

(2009) 04 CHH CK 0014
In the Chhattisgarh High Court

Dharmendra Kumar Nirmalkar

APPELLANT

Vs

The State of Chhattisgarh, The Collector and The Chief
Executive Officer

RESPONDENT

Date of Decision : 22-04-2009

Acts Referred:

Constitution of India, 1950 — Article 311

Citation : (2009) 04 CHH CK 0014

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—Learned Counsel appearing for the petitioner seeks a writ/direction to quash the order dated 24.09.2008 (Annexure P/5) whereby the appointment of the petitioner on the post of Shiksha Karmi Grade III has been cancelled on account of the fact that the petitioner did not have the Higher Secondary Examination Pass Certificate. Shri Tulsyan further submits that since the petitioner was permitted to appear in the examination of B.A. Part III course, on the basis of Diploma Certificate in Electrical Engineering obtained from M.P. Board of Technical Education, Bhopal, the same is equivalent to Higher Secondary Examination Pass Certificate.

2. Smt. Ghai, learned Counsel appearing for the State/respondents 1 and 2 submits that the requisite qualification for appointment on the post of Shiksha Karmi Grade III is Higher Secondary Examination Pass Certificate, not any equivalent certificate. Admittedly, the petitioner is not in possession of Higher Secondary Examination Pass Certificate. Thus, the petitioner is not qualified for being considered for appointment on the post of Shiksha Karmi Grade III, even if he has obtained graduation degree in Arts from Guru Ghasi Das University. Thus, the decision of the respondent authorities is just and proper and needs no interference.

3. Shri Tulsyan further submits that there is violation of Article 311 of the

Constitution of India. There is no question of violation of Article 311 of the Constitution as the petitioner could not have been selected for want of requisite qualification. The petitioner does not have basic qualifications for appointment even if he has passed in the selection test conducted by the Board.

4. I have heard learned Counsel appearing for the parties, perused the pleadings and documents appended thereto.

5. It is a trite law that a candidate, even if, he is successful in the select list, has no indefeasible right to appointment. If the petitioner has no indefeasible right to appointment, no writ can be issued directing the respondents to give appointment to the petitioner or any other person. (See *Ludhiana Central Co-operative Bank Ltd. v. Amrik Singh and Ors.* and *Union of India and Ors. v. Kali Dass Batish and Anr.*).

6. Recently, in *S.S. Balu and Anr. v. State of Kerala and Ors.* the Supreme Court has observed that a person does not acquire a legal right to be appointed only because his name appears in the select list.

7. Even otherwise, it is an admitted position that the petitioner has not acquired the requisite qualification as required for appointment on the post of Shiksha Karmi Grade III. Further, the petitioner has failed to establish that the Diploma in Electrical Engineering is equivalent to that of Higher Secondary Examination Pass Certificate. Mere appearing in the selection process does not confer any right on the petitioner to be appointed on the post of Shiksha Karmi Grade III.

8. Applying the well-settled principles of law to the facts of the case and in view of the foregoing, the petition is dismissed. No order as to costs.