as a temporary employee during the COVID – 19 pandemic period excluding the applicant who have worked as contract employee is arbitrary and also discriminatory. No rationale is shown for not awarding marks of experience to employee working in contract and have also worked during COVID – 19 pandemic period.
20. In the facts of the case, where some of the applicants like petitioners may have also worked during the COVID – 19 pandemic period as contract employees are also entitled for award of marks towards experience



based on the circular of the State Government dated 10.01.2023 and therefore, I find it appropriate to allow these writ petitions and direct the respondents to consider the claim of the applicants like petitioners who have worked as contract employee (health workers) in government health institutions/centres during the COVID – 19 pandemic and issue appropriate directions for awarding additional marks towards experience as directed by the respondent authorities vide circular dated 10.01.2023 by issuing notice/notification in this regard within a period of 04 weeks and if posts are already not filled-up, then it may not be filled up till decision is taken by the respondent authorities.

21. With the aforesaid observation and direction, these writ petitions stand **allowed**.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Dey