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KUMAR VATTI



2024:CGHC:33260

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**W.P.(S) No. 3789 of 2014**

- Nagendra Kumar Tiwari S/o Shri B.P. Tiwari, aged about 27 years, R/o Village- Dullapur, Post- Mahli, Block – Pandariya, Police Station- Kundra, Civil and Revenue, District- Kabirdham (C.G.)

**... Petitioner**

**versus**

1. State of Chhattisgarh, through: Secretary Urban Administration & Development Department, Mantralaya, Capital Complex, Mahanadi Bhawan, New Raipur, Police Station- New Raipur, Civil and Revenue District- Raipur (C.G.)
2. Commissioner, Urban Administration & Development Department, Raipur, Police Station Kotwali, Civil and Revenue District- Raipur (C.G.)
3. Joint Director, Urban Administration & Development Department, Divisional Office Raipur, 1<sup>st</sup> Floor, Subhash Stadium, in front of Motibag, Raipur, Police Station- Kotwali, Civil and Revenue District- Raipur (C.G.)
4. Chief Municipal Officer, Nagar Panchayat, Pandatarai, Police Station – Pandatarai, Civil and Revenue District - Kabirdham (C.G.)
5. Sunil Kumar Khutle S/o Johan Lal Khuntle, aged about 28 years, Village – Domanpur, Post- Dashrangpur, Tahsil- Mungeli, Civil and Revenue District- Bilaspur (C.G.)
6. Kishore Kumar Keshariya S/o Narayan Bhai Keshariya, aged about 28 years, R/o Police Line, beside Sheetla Mandir, Ward No. 2, Dongargaon, Police Station- Dongargaon, Civil and Revenue District Rajnandgaon.

**... Respondents**

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For Petitioner	:	Mr. Vaibhav Goverdhan, Advocate
For Respondents No. 1 to 3/State	:	Ms. Soumya Sharma, Panel Lawyer
For Respondent No. 4	:	Mr. Manish Nigam, Advocate
For Respondent No. 5.	:	Mr. Santosh Bharat, Advocate
For Respondent No. 6	:	None
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**Hon'ble Shri Justice Rakesh Mohan Pandey**  
**Order on Board**

**30.08.2024**

1. By way of this petition, the petitioner has sought the following relief(s):-

**“10.1.** It is submitted that the Hon'ble Court may kindly be pleased to issue writ/writs, order/orders, direction/directions and the order dated 16.09.13 (Annex. P-1) passed by the respondent no. 3 may kindly be quashed and consequently quash the selection of the respondent no. 5 & 6.

**10.2.** It is submitted that the Hon'ble Court may kindly be pleased to issue writ/writs, order/orders, direction/directions to the respondent authorities to consider the case of the petitioner afresh, for the post of Assistant Grade-III in the Nagar Panchayat, Pandatarai, District Kabirdham (C.G.).

**10.3.** That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case.”

2. The facts of the present case are that an Advertisement was issued by respondent No. 4 in the month of May 2013 for 01 post of Assistant Grade-III and 01 post of Assistant Cashier and both the posts were meant for Unreserved category. The required qualification for the post of Assistant Grade-III was one-year Diploma in Data-Entry-Operator/Programming with a computer typing speed of 5000 key depression per hour. The petitioner submitted his application form for the post of Assistant Grade-III along with other aspirants. The admit cards were issued to the eligible candidates after scrutiny of the application forms, the petitioner and other eligible candidates participated in a skill test and thereafter, a merit list was prepared. As per the merit list, the petitioner secured 11.21 marks, whereas respondent No. 5 secured 11.90 marks and thus, respondent No. 5 was selected and later on appointed vide order dated 16.09.2013. The

petitioner sought some documents and information from respondent No. 3 under the Right to Information Act and the documents were supplied to the petitioner on 20.06.2014. The documents supplied by respondent No. 3 would show that the computer typing speed of respondent No. 5 was 824 key depression per 10 minutes, whereas the typing speed of the petitioner was 1124 key depression per 10 minutes. It is further pleaded that respondent No. 5 though could not qualify for the skill test, but he was selected and appointed, whereas the petitioner who qualified for the skill test was not considered for appointment.

3. Mr. Vaibhav Goverdhan, the learned counsel appearing for the petitioner argued that the petitioner as well as respondents No. 5 and 6 along with other candidates participated in the skill test as they had requisite educational qualifications for the post of Assistant Grade III. He further argued that as per information supplied by respondent No. 3, the computer typing speed of the petitioner was 1124 key depression per 10 minutes and the typing speed of respondent No. 5 was 824 key depression per 10 minutes. He also argued that if the required key depression per hour of 5000 is divided by 10 minutes, the required key depression per 10 minutes would be 834. He contended that the computer typing speed of respondent No. 5 was less than required, whereas the typing speed of the petitioner was more than required and therefore, respondent No. 3 committed an error of law in selecting and appointing respondent No. 5 and ignoring the candidature of the petitioner. He further contended that the appointment order of respondent No. 5 may be quashed and a direction may be issued to respondents No. 1 to 3 to consider the petitioner's candidature.

4. On the other hand, the learned counsel for the respective respondents would oppose.
5. Mr. Santosh Bharat, the learned counsel appearing for respondent No. 5 submitted that the Selection Committee after due consideration issued an appointment order. He further submitted that the information supplied under the Right to Information Act is not correct. He also submitted that respondent No. 5 has been working on the post of Assistant Grade-III since 16.09.2013 and after 11 years, it would create hardship if he is removed from the services.
6. Mr. Manish Nigam, the learned counsel appearing for respondent No. 4 fairly submitted that from a perusal of information supplied by respondent No. 4, the computer typing speed of the petitioner was more than required. He further submitted that the computer typing speed of respondent No. 5 was less than required even though he was appointed. He also submitted that at present in Nagar Panchayat-Pandatarai there are no vacant posts, but in the nearby Nagar Panchayat Bodla, 03 posts are vacant i.e. 01 post of Sanitary Inspector; 01 post of Assistant Revenue Inspector and 01 post of Accountant. He contended that the petitioner was qualified and eligible for appointment to the post of Assistant Grade-III and he can be accommodated by the State if a direction is issued to the State.
7. Ms. Soumya Sharma, the learned Panel Lawyer appearing for the State/respondents No. 1 to 3 would oppose the submissions made by Mr. Vaibhav Goverdhan. She further submitted that the appointment order was issued by respondent No. 4 but since Nagar Panchayat Bodla has not been arrayed as a party, no direction can be issued to the State Government to accommodate the petitioner.

8. I have heard learned counsel appearing for the parties and perused the documents available on the record.
9. From a perusal of the information supplied under the Right to Information Act, it is quite vivid that the computer typing speed of the petitioner was 1124 key depression per 10 minutes, whereas the speed of respondent No. 5 was 824 key depression per 10 minutes. The required speed was 5000 key depression per hour and 834 key depression per 10 minutes. The speed of respondent No. 5 was less than the required, whereas the speed of the petitioner was more than required, but the Selection Committee ignored the speed of the petitioner and issued the appointment order in favour of respondent No. 5. It is contended by Mr. Manish Nigam, counsel appearing for respondent No. 4 that at present, there is no vacant post at Nagar Panchayat Pandatarai, but he would narrate the fact that there are 03 posts lying vacant at Nagar Panchayat Bodla. Though Nagar Panchayat Bodla has not been arrayed as a party, all Nagar Panchayats fall under the Urban Administration Development Department, Mahanadi Bhawan, Raipur and therefore, a direction can be issued to respondents No. 1 to 3 to consider the candidature of the petitioner for appointment on a suitable post in any nearby Nagar Panchayat or Nagar Panchayat Bodla as the petitioner was meritorious and due to inadvertence or otherwise he could not be appointed.
10. Though respondent No. 5 was not eligible for appointment as he could not qualify for the computer typing examination, since he was appointed on 16.09.2013, it would not be appropriate to disturb him after a lapse of 11 years, therefore, respondents No. 1 to 3 are directed to consider the claim of the petitioner for appointment on a suitable post under any Nagar Panchayat or Nagar Panchayat Bodla on the

equivalent post. The entire exercise shall be completed by respondents No. 1 to 3 within a period of 90 days from the date of receipt of a copy of this order.

11. With the aforesaid observation(s)/direction(s), this petition stands **disposed of**.

Sd/-  
**(Rakesh Mohan Pandey)**  
**Judge**