



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPS No. 3606 of 2021

Umesh Chandra Deshmukh **Versus** Chhatisgarh Public Service Commission

WPS/3909/2022,WPS/4026/2021,WPS/4173/2021,WPS/3842/2021,WPS/3872/2021,WPS/3766/2021,WPS/3951/2021,WPS/3469/2021,WPS/4153/2021,WPS/3976/2022,WPS/3968/2021,WPS/3898/2022,WPS/3940/2021,WPS/4004/2021,WPS/3962/2021,WPS/3789/2021,WPS/3952/2021,WPS/3862/2021,WPS/3966/2021,WPS/3616/2021,WPS/4096/2021,WPS/3722/2021,WPS/4157/2021,WPS/3785/2021,WPS/3788/2021,WPS/3946/2021,WPS/3960/2021,WPS/3884/2021,WPS/3901/2021,WPS/3845/2021,WPS/3959/2021,WPS/3572/2021,WPS/3859/2021,WPS/3855/2021,WPS/3906/2022,WPS/3714/2021,WPS/3433/2021, 5865/2022

15/09/2022	Shri Sunil Otwani along-with Vinod Kumar Pandey, Shri B.P.Singh, Shri R.K. Gumasta, Shri Sunil Sahu, Shri C.Jayant K. Rao, Shri Shobhit Mishra, Shri Vaibhav Shukla, Shri Ghanshyam Kashyap, Advocate for the respective petitioners. Shri Anurag Dayal Shrivastava, Shri Vinod Kumar Sharma and Shri Gopal Prasad Mathur, counsel for the respective intervenors. Shri Sandeep Dubey, Dy. A.G. and Ms. Sunita Jain, G.A. for the State. Shri Anand Mohan Tiwari, Advocate for the P.S.C. <u>In W.P.(S) No. 3572/2021</u> The petitioner Komal Nandanwar has filed W.P.(S) No. 3572/2021 claiming that she is postgraduate in M.Sc. (Forestry & Wild Life), also qualified in the NET examination conducted by ASRB on behalf of ICAR which is recognized by UGC (Annexure P-1) and applied for the appointment on the post of Assistant Professor Botany (vide Advertisement dated Annexure P/2). She was not allowed to participate in the interview, therefore, she has filed petition and prayed for issuance of direction to respondent no.3 to consider her candidature and declare her eligible for the post of Assistant Professor (Botany). This court has passed an order on 23/07/2021 which reads as under :- “Considering the fact that the respondent have permitted another candidate with the same qualification from the same recruitment and also for the same post further also taking note of the NET



that the petitioner has cleared under the department of agriculture scientist recruitment board which is duly reorganized by university grant commission as also by the counsel for scientific and Industrial Research (CSIR) as would be evident from the documents / certificate of clearing NET, prima facie a strong case has been made out by the petitioner for grant of interim relief.

Accordingly, the respondents are directed to keep one post of Assistant Professor(Botany) to the category to which the petitioner belongs vacant till the next date of hearing”.

In W.P.(S) No. 3616/2021

1. In case of Jayant Kumar Rajwade Vs. State of Chhattisgarh, this court has passed the following order on 14/07/2021

“Meanwhile the respondents / state also are directed to ensure that appointments to 16 post of Assistant Professor in the Botany subject shall be kept vacant till the next date of hearing”.

In W.P(S) No. 3606/2021

1. In case of Umesh Chandra Desmukh, W.P(S) No. 3616/2021(Tumesh Kumar Gendley), W.P(S) No. 3898/2022(Vijay Shankar Patre), W.P(S) No. 3906/2022 (Dileshwar Prasad), W.P.(S) No. 3909/2022 (Raghvendra Kuamr Dewangan) and W.P(S) No. 3976/2022 (Ranjana Singh), the candidates have done M.Sc. (Botany) and also cleared NET in Botany and they are fully eligible for consideration on the post of Assistant Professor (Botnay). The Public Service Commission has conducted the written examination and Interview in pursuance of the merit list of the Assistant Professor (Botany). The candidates namely Vijay Shankar Patre scored 168.5265 in W.P.(S) No. 3898/2022), Dileshwar Prasad have scored 183.3319 in W.P.(S) No. 3906/2022), Raghvendra Kumar Dewangan scored 184.5815 in W.P.(S) No. 3909/2022, Ranjana Singh scored 193.4427 in W.P.(S) No. 3976/2022, they are duly selected candidates but in pursuance of order passed by this court in W.P.(S) No. 3572 / 2021 one post is lying vacant.



In W.P.(S) No. 3572/2021

1. In case of Komal Dewangan who did M.Sc. (Forestry & Wild Life) this court has to examine whether M.Sc. (Forestry & Wild Life) is equivalent to M.Sc. (Botany) and whether she is eligible to be considered for appointment on the post of Assistant Professor (Botany).
2. In view of the order passed by this court on 28/07/2022 the respondent / State has constituted an expert Committee on 16/08/2022, it may take some time to take decision. Therefore, let the appointment order of duly selected candidates who are petitioners namely Vijay Shankar Patre, Dileswar Prasad, Raghvendra Kumar Dewangan and Ranjana Singh be issued which will be subject to final outcome of the petition. In the appointment order it may specifically be mentioned that the appointment order will be subject to final outcome of this petition. It is made clear that if it is found that the petitioner in W.P.(S) no. 3572/2021 is also eligible, this court shall consider and pass an appropriate order for giving protection to the petitioner and several candidates who did M.Sc. in Forestry Science, have also been appointed in place of Assistant Professor "Botany".
3. In W.P.(S) No. 3616/2021, the intervenor namely Tomeshwar Singh Sahu, in (W.P.(S) 3606/2021 Smt. Deepika Mahobia, Smt. Rachna Choudhary, Pankaj Kumar, Chandresh, Smt. Khushi Dewangan, Ms. Manisha Sidar and Guleshwar Singh have filed an application for permission to intervene on the pretext that they are having requisite qualification as prescribed in the advertisement as they have done M.Sc. (Botany) and also cleared the NET examination in (Botany subject), they are fully eligible and after interview they have been selected but In view of the interim order passed by this court the appointment order of the petitioner in W.P.(S) No. 3572 of 2021, W.P.(S) 3606



of 2021 and 3616 of 2021 and also intervenor have not been issued. As such, they be given opportunity to participate in the proceedings. Considering the submission that if any adverse order is passed the interest of the intervenor will be adversely effected, therefore, intervention application is allowed.

4. Accordingly the interim application for vacating the interim order is allowed and the order passed by this court on 14/07/2021 by which the respondent / state is directed to ensure that appointment to 16 posts of Assistant Professor in the Botany subject, shall be kept vacant till next date of hearing and it is directed that appointment order of the duly selected candidates as detailed in forgoing paragraphs of the order be issued that will be subject to final outcome of the petition.

In W.P.(S) 3469/2021

Learned counsel for the petitioner would submit that the petitioner has submitted representation to the Secretary Higher Education, Government of Chhattisgarh and Public Service Commission regarding his grievances about his eligibility contending that the degree obtained by the petitioner from the foreign University falls within the ambit of essential qualification.

Learned counsel for the State would submit that they have already called the record from the Public Service Commission with regard to the subject matter for which equivalence was sought. Let the petitioner move an application before the Committee which has been constituted vide notification dated 16.08.2022 to substantiate his grievances before the committee. The petitioner is directed to appear before Committee constituted by the Government of Chhattisgarh on 16.08.2022 and raised all his submission.

The Secretary, Higher Education Department is directed to forward entire papers to the Committee relating to the petitioner which has been constituted vide notification dated 16.08.2022.



In W.P.(S) 5865/2022 & W.P.(S) 4026/2021

Learned counsel for the petitioner would submit that the respondent No. 4- Bharti Gajendra who did M.Tec. (electronic and Tell-Communication) has applied on the post of Assistant Professor (Physics) and she was allowed to participate through P.S.C. but she did not call for interview therefore she has filed a petition bearing WPS No. 4026 of 2021 wherein the Coordinate Bench of this Court has passed the interim relief order on 29.07.2021 which reads as under:

“Meanwhile, let one post in the category to which the petitioner has applied for a post of Assistant Professor (Physics) be kept vacant till the next date of hearing”.

Thereafter, P.S.C. after completion of selection process has declared the result of selected candidates and published the list through Internet as per prescribed under the rules of 2014. The learned counsel for the P.S.C. would refer to the Chhattisgarh Public Service Commission Rules of procedure 2014, wherein the Rule 56.15 provides that the all examination / selection results and other examination related information shall be issued through only the commission's website and would submit that in view of this provision they have published the result in net, therefore, all the results are in public domain and there is no hide. The counsel for the petitioner would submit that since the result, has been published in the website from where the petitioner has received the information that the petitioner who belongs to OBC(female) has secured 190.146 marks wherein the petitioner- Bharti Ghajendra who also belongs to OBC(female) in WPS No. 4026 of 2021 has secured 180.1475 marks as such she has secured less marks than the selected candidate i.e. petitioner in W.P.(S) No. 5865/2022.

Learned counsel for the petitioner would submit that the petitioner belongs to OBC(female) and has done M.Sc.(physics) and she has secured higher marks than the petitioner Bharti Gajendra in W.P.(S) No. 4026/2021, therefore, she should be considered for appointment. Since the petitioner in WPS No. 4026/2021 has secured less marks to the last selected candidates then no fruitful purpose would be served to continue with the interim order passed by this Court. Accordingly, the interim order dated 29/07/2021 is vacated and it is directed that the appointment order of the petitioner Juhee Dewangan be issued and the said



appointment order will be subject to final outcome of the petition.

In W.P.(S) 3951/2021

This Court has passed the interim order on 29.07.2021 which reads as under:

“Meanwhile, let one post in the category to which the petitioner has applied for a post of Assistant Professor (Physics) be kept vacant till the next date of hearing”.

Thereafter, P.S.C. after completion of selection process has declared the result of selected candidates and published the list through Internet as per prescribed under the rules of 2014. The learned counsel for the P.S.C. would refer to the Chhattisgarh Public Service Commission Rules of procedure 2014, wherein the Rule 56.15 provides that the all examination / selection results and other examination related information shall be issued through only the commission's website and would submit that in view of this provision they have published the result in net, therefore, all the results are in public domain and there is no hide. The counsel for the P.S.C. would submit that since the result has been published in the website from where it is reflected that petitioner has secured 100.1482 percent and has found not eligible for appointment on the post of Assistant Professor (Physics). Since the petitioner is not found eligible to be considered for appointment, no fruitful purpose would be served to continue with the interim order passed by this Court.

Accordingly, the interim order dated 29/07/2021 is vacated. It is directed that the appointment order of candidate who stood in the merit position of selection list to the category which petitioner belongs be issued and in the said appointment order, it must be mentioned that appointment order shall be subject to final outcome of the petition.

List the bunch of all cases on 15/11/2022.

Sd/-

(Narendra Kumar Vyas)

Judge