

(2025) 04 SC CK 0250

In the Supreme Court Of India

Case No : Civil Appeal No. 5478 Of 2025

Pawan Kumar Agrawal & Anr

APPELLANT

Vs

State Of Chhattisgarh & Ors

RESPONDENT

Date of Decision : 23-04-2025

Acts Referred:

Constitution of India, 1950 — Article 15(3)Chhattisgarh Lower Judicial (Recruitment and Conditions of Service) Rules, 1994 — Rule 6A

Citation : (2025) 04 SC CK 0250

Hon'ble Judges : B.R. Gavai, J;Augustine George Masih, J

Bench : Division Bench

Advocate : P.S. Patwalia, Anjani Kumar Mishra, Praveen Mishra, Rajesh Kumar Singh, Krishna Gopal Mishra, Saurav Sharma, Sunil Kumar Nema, B.S Rajesh Agrajit, Ankita Sharma, Arjun D. Singh, Nidhi Mittal, Dr. Harsh Pathak, Shaveta Mahajan, Mohit Choubey, Apoorv Kurup, Nidhi Mittal, Jaya Choudhary

Final Decision : Partly Allowed

Judgement

B.R. Gavai, J

1. Delay condoned.

2. Leave granted.

3. The present appeal challenges the judgment and final order dated 30th July 2019, passed by the Division Bench of the High Court of Chhattisgarh at Bilaspur (hereinafter referred to as, "High Court") in Writ Appeal No. 341 of 2019, whereby the High Court dismissed the appeal filed by the appellants thereby affirming the order dated 13th May 2019 rendered by the learned Single Judge of the High Court in Writ Petition (S) No.3620 of 2019.

4. The facts, in brief, giving rise to the present appeal are as under:

4.1 On 2nd April 2003, the Chhattisgarh State Public Service Commission issued Advertisement No.01/2003/Exam inviting applications for recruitment to the post

of Civil Judge, Class-II.

4.2 The appellants submitted their applications, participated in the examination as well as the interview. Thereafter, while preparing the final select list, the appellants who secured 127 and 125 marks respectively, were placed in the supplementary select list/waiting list, despite securing better marks than two women candidates.

4.3 Aggrieved thereby, the appellants filed Writ Petition No.1827 of 2004 before the High Court challenging the legality and validity of the selection on the ground that the selection under the reserved quota for women has been made in excess of the quota prescribed under Rule 6-A of the Chhattisgarh Lower Judicial (Recruitment and Conditions of Service) Rules, 1994 and Article 15(3) of the Constitution of India.

4.4 On 2nd May 2012, the Division Bench of the High Court allowed the writ petition and directed the appointment of the appellants, subject to the fulfilment of necessary formalities such as police verification etc., against the available vacancies for the post of Civil Judge (Junior Division). The High Court further held that the seniority of the appellants will be reckoned from the date of their appointment.

4.5 Consequently, the appellants were appointed on 8th July 2013 and confirmed on 4th December 2015.

4.6 Discontented by the fact that though the appellants were appointed pursuant to the selection process held in the year 2003, they were placed below the candidates selected in the year 2006, 2008 and 2012, the appellants made a representation before the Registrar General of the Chhattisgarh High Court claiming seniority over the candidate prior to 2006 batch on the ground that the Chhattisgarh Civil Services (General Conditions of Services) Rules, 1961 provides that seniority of the direct recruits shall be determined on the basis of order of merit irrespective of the date of appointment.

4.7 On 24th June 2016, the representation of the appellants was rejected by the Registrar General of the High Court stating that the order of the High Court in Writ Petition No.1827 of 2004 clearly states that the seniority will be determined from the date of appointment and the said order has attained finality.

4.8 Consequently, the appellants filed an application being MCC No.681 of 2016 in Writ Petition No.1827 of 2004 seeking clarification of the order dated 2nd May 2012.

4.9 On 28th September 2016, the Division Bench of the High Court dismissed the aforesaid application stating that the order dated 2nd May 2012 requires no clarification as it does not suffer from any ambiguity.

4.10 Aggrieved thereby, the appellants filed Writ Petition No.3620 of 2019 before the High Court seeking quashing of the letter dated 24th June 2016 issued by the

Registrar General of the High Court rejecting the appellants' claim of seniority.

4.11 On 13th May 2019, the learned Single Judge of the High Court rejected the writ petition of the appellants stating that the Division Bench of the High Court vide order dated 2nd May 2012 in Writ Petition No.1827 of 2004 had stated in categorical terms that the seniority of the appellants would be reckoned from the date of appointment. If the appellants were aggrieved by the said direction, they ought to have challenged the same at that point of time, which the appellants did not do. Therefore, the said direction issued by the Division Bench of the High Court has attained finality.

4.12 Discontented by the order of the learned Single Judge of the High Court, the appellants filed Writ Appeal No. 341 of 2019.

4.13 Vide impugned judgment and final order dated 30th July 2019, the Division Bench of the High Court dismissed the writ appeal stating that the Court is not in a position to deal with the said issue on merits since the order dated 2nd May 2012 stands till date and the review petition filed against the same also stands dismissed.

4.14 Aggrieved thereby, the appellants preferred an appeal to this Court by way of special leave.

4.15 It is to be noted that though candidates from the 2006, 2008 and 2012 batch were impleaded in representative capacity, no one has put in appearance on their behalf.

5. We have heard Shri. P.S. Patwalia, learned Senior Counsel appearing on behalf of the Appellants, Shri B.S. Rajesh Agrajit, learned Deputy Advocate General on behalf of Respondent No.1/State, Shri. Harsh Pathak, learned counsel appearing on behalf of the Respondent No.2 and Shri. Apoorv Kurup, learned Senior Counsel appearing on behalf of the Respondent No.3 at length.

6. Shri P.S. Patwalia, learned Senior Counsel appearing on behalf of the appellants, submits that the appellants, having been selected in the selection process of 2003, ought to have been granted seniority over all such candidates who were selected in pursuance to the subsequent selection process conducted in the years 2006, 2008 and 2012. He submits that, in any case, the appellants were entitled to seniority over the candidates who were appointed after the order of the Division Bench of the High court dated 2nd May 2012. It is, therefore, submitted that the appellants ought to have at least been placed above the batch appointed on 10th July 2012.

7. Per contra, learned counsel for the State submits that the order of the High Court dated 2nd May 2012 is clear. As per the said order, the seniority of the appellants was to be reckoned from the date of their appointment. It is submitted that though the order of the High Court was passed on 2nd May 2012, the same was challenged before this Court by way of Special Leave Petition ("SLP" for short) being SLP(C) No. 21673 of 2012 and after the said SLP was

rejected on 30th November 2012, the appellants were appointed on 8th July 2013. It is submitted that, in the meantime, the 2012 batch came to be appointed on 10th July 2012. It is thus submitted that since it is clear from the order of the High Court dated 2nd May 2012 that the appellants' seniority was to be reckoned from the date of their appointment, their seniority has rightly been considered from the date of their appointment i.e. from 8th July 2013. The said order having attained finality, it is now not open for the appellants to say that they ought to have been granted seniority with retrospective effect.

8. At the outset, we do not propose to go into the merits and demerits of the order passed by the Division Bench of the High Court dated 2nd May 2012, inasmuch as it has attained finality in view of the dismissal of the SLP by this Court vide order dated 30th November 2012. We would only consider as to from which date the appellants could be entitled to seniority in the cadre of Civil Judge (Junior Division).

9. Undisputedly, in the order dated 2nd May 2012, the Division Bench of the High Court has clearly observed as under:

"16. Thus, in the totality of the facts and circumstances of the case, we deem it appropriate to direct respondent No.1 to appoint the petitioners, subject to fulfillment of necessary formalities like police verification etc. against the available vacancies for the post of Civil Judge (Junior Division). The seniority of the petitioners will, however, be reckoned from the date of their appointment."

[Emphasis supplied]

10. It can thus be seen that the seniority of the appellants was to be reckoned from the date of their appointment. As such, we do not find merit in the claim of the appellants with regard to the grant of seniority vis-à-vis those candidates who were appointed prior to the date of the order of the High Court i.e. 2nd May 2012.

11. The only question that will have to be considered is. as to whether the appellants would be entitled to seniority over the batch of Judicial Officers who were appointed on 10th July 2012.

12. It is clear from the record that the writ petition filed by the appellants was decided on 2nd May 2012. As such, the State ought to have appointed the appellants within a reasonable time. Though the State had challenged the said order in an SLP before this Court, the order of the High Court was never stayed by this Court. Ultimately, the SLP came to be dismissed on 30th November 2012. Even thereafter, for a period of around 8 months, no action was taken by the State in issuing an order of appointment to the appellants.

13. Undisputedly, the 2012 batch was appointed on 10th July 2012 i.e., after a period of more than 2 months from the date of the order of the High Court. As already pointed out by us hereinabove, no one has appeared for the candidate from the 2012 batch of the Judicial Officers who was impleaded in the present

case.

14. We are of the considered opinion that the right to be appointed accrued to the appellants on the date of the order of the High Court i.e. on 2nd May 2012. The period between the date of the order of the High Court and the appointment of the batch of 2012 is more than 2 months. During the said period, the respondent-State could very well have fulfilled the necessary formalities like police verification, etc., and issued an order of appointment to the appellants.

15. We are, therefore, of the considered opinion that the delay in giving effect to the order of the High Court dated 2nd May 2012 by the State Government should not be permitted to act to the prejudice of the appellants. In this respect, we may gainfully refer to the order passed by this Court in the case of Pilla Sitaram Patrudu and others v. Union of India and others (1996) 8 SCC 637.

16. We are, therefore, inclined to partly allow the present appeal. Accordingly, we pass the following order:

(i) The appeal is partly allowed.

(ii) It is directed that in the seniority list, the appellants be shown senior to the Judicial Officers who were appointed on 10th July 2012.

17. In the facts and circumstances of the case, there shall be no order as to costs.