

Budhram Vs State Of Chhattisgarh And Ors

Court: Chhattisgarh High Court

Date of Decision: Sept. 12, 2018

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Ravi Maheshwari, DK Wankhede, YS Thakur

Final Decision: Allowed/Disposed Of

Judgement

P. Sam Koshy, J

1. The challenge in this petition is to the order dated 03.01.2009 (Annexure P/1) whereby the respondent No.5 has been granted appointment under

the respondent No.2 on the post of Carpenter.

2. Brief facts of the case is that the respondents had issued an advertisement on 14.08.2008 (Annexure P/5) calling applications for filling up of the

different posts. One such post was that of Carpenter. There was only one post of Carpenter advertised and which was from unreserved category.

The minimum qualification prescribed under the advertisement was that the candidate should have Govt. ITI training certificate or should have five

years working experience. The petitioner being an eligible for participating in the said post had applied for the same. However, he was not called for

interview and subsequently the respondent No.5 was granted appointment. It is this order of appointment of the respondent No.5 which is under

challenge in the present petition.

3. The contention of the petitioner is that the respondents have malafidely not considered the claim of the petitioner for the said post and have shown

favour in granting appointment to the respondent No.5. According to petitioner, the respondent No.5 does not fulfill the minimum eligibility criteria

fixed as is evident from the advertisement, yet he has been granted appointment. The petitioner has relied upon an information provided by the

department under Right to Information Act so far as the experience certificate is concerned which certifies that the respondent No.5 had an

experience of about nine months. He submits that there is no other substantive material available with the respondents to determine the experience of

the respondent No.5. On the contrary, the petitioner was a candidate who had undergone five years ITI training and he also had experience of more

than what the respondent No.5 had, but for the reasons best known, the candidature of the petitioner was not considered by the respondents and

respondent No.5 has been granted appointment on 03.01.2009.

4. The counsel for contesting respondent No.2 submitted that the case of the petitioner was not considered on the ground that the petitioner did not

have live registration certificate from the concerned employment exchange.

5. The said ground of the respondent No.2 may not be sustainable for two reasons. Firstly, the writ petition itself is supported with a document

Annexure P/5 of the petitioner which clearly shows that the petitioner did have a live registration certificate with the employment exchange. Thus, the

ground so raised by the respondent No.2 is not sustainable. Moreover, the requirement of live registration certificate has been held to be bad in law by

this court in any sort of employment. The recent being Full Bench decision of this High Court in case of State of Chhattisgarh & Anr. Vs. Roshini

Sahu, Writ Appeal No. 411 of 2014, decided on 21.10.2016.

6. In the light of the Full Bench decision of this court wherein it has been held that the condition of requirement of live registration certificate from the

employment exchange is illegal, insisting for the same by the respondents, if any, is also not sustainable. Though in the present case the petitioner, it

appears did have a live registration certificate as per Annexure P/5 of the writ petition.

7. So far as the experience of the petitioner as compared to the respondent No.5 is concerned, that would be a matter of subjective verification of the

authorities who would have to conduct the comparative assessment of the documents produced by the petitioner to be compared with the document

which the respondent No.5 has provided at the time of his employment. Non consideration of the petitioner therefore seems to be bad in law and

therefore deserves to be held as illegal and arbitrary.

8. The writ petitioner therefore is allowed. Let the respondent authorities call for the petitioner for interview and subject him to interview and

thereafter if he is found eligible and has all other requisite qualification as is reflected in the advertisement dated 14.08.2008 and is better placed than

the respondent No.5, then the petitioner would be considered for employment.

9. Needless to mention that at the same time the respondent No.2 shall also make a comparative assessment of the merits of the petitioner as

compared to the respondent No.5 and thereafter pass an order. Meanwhile, the employment of the respondent No.5 stands protected. Further, in case

if the petitioner is found more meritorious then he would have to be given an order of appointment.

10. The writ petition thus stands allowed and disposed of.