
(2009) 10 CHH CK 0052
In the Chhattisgarh High Court
Case No : Writ Appeal No. 168 of 2007

Pyarelal

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

Date of Decision : 30-10-2009

Acts Referred:

Citation : (2009) 4 CGLJ 480

Hon'ble Judges : Sunil Kumar Sinha, J; R.L. Jhanwar, J

Bench : Full Bench

Advocate : Punit Ruparel and Parag Kotecha, for the Appellant; A.S. Kachhawaha, Dy. A.G. for Respondents Nos. 1 and 2, Sumit Verma and Abhishek Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Sunil Kumar Sinha, J.—Being aggrieved with the order dated 11th July, 2007 passed in Writ Petition (S) No. 3896/07 by the learned Single Judge of this Court, the Appellant/ Petitioner has filed this writ appeal.

2. The facts, briefly stated are as under:

The Appellant/Petitioner made an application for appointment to the post of Panchayat Karmi in Gram Panchayat- Dhandongri, Tahsil Dongargarh, Distt. Rajnandgoan. As per contention of the Appellant, a resolution of the Gram Panchayat was passed on 25.10.2005 and the name of the Appellant was recommended for appointment to the post of Panchayat Karmi in the said Gram Panchayat.

The Appellant contended before the learned Single Judge that even after such recommendation of the Gram Panchayat by passing a resolution in his favour, the matter was not further processed and no appointment order was issued to him. Thereafter a communication dated 23.4.2007 was issued from the office of Chief Executive Officer, Janpad Panchayat, Dongargarh for undertaking the fresh selection process for appointment to the post of Panchayat Karmi in the said

Gram Panchayat. It is at this stage, the Appellant filed the writ petition and claimed for his appointment to the post of Panchayat Karmi and further claimed for quashing of the aforesaid communication dated 23.4.2007 filed as Annexure R-9 in the writ Appeal.

The learned Single Judge held that only by passing a resolution of Gram Panchayat in which the recommendations were made in favour of the Appellant, the Appellant would have no right to claim appointment to the said post. Taking this view, the writ petition filed by the Appellant/ Petitioner was dismissed.

3. Learned Counsel for the Appellant argues that the order passed by the learned Single Judge is bad in law. The learned Single Judge ought to have issued direction to the concerned authorities to issue appointment letter to the Appellant.

4. On the other hand, learned Counsel appearing on behalf of the Respondents oppose these arguments and support the order passed by the learned Single Judge.

5. A perusal of Annexure R-9, which is challenged in the writ petition, would show that since the process undertaken for appointment to the post of Panchayat Karmi was not in accordance with law, therefore, the appointment order was not issued and it was directed that fresh selection should be made keeping in mind the guidelines contained in the "Panchayat Karmi Yojna" and the directions issued in this regard.

6. It is well settled in many decisions of the Supreme Court that even if the name of a person finds place in the selection list prepared for the purposes of appointment to a particular post, the said person has no right to get appointment on the said post in spite of the fact that the vacancies still exist on the date of claiming of appointment.

7. In the present case, though the process undertaken by the Gram Panchayat for appointment of the Appellant to the post of Panchayat Karmi was found to be faulty by the Janpad Panchayat, Dongargarh, but even if we hold that the Appellant was selected by the Gram Panchayat and his selection was proper as per resolution of the Gram Panchayat, he will have no right to claim issuance of appointment letter in his favour. The learned Single Judge relying on the decisions of the Apex Court rendered in the matters of Shankarsan Dash Vs. Union of India, ; Ludhiana Central Co-operative Bank Ltd. Vs. Amrik Singh and Others, and Union of India (UOI) and Others Vs. Kali Dass Batish and Another, has taken this view which appears to be reasonable view in the matter. Had there been a case in which a person down in the list would have been given appointment in place of the Appellant, then only the Appellant would have been a right to claim appointment on the basis of his better position in the selection list. But there is no such situation in this case. Here the process of selection undertaken by the Gram Panchayat was not approved by the Janpad Panchayat. Therefore, in such a situation the Appellant would have no right to claim

appointment on the said post.

8. We do not find any illegality or infirmity in the order passed by the learned Single Judge.

9. The appeal has no merits; the same is liable to be dismissed and is hereby dismissed.

10. There shall be no orders as to cost.