
(2013) 02 CHH CK 0030
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 265 of 2012

Santosh Kumar

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 04-02-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 16(1), 226

Citation : (2013) 2 CGBCLJ 81 : (2013) 1 CGBCLJ 455 : (2013) 4 CGLJ 371 : (2013) 3 CGLJ 112 : (2013) LabIC 1285 : (2013) 2 MPHT 111 : (2013) 3 MPJR 111

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Division Bench

Advocate : Malay Shrivastava, for the Appellant; Y.S. Thakur, D.A.G. for the State, for the Respondent

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J.—In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for quashment of the order Annexure P-1 whereby the Chhattisgarh Public Service Commission has informed the Labour Department of Government of Chhattisgarh that the petitioner's case for appointment on the post of Assistant Director, Industrial Health and Safety on the strength of inclusion of his name in the waiting list cannot be allowed as it would amount to filling up of posts over and above the advertised number of posts. Petitioner has also sought quashment of the consequent Letter of Requisition (Annexure P-2) sent by the Labour Department Government of Chhattisgarh to the Public Service Commission for filling up 10 posts of Assistant Director, Industrial Health and Safety. In the year 2008, the Public Service Commission initiated process of recruitment for filling up 4 posts of Assistant Director, Industrial Health and Safety by issuing advertisement dated 27th March, 2008. The selection process was completed and the select list was published for all the 4 posts on 21.12.2010. The petitioner was placed at Serial No. 4 in the merit list, however, since only two posts were to be filled up in

unreserved category and he was placed at Serial No. 3 amongst the unreserved candidates, he could not be appointed.

2. Learned counsel for the petitioner would submit that 10 number of posts for which the letter of requisition has been sent by the department to the Public Service Commission fell vacant in October and March 2011 i.e., during the period when the waiting list was alive, the respondent department is under legal obligation to appoint the petitioner on the post of Assistant Director, Industrial Health and Safety and fresh recruitment cannot be held.

3. It is settled law that the appointing authority is not empowered to fill up any additional posts than the number of posts which were advertised for recruitment. In *Rakhi Ray and Others Vs. The High Court of Delhi and Others*, , it has been held that the appointment made beyond number of vacancies advertised is without jurisdiction being violative of Articles 14 and 16(1). It has further been held therein that the process of selection comes to an end with filling up of notified vacancies and that waiting list cannot be used as a reservoir to fill up vacancies which come into existence after issuance of advertisement. It is also held therein that the unexhausted select list/waiting list becomes meaningless and cannot be pressed into service any more. Similar is the law laid down in the matter of *Arup Das and Others Vs. State of Assam and Others*, . For the foregoing reasons, there is no substance in the writ petition which fails and is hereby dismissed.