

(2018) 08 CHH CK 0050

Chhattisgarh High Court

Case No: Writ Petition No. 604 Of 2018

Pramod Kumar Sahu And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Aug. 1, 2018

Hon'ble Judges: Ajay Kumar Tripathi, CJ; Prashant Kumar Mishra, J

Bench: Division Bench

Advocate: Sharad Mishra, S.K. Kushwaha, Y.S. Thakur

Final Decision: Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. The appellants filed writ petition before this High Court seeking a direction upon the respondent State authorities to appoint them on the post of

Surveyor. An advertisement in this regard was issued on 2-3-2017 and examination for such selection was conducted by the Chhattisgarh Professional

Examination Board.

The appellants participated and qualified in the written examination, however, they have been eliminated on the ground that they do not have the

minimum qualification prescribed, which is the eligibility or requirement in the advertisement.

2. The appellants are supposed to be the holders of Diploma in Civil Engineering and one of the subjects taught to them is Surveyor course, therefore,

the stand of the appellants before the writ Court was that their qualification is at par with a certificate in Surveyorship from a recognised Industrial

Training Institute (ITI), if not better.

3. This line of argument, however, was not accepted by the learned Single Judge primarily on the ground that there is a set of rules which are in vogue

where the eligibility and qualification have been duly prescribed. The advertisement so issued for recruitment of Surveyors is in conformity with the

said rule and since the rule does not talk of any other qualification by way of equivalence, therefore, the requirement in terms of the rule and

advertisement will be the benchmark for eligibility.

4. The learned Single Judge has further taken note of series of decisions of the Hon'ble Supreme Court where the basic principles were considered.

The underlying factors in such recruitment is that the employer is the best judge as to what he is looking for and for which the necessary rules are

already in place. The eligibility cannot be expanded by writ Courts by finding equivalence or similarity in courses or skill over and above the rules.

5. Since the respondent authorities were bound by their own rules as to the eligibility which is 10+2 with a certificate in Surveyorship from a

recognised ITI, the stand taken by them that they did not want or would not like to include other degrees or diploma which may be of higher order

cannot be faulted with.

6. Certain amount of discretion in recruitment is required to be given to an employer as he knows the best as to the kind of manpower and skill he is

looking at in such recruited persons and if that has been codified by way of a statute or a set of rule then the Court cannot direct the respondent

authorities to read something more than what has been prescribed therein.

7. In this background, we are not impressed by the line of argument made on behalf of the appellants that Diploma in Civil Engineering is at par or that

there is an inherent presumption that all those who have done Diploma in Civil Engineering having one subject in Surveyor should be treated at par

with a certificate of Surveyor recognised by ITI. Or that they are ITI certificate holders, since in terms of the Chhattisgarh Lateral Entry Rule for

Diploma - 2016 people are granted admission in Diploma course directly into 3rd semester, only if they pass out of ITI.

8. The analogy cannot be drawn as well as read into the requirements of the Rule or the advertisement.

9. As a sequel, the writ appeal, sans merit, is liable to be and is hereby dismissed.