

(2011) 01 CHH CK 0055

In the Chhattisgarh High Court

Case No : Writ Petition No's. 5565 and 5909 of 2010

Ram Ashish Shrivastav and Others

APPELLANT

Vs

State of Chhattisgarh and Another

RESPONDENT

Date of Decision : 21-01-2011

Acts Referred:

Citation : (2011) 1 CG.L.R.W. 204 : (2011) 129 FLR 466

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Satish K. Agnihotri, J.—W.P. (S) Nos. 5565 & 5909 of 2010, involve the same question of law and common facts and, as such, they are being disposed of by this common order.

2. Being aggrieved by the decision of the Respondent--Public Service Commission (for short "PSC") whereby the candidature of the Petitioners has been rejected on the ground that the Petitioners were not in possession of certificate of passing of National Eligibility Test (for short "NET").

3. Shri Goverdhan and Shri Shrivastava, learned Counsel appearing for the Petitioners, submit that the last date for filing of application, pursuant to the advertisement dated 15.5.2009 was 22.6.2009. The Petitioners had acquired NET certificate of passing, which is a pre-condition for making application for selection and appointment on the post of Assistant Professor (Law). Learned Counsel further submit that the important information published in the advertisement clearly indicate that the candidate making OMR application was not required to produce any document/certificate in original or photocopy. Accordingly, no certificate was filed. The Petitioners participated in the written examination and they were declared ineligible on the alleged ground that they were not having NET certificate on the date when they had made applications. Learned Counsel also submit that the Respondent authorities have mixed up with the requirement

of possessing qualification on the date of submission of application or having possession of certificate of the passing of required qualification. There is no dispute that on the date, the applications were made, the Petitioners had passed NET, but were not in possession of the certificate and on that ground the Petitioners could not have been declared as ineligible candidates for want of possession of certificate.

4. Learned Counsel placed reliance upon decision of the Supreme Court rendered in Dolly Chhanda Vs. Chairman, JEE and Others, and the decision of this Court rendered in Shweta Pandey v. State of Chhattisgarh and Anr., WP (S) No. 5297 of 2010 (decided on 20.11.2010), wherein the identical issue was involved.

5. Shri Agrawal & Shri Guru, learned Counsel appearing for the Respondent -- PSC, support the action of the Respondent PSC that the proof of eligibility qualification was necessary before the last date of submission of application.

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

7. I have perused the advertisement wherein it is provided that before the date of making application i.e. 22.6.2009 a candidate should have NET passing certificate conducted by the UGC or CSIR or SET conducted by the States under J Clause 3.1 (b). There was no requirement of production of certificate either along with the application form or before the last date of making application.

8. It is clear from Clause (6) of "the important informations", which was specially published in the advertisement itself stated that no original or photocopy of any document was required to be annexed with OMR application. Accordingly, the application was made by the Petitioners. It is indisputable that the Petitioners had passed NET before making the application and the rejection of the candidature on the above-stated ground from any angle is not sustainable.

9. The Supreme Court in Dolly Chhanda (supra) observed as under:

7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of

candidature.

10. This Court also in Shweta Pandey (supra) observed that possession of certificate is not a pre-condition before making the application.

11. For the reasons mentioned hereinabove, the decision of the PSC declaring the Petitioners as ineligible candidates on the ground that they were not in possession of NET certificate, though they had passed the NET before the last date for submitting the application forms, is rejected. Accordingly, the PSC is directed to declare the result of the selection process in accordance with the select list, in respect of the Petitioners.

12. In the result, both the writ petitions are allowed. No order as to costs.