



2026:CGHC:21013



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AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2877 of 2024

1 - Akshay Dewangan S/o Lalit Dewangan Aged About 26 Years R/o Parshuram Ward, Bhatapara, District - Balodabazaar, Chhattisgarh

--- **Petitioner(s)**

versus

1 - District and Session Judge, Bemetara, Chhattisgarh

2 - State Of Chhattisgarh Through Principal Secretary Law Department, Atal Nagar, Naya Raipur, District - Raipur Chhattisgarh

--- **Respondent(s)**

(Cause title is taken from CIS system)

For Petitioner	: Mr. Neeraj Choubey, Advocate
For Respondent No.1	: Mr. Ashish Tiwari, Advocate
For Respondent No.2/State	: Ms. Anuja Sharma, Dy.G.A.

Hon'ble Shri Justice Parth Prateem Sahu

Order On Board

05/05/2026

1. Petitioner has filed this petition seeking following relief (s) :-

“10.1 That, the Hon'ble Court be pleased to allow the petition and set-aside the order dated 19.04.2024 (Annexure P-5) of respondent No.1, in the interest of justice.

10.2 That, the Hon'ble Court kindly be pleased to allow the petition and direct the respondent No.1 to issue



appointment order in favour of petitioner against the vacancy in ex-serviceman category in the line of District Court Balod and Korba, in the interest of justice.”

2. Learned counsel for petitioner submits that petitioner pursuant to the advertisement issued by respondent No.1 dated 28.03.2022, submitted his application for appointment on the post of Assistant Grade-III. He contended that initially 19 posts have been advertised, however, subsequently by way of corrigendum dated 24.06.2023 by adding 6 other posts, total 25 posts have been mentioned to be advertised for direct recruitment. He contended that the post have been reserved for Scheduled Tribe, Scheduled Castes and Other Backward Class and further post is reserved for women, persons with disability and ex-servicemen. After completion of recruitment proceedings, respondent No.1 has published select list as also waiting list vide Annexure P-2 on 11.09.2023 in which name of petitioner has been placed in the combined waiting list at Sr. No.6. Petitioner has submitted his application as OBC candidate and the OBC candidate in the waiting list just above petitioner has been given appointment. Even thereafter, many posts remained vacant. Post reserved for ex-servicemen also could not be filled up as no suitable person has been found to be appointed. He submits that according to Clause-1 of the advertisement, provision is made that, if candidate is not found to be appointed on the post reserved for women, persons with disability and ex-servicemen, it should be filled up by unreserved open category candidates. Petitioner had submitted representation before the respondent No.1 for his appointment from the wait list candidate, however, it has been rejected by non-speaking order only observing



that earlier applications/representations of two other candidates have been rejected. It is contention of learned counsel for petitioner that once the representation is submitted before respondent No.1, then it is for the respondent No.1 to pass reasoned and speaking order even if the representation submitted by petitioner is to be rejected, therefore, the decision on the representation submitted by petitioner dated 19.04.2024 (Annexure P-5) be quashed and direction be issued to respondent No.1 to reconsider the representation submitted by petitioner and to pass reasoned and speaking order in accordance with law.

3. Learned counsel for respondent No.1 would oppose the submission of learned counsel for petitioner and would submit that petitioner cannot claim indefeasible right to get the appointment from the wait list, however, he do not dispute the submission of learned counsel for petitioner based on the Clause-1 of the advertisement. He however submits that respondent No.1 considering that similar claim of two other candidates have been rejected, therefore, assigning that reason, representation submitted by petitioner has been rejected, which does not call for any interference.
4. Learned State counsel submits that grievance of petitioner is against respondent No.1.
5. I have heard learned counsel for parties and perused the documents placed on record.
6. The factual submission made by learned counsel for petitioner with regard to advertisement, submission of application of petitioner and participating in the recruitment proceedings, further that the name of



petitioner has been placed in combined wait list, as wait list candidate are not in dispute. It is also not in dispute that post reserved for ex-service man could not be filled up for want of qualified candidate.

7. Clause 1 of the advertisement which is pressed upon by learned counsel for petitioner and relevant in the facts of the case is extracted below for ready reference :-

“(1). जिस श्रेणी के उम्मीदवारों में महिला, दिव्यांग एवं भूतपूर्व सैनिकों के पद आरक्षित है, यदि उक्त पद पर उस श्रेणी के योग्य उम्मीदवार नहीं पाये जाते हैं, तो अनारक्षित श्रेणी के मुक्त पदों से वरीयता के आधार पर चयन किया जायेगा।”

8. From the above, mentioned extracted clause of advertisement clearly mentions that upon non getting the qualified candidates for the post reserved for women, persons with disability and ex-service men, it is to be filled from unreserved open category candidates.
9. The relevant portion of the decision of respondent No.1 on the representation submitted by petitioner is also extracted below for ready reference :-

"उपरोक्त विषयांतर्गत लेख है कि, इस स्थापना के भूतपूर्व सैनिकों के लिए आरक्षित 2 पदों पर योग्य उम्मीदवार न मिलने के कारण वर्तमान में उक्त पद रिक्त है। उक्त पद पर प्रतीक्षा सूची से नियुक्ति प्रदान करने बाबत आपके अतिरिक्त अन्य दो अभ्यर्थियों का आवेदन प्राप्त हुआ था, जिसे पूर्व में नस्तीबद्ध किया गया है।

अतः यथा आदेश सूचित किया जाता है कि, उक्त के आधार पर आपका आवेदन पत्र भी माननीय जिला न्यायाधीश महोदय द्वारा नस्तीबद्ध कर भूतपूर्व सैनिकों के लिए आरक्षित पदों को सुरक्षित रखा गया है।

तदनुसार सूचनार्थ प्रेषित"



10. From perusal of the extracted portion of the decision on the representation would show that petitioner has made a claim on two unfilled posts reserved for the ex-servicemen candidates. Respondent No.1 has not made any discussion on merits of claim of petitioner as to why claim of petitioner could not be accepted but for mentioning that two representation have been rejected of two other candidates seeking same relief. Even if the authority have earlier considered the representation of two other candidates seeking similar relief then also while considering and deciding the representation submitted by petitioner, authority is under an obligation to assign reasons as to why petitioner's claim cannot be accepted and is to be rejected by reasoned and speaking order.
11. Hon'ble Supreme Court in case of **Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity**, reported in **(2010) 3 SCC 732** while considering the requirement of passing a reasoned and speaking order, observed as thus :-

“41. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. (Vide *Raj Kishore Jha v. State of Bihar* [(2003) 11 SCC 519 : 2004 SCC (Cri) 212 : AIR 2003 SC 4664] , SCC p. 527, para 19; *Vishnu Dev Sharma v. State of U.P.* [(2008) 3 SCC 172 : (2008) 1 SCC (L&S) 596] , *SAIL v. STO* [(2008) 9 SCC 407] , *State of Uttaranchal v. Sunil Kumar Singh Negi* [(2008) 11 SCC 205 : (2008) 2 SCC (L&S) 1093 : AIR 2008 SC 2026] , *U.P. SRTC v. Jagdish Prasad Gupta* [(2009) 12 SCC 609 : (2010) 1



SCC (L&S) 156 : AIR 2009 SC 2328] , *Ram Phal v. State of Haryana* [(2009) 3 SCC 258 : (2009) 1 SCC (L&S) 645 : (2009) 2 SCC (Cri) 72] , *Mohd. Yusuf v. Fajj Mohammad* [(2009) 3 SCC 513] and *State of H.P. v. Sada Ram* [(2009) 4 SCC 422] .)

42. Thus, it is evident that the recording of reasons is a principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as to why his application has been rejected.”

12. In the case at hand, respondent authorities has not decided the representation submitted by petitioner by reasoned and speaking order, therefore, in the opinion of this Court, it is not sustainable in the eyes of law.
13. Accordingly, the memo of information dated 19.04.2024 (Annexure P-5) given to petitioner rejecting his representation is quashed. Respondent No.1 is directed to reconsider the representation submitted by petitioner and decide it by reasoned and speaking order in accordance with law keeping in mind the law applicable to the facts of the case within further period of six weeks from the date of receipt of this order.
14. With the aforesaid observations and directions, this petition stands disposed of.

Sd/-
(Parth Prateem Sahu)
Judge