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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CONT No. 1253 of 2024

1. Digvijay Das Sirmour S/o Late Bodhraj Sirmour Aged About 54 Years Quarter No. F-4 (Old), Govt. Polytechnic Campus, G.E. Road, Tehsil And District Durg, C.G. Pin- 491001

... Petitioner

versus

1. Smt. Alarmelmangai D. Secretary, Deptt. Of Labour, State Of Chhattisgarh Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Distt. Raipur, C.G. Pin Code No. 492101
2. Shri Pushpendra Kumar Meena Secretary, C.G. Public Service Commission, State Of Chhattisgarh North Block, Sector-19, Atal Nagar, Nawa Raipur, Distt. Raipur, C.G. Pin Code No. 492101
3. Reena Jamil, Ias Presently Posted As Secretary, Chhattisgarh Public Service Commission, Govt. Of Chhattisgarh, North Block, Sector 19, Atal Nagar, Nawa - Raipur, Dist. - Raipur C.G. 492002 (As Per Hon'ble Court Order Dated 24-04-2025)
4. Shri Himshikhar Gupta, Secretary, Department Of Labour State Of Chhattisgarh, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Dist. Raipur (C.G.) Pin Code- 492101

... Respondents

For Petitioner	: Mr. Y.C. Sharma, Sr. Advocate assisted by Mr. Anchal Kumar Matre, Advocate
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For Respondent No.1	: Mr. Rahul Tamaskar, Advocate
For Respondent No.2 & 3	: Mr. Anand Mohan Tiwari, Advocate



S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

20/04/2026

1. Petitioner has filed this contempt petition alleged willful disobedience of the order dated 11.10.2023 passed in WPS No.2927/2013.
2. Learned Senior Counsel for petitioner submits that pursuant to advertisement issued by the Chhattisgarh Public Service Commission dated 27.3.2008, petitioner participated in recruitment proceeding for appointment on the post of Assistant Director, Industrial Health and Safety Department (Scheduled Caste Category). By the order under contempt, writ Court upon considering the entire facts and circumstances of case, directed respondent No.2 therein (PSC) to consider case of petitioner for appointment on the post of Assistant Director (Scheduled Caste Category) in accordance with the rules prevailing when the advertisement was issued, within one month from the date of receipt of copy of the order. Respondent Public Service Commission has rejected the candidature of petitioner on the ground that in the waiting list/supplementary list, name of petitioner is not included, it is not appropriate to call for the record/documents and therefore it is not possible to send his name. He contended that according to the instructions, supplementary list / wait list is not prepared by the Public Service



Commission, therefore, candidature of petitioner has not been considered in accordance with the directives issues by the writ Court in WPS No.2927/2013.

3. Learned counsel for respondent No.2 herein vehemently opposes submissions of learned Senior Counsel for petitioner and submits that there is no substance in this contempt petition. Pursuant to directions issued by the High Court in the order under contempt, respondent has considered the candidature of petitioner. He contended that from the copy of advertisement enclosed along with contempt petition, it is apparent that only one post of Assistant Director under Scheduled Caste Category was advertised for appointment. Public Service Commission has published combined merit/ select list mentioning score, category and selection remark. One Pradeep Kumar Sonkar secured highest marks in Scheduled Caste category. Due to pendency of dispute before the High Power Caste Scrutiny Committee with regard to his caste certificate, Pradeep Kumar Sonkar was not given appointment. Subsequently, the High Power Caste Scrutiny Committee passed the order in his favour. Pradeep Kumar Sonkar had preferred WPS No.904/2014, which he withdrew on 11.10.2023 i.e. on the date of passing of the order, which is subject matter of this contempt proceeding. Petitioner herein also filed writ petition bearing WPS No.429/2016,



which was also dismissed on the same day i.e. 11.10.2023, as having become infructuous. He contended that according to the merit list, copy of which is enclosed at Page No.19 of contempt petition, petitioner has been placed at Sr. No.3 in Scheduled Caste Category. According to rules of procedure of the Public Service Commission, supplementary list is to be forwarded, where considered necessary, to the Governor or appointing authority. In case of State Services, supplementary list will be 25% of the main list and in other competitive examinations, supplementary list will be 50% of the main list, subject to maximum of 50. In case at hand, according to main list and the post advertised, only one candidate is to be appointed and therefore, according to Rule 4 (10) of the Rules of Procedure, one candidate is to be included in supplementary list (rounding off 50%). He contended that Public Service Commission while taking decision upon direction of the High Court, considered that name of petitioner was not in the supplementary list or wait list and candidate in the supplementary list was Gopal Prasad Anant.

4. Heard learned counsel for respective parties and perused the documents available in record of contempt petition.
5. Operative portion of the order, subject matter of this contempt petition, is extracted herein below for ready reference:-

“10.In view of the above factual matrix, it is directed that respondent No.2/PSC shall consider the case of



the petitioner for appointment on the post of Assistant Director, Industrial Health & Safety Department (Scheduled Caste Category) in accordance with the rules prevailing when the advertisement was issued within one month from the date of receipt of copy of this order.”

6. Perusal of above extracted operative portion of the order reveals that the writ Court has directed the Public Service Commission to consider case of the petitioner for appointment on the post of Assistant Professor in accordance with the rules prevailing when the advertisement was published. Pursuant to direction issued by writ Court, respondent Public Service Commission vide letter dated 24.1.2024 had informed the Secretary, Labour Department, Govt. of Chhattisgarh about its decision. Relevant portion of letter dated 24.1.2024 is extracted herein below:-

“माननीय उच्च न्यायालय द्वारा पारित आदेश दिनांक 11.10.2023 में "In the view of the above factual matrix, it is directed that respondent No. 2/PSC shall consider the case of the petitioner for appointment on the post of Assistant Director, Industrial Health & Safety Department (Scheduled Caste category) in accordance with the rules prevailing when the advertisement was issued within one month from the date of receipt of copy of this order" निर्देशित किया गया है। चूंकि आयोग द्वारा तैयार की गई उक्त पद की अनुपूरक सूची में अभ्यर्थी श्री दिग्विजय दास सिरमौर (अ.जा. वर्ग) का नाम शामिल नहीं है। अतः उपर्युक्त स्थिति में निर्देशानुसार अभ्यर्थी श्री



दिविजय दास सिरमौर के अभिलेखों / दस्तावेजों की मांग किया जाना उचित प्रतीत नहीं होने के कारण भेजा जाना संभव नहीं है"

7. Learned Senior Counsel for the petitioner made submission that respondent Public Service Commission has not prepared the supplementary list / wait list and therefore, it is per se wrong. He has not made any submission to the effect that the petitioner herein was more meritorious than the candidates named in the select list / merit list. However, a copy of merit list prepared by the Public Service Commission is placed on record by petitioner, which he has obtained under the Right to Information Act, 2005. From the merit list it is clearly appearing that Pradeep Kumar Sonkar had secured 190.37 marks; Gopal Prasad Anant had scored 182.665 and score of petitioner is 175.75.
8. Case of Public Service Commission is specific that they have proceeded as per rules of procedure mentioning that 50% of the main list is to be kept in supplementary list / wait list. Indisputably, only one post of Assistant Director under scheduled caste category was advertised and 50%, if rounded off, will come to only 01. Even in the merit list / supplementary list name of only candidate could be mentioned and that candidate is Gopal Prasad Anant, who was above the petitioner in combined merit list.
9. There is a direction of the writ Court that candidate of petitioner is to be considered in accordance with the rules of



procedure prevailing. In the aforementioned facts of the case, in the opinion of this Court, there is substantial compliance on the part of respondents of the direction issued by writ Court in the order dated 11.10.2023, subject matter of this contempt petition.

10. In case of **Commissioner of Central Excise, New Delhi vs Hari Chand Shri Gopal and others, (2011) 1 SCC 236**, Hon'ble Supreme Court had considered the doctrine of substantial compliance and observed thus:-

"32. The doctrine of substantial compliance is a judicial invention, equitable in nature, designed to avoid hardship in cases where a party does all that can reasonably expected of it, but failed or faulted in some minor or inconsequent aspects which cannot be described as the "essence" or the "substance" of the requirements. Like the concept of "reasonableness", the acceptance or otherwise of a plea of "substantial compliance" depends upon the facts and circumstances of each case and the purpose and object to be achieved and the context of the prerequisites which are essential to achieve the object and purpose of the rule or the regulation. Such a defence cannot be pleaded if a clear statutory prerequisite which effectuates the object and the purpose of the statute has not been met. Certainly, it means that the Court should determine whether the statute has been followed sufficiently so as to carry out the intent for which the statute was enacted and not a mirror image type of strict compliance.



Substantial compliance means "actual compliance in respect to the substance essential to every reasonable objective of the statute" and the court should determine whether the statute has been followed sufficiently so as to carry out the intent of the statute and accomplish the reasonable objectives for which it was passed.

11. In case of **Bihar State Govt. Sec. Sci. Teachers Assn. Vs Ashok Kumar Sinha and others, (2014) 7 SCC 416** Hon'ble Supreme Court has observed thus:-

"19. At the outset, we may observe that we are conscious of the limits within which we can undertake the scrutiny of the steps taken by the respondents, in these Contempt proceedings. The Court is supposed to adopt cautionary approach which would mean that if there is a substantial compliance of the directions given in the judgment, this Court is not supposed to go into the nitty gritty of the various measures taken by the Respondents. It is also correct that only if there is willful and contumacious disobedience of the orders, that the Court would take cognizance. Even when there are two equally consistent possibilities open to the Court, case of contempt is not made out. At the same time, it is permissible for the Court to examine as to whether the steps taken to purportedly comply with the directions of the judgment are in furtherance of its compliance or they tend to defeat the very purpose for which the directions were issued."



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12. For the foregoing, no further proceeding in this contempt petition is required. Accordingly, this contempt proceeding is dropped, contempt notice stands discharged and the contempt petition is closed.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-