

(2009) 10 CHH CK 0018
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 5547 of 2009

Tikelal Sahu and Others

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 23-10-2009

Acts Referred:

Citation : (2009) 4 MPJR 152

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—With the consent of learned counsel appearing for the parties, the petition is heard finally

2. The petitioners, by this petition, pray for issuance of direction to the respondent-authorities for grant appointment to the petitioners to the post of Shiksha Karmi Grade-III), Janpad Panchayat Pithora, District Mahasamund on the ground that they are in waiting list.

3. Learned counsel appearing for the petitioners submits that pursuant to the advertisement issued by the respondent-authorities the petitioners along with other candidates applied for the post of Shiksha Karmi Grade -III. Thereafter, the petitioners along with some other candidates were found selected in the selection process. The authorities issued the appointment orders in respect of some candidates, however, the selection process has been cancelled after receipt of some complaints and the services of the appointed candidates have also been terminated. Being aggrieved by the said action, some candidates approached this Court and pursuant to the orders passed by this Court they have been reinstated. However, in spite of the fact that there are several posts lying vacant, the respondents are not issuing the appointment orders in respect of the present petitioners, who were in the waiting list. The petitioners have made several representations, but the same have not been considered till date. Therefore, the

respondent-authorities may be directed to issue the appointment orders in favour of the petitioners within a stipulated period. In support of his contention, learned counsel appearing for the petitioner placed reliance upon the decision of the Supreme Court rendered in *B.S.N.L. & Ors. Vs. Abhishek Shukla & Anr.* AIR 2009 SCW 3075.

4. The decision rendered by the Supreme Court in *B.S.N.L. (supra)*, cited by learned counsel appearing for the petitioners is not relevant to the facts of the present case.

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

6. In *Ludhiana Central Co-operative Bank Ltd. Vs. Amrik Singh and Others*, the Supreme Court observed that "even otherwise, it is well settled by now that a person whose name is said to find place in a select panel/waiting list has no vested right to get appointed to the post in spite of vacancies existing."

7. In *Union of India (UOI) and Others Vs. Kali Dass Batish and Another*, , the Supreme Court observed that "mere inclusion of a candidate's name in the selection/waiting list gave him no right, and if there was no right, there could be no occasion to maintain a writ petition for enforcement of a non-existing right".

8. Further, in *K. Jayamohan Vs. State of Kerala and another*, the Supreme Court observed as under:

5. It is settled legal position that merely because a candidate is selected and kept in the waiting list, he does not acquire any absolute right for appointment. It is open to the Government to make the appointment or not. Even if there is any vacancy, it is not incumbent upon the Government to fill up the same. But the appointing authority must give reasonable explanation for non-appointment. Equally, the Public Service Commission/recruitment agency shall prepare waiting list only to the extent of anticipated vacancies. In view of the above settled legal position, no error is found in the judgment of the High Court warranting interference.

9. This Court in *Rajesh Kumar Dewangan v. The Life Insurance Corporation of India & Others* 2007 (3) MPHT 22 (CG) held that "the petitioner does not acquire an indefeasible right to be appointed on the post of Assistant pursuant to his selection" and that "no direction can be given to issue appointment letter to the petitioner though he has come out successful in the selection process.

10. Applying the well-settled principles of law to the facts of the case on hand where the petitioners claim right to appointment, on the basis of their names, being in the waiting list, the petitioners are not entitled to any relief. Accordingly, the writ petition is dismissed at the motion stage itself.