
(2010) 05 CHH CK 0002
In the Chhattisgarh High Court
Case No : Writ Appeal No. 130 of 2010

Uttara Kumar Yadav

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 06-05-2010

Acts Referred:

Chhattisgarh Panchayat Shiksha Karmis (Recruitment and Conditions of Service)
Rules, 1997 — Rule 5

Citation : (2010) 05 CHH CK 0002

Hon'ble Judges : Prashant Kumar Mishra, J; I.M. Quddusi, J

Bench : Full Bench

Judgement

I.M. Quddusi, J.—Heard finally with the consent of counsel for the parties.

2. This writ appeal has been filed against the impugned order dated 30th March, 2010 passed by the learned Single Judge in W.P.(S). No. 5558/2008 dismissing the writ petition.

3. The writ appellant was appointed as Shiksha Karmi Grade-III on 20th July 2007 on probation of 3 years by the respondent Janpad Panchayat, Nawagarh. On 16.02.2008 when he was working as Shiksha Karmi-III, he received a show cause notice to explain the allegations levelled against him regarding submission of fake documents enclosed along-with his application for the recruitment of Shiksha Karmi Grade-III. The writ appellant came with reply that no fake document was submitted by him. Thereafter, the District Education Officer came to conclusion that there was no mention of the experience certificate in the records and as such the experience certificate was a fake document. The matter was referred to the Collector, who vide order dated 25.8.2008, found that the experience certificate issued in favour of the writ appellant was a genuine document, but the Collector has cancelled his appointment by the same order on the ground that he was not having minimum 8 months teaching experience. In fact, the Selection Committee was constituted to make selection of Shiksha Karmi Grade-III in accordance with the rules namely Chhattisgarh Panchayat

Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1997.

4. Rule 5 provides for methods of selection and Recruitment. Clause (1) of Rule 5 further provides that Recruitment to the cadre of Shiksha Karmis after the commencement of these rules shall be made by direct recruitment by Selection as well as by promotion as specified in Schedule IV. Clause (9) of Rule 5 further provides allotment of marks by the Evaluation Committee after scrutiny of the applications of candidates as contained in Sub-clause (b) thereof. Sub-clause (b) of Clause (9) of Rule 5 is relevant here and quoted below:

Maximum 12 marks for teaching experience in Shiksha Guarantee Scheme Center, Janbhagidari Schools, D.P.E.P. Alternative Schools, Non-formal Education Center, cent-percent aided State Government and in village schools recognized by the Jandpad Panchayat & Zila Panchayat on the following basis:

1. Experience of one year - 5 marks. 2. Experience of two years - 8 marks 3. Experience of three years - 12 marks

(Minimum of 8 months teaching session will be considered as one year).

5. A bare perusal of the provisions of Rule 5 would show that Sub-clause (b) of Clause (9) thereof provides for method for awarding the marks for teaching experience, according to which, 5 marks to be awarded to teaching experience of one year, but minimum of 8 months teaching session will be considered as one year, meaning thereby that in case a candidate is having 8 months teaching session, he will be given 5 marks, which is meant for one year experience.

6. The learned Deputy Advocate General appearing on behalf of the State/respondent 1 & 2 submits that in fact the writ appellant submitted a certificate having only six months of experience. The selection Committee has wrongly awarded him 5 marks counting one year experience and that is why he was not to be appointed as Shiksha Karmi and therefore, the selection was cancelled by the Collector.

7. We have perused the records of the writ appeal as well as writ petition.

8. In fact, a certificate was issued on 24.03.1998 signed by 5 authorities namely Centre Head Master (Kendra Pradhan Pathak) Govt. Primary School, Hathadadu; Head Master (Pradhan Pathak), Primary School, Kharhari; Sarpanch, Gram Panchayat, Nandal, Vikas Khand Nawagarh (Durg); Block Education Officer, Nawagarh, District Durg etc., in which, it was mentioned that the writ appellant worked as Shiksha Karmi Grade III from taking over the charge that is dated 24.10.1997 till his relieving at Kharhari that is upto 30th April, 1998. This certificate was signed in the month of March whereas in the said certificate, it was mentioned that he worked till 30th of April, 1998 meaning thereby that when the certificate was signed by the said officers, he was not relieved and that is why we feel that on the basis of their usual practice that the session comes to an end on 30th April, the certificate dated 30th April 1998 was issued but, in fact, he worked there at Kharhari till 01.08.1998 as appeared from certificate

issued on 11.12.1999 (Annexure P-3) which was signed by 4 officers and approved by Chief Executive Officer on 08.01.2007.

9. Learned Counsel for the writ appellant has submitted that while making application for participation in selection of Shiksha Karmi Grade III, in question, the writ appellant has specifically stated that he worked till 01.08.1998 and was having more than 8 months experience. As that certificate was not available at that time whatever was available was submitted by the appellant. It also appears that the Selection Committee accepted the statement of the petitioner giving him 5 marks of teaching experience and treating his experience as more than 8 months and thereafter he was given appointment as Shiksha Karmi Grade III on being found selected for the same. After getting the appointment, the writ appellant started working and at this juncture, after one year from the date of appointment, the order of Collector cancelling the appointment on the ground that the appellant was not having sufficient experience to award 5 marks would not be proper if in fact the writ appellant was at Kharhari from 24.10.1997 to 1.08.1998 as mentioned in the certificate issued by the aforesaid 5 responsible officers. Therefore, it was necessary for the Collector to get verification before passing the order as to whether the writ appellant had actually worked as Shiksha Karmi Grade-III for more than 8 months in primary school Kharhari, Kendrasala Hathadadu. If on conducting enquiry he would have found that the writ appellant was having more than 8 months experience, there was no question to cancel his appointment.

10. Therefore, we allow this appeal in part and set aside the impugned order dated 30th of March, 2010 passed by the learned single judge as also the order dated 25.8.2008 canceling the appointment of appellant passed by the Collector and remit the matter back to the Collector.

11. The Collector shall conduct an enquiry to ascertain the fact whether the writ appellant was having more than 8 months experience at the time when the selection was conducted. If it is found that he was not having sufficient experience, he may pass orders accordingly. In case it is found that he was having experience for more than 8 months and the selection committee has rightly awarded 5 marks to him, he shall be reinstated forthwith in service. However, with regard to back wages and other benefits, the same shall be decided by the Collector himself as we are not inclined to interfere in that regard.

12. With the aforesaid direction/observations, this writ appeal stands disposed of at the admission stage itself.