



2024:CGHC:48549

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7925 of 2024

Abhishek Bhaskar S/o Rajkumar Bhaskar, Aged About 32 Years

... Petitioner

versus

1. State Of Chhattisgarh, Through Secretary, Employment And Training Department, Mantralaya,

2. Director, Directorate Of Employment And Training Department,

... Respondents

For petitioner	:	Mr. Mateen Siddiqui, Advocate
For State/ Respondents	:	Mr. Dilman Rati Minj, G.A.

Hon'ble Shri Justice Rakesh Mohan Pandey
Judgment On Board

10/12/2024

- 1) In this petition, the petitioner has challenged the rejection of his candidature by the Director, Employment and Training, New Raipur, Atal Nagar. The candidature of the petitioner has been rejected on the ground that while he was working as a trainee in institution/department, he was not getting salary through the bank account or post office, which is a mandatory requirement according to guidelines issued by the National Council For Vocational Training (for short 'the NCVT).

2) The facts of the case are as follows:-

Respondent No. 2 issued an advertisement on 06.05.2023 for recruitment to the post of Training Officers in 23 streams. The petitioner submitted the application form as he had the requisite qualifications for the advertised post. Thereafter, the petitioner participated in the written examination. The result was declared and the petitioner was in the list of successful candidates. The petitioner was called for verification of the documents and a list of required documents was also appended to the call letter. The petitioner appeared before the respondent authorities for verification of the documents. Despite verification of documents, the respondent authorities did not issue the appointment order in favor of the petitioner on the ground that the petitioner failed to submit document pertaining to the mode of payment of salary. It is also stated in the order impugned that according to one of the clauses of the guidelines of NCVT, the engaged instructors or trainees should be paid their remuneration/salary only through banks/post offices. It is further stated that the petitioner failed to place on record any document with regard to the requirements as stated in the Management Manual for Industrial Training Institutes.

3) Learned counsel for the petitioner would argue that the condition given in the Management Manual is directory in nature. He would further submit that the object of the instruction is to bring transparency and uniformity to the system. He would contend that to ensure regular and timely payment of salary, this system has been adopted by the NCVT. He would further contend that there is no such provision in the Chhattisgarh Industrial Training (Non-Gazetted) Class-III Service Recruitment Rules, 2014 (for short 'the Rules of 2014') and such

condition was not inserted in the advertisement. It is also contended that the Rules of 2014 were amended in the year 2019 and there is no whisper with regard to the requirements as mentioned by the respondent authorities in the order impugned. He would further argue that the petitioner is eligible, qualified and has been selected by the Recruitment Agency but on account of trivial issue, the appointment order has not been issued yet. He would also argue that the candidature of the petitioner was inquired into by the respondent authorities and there is no adverse report against the petitioner. He would further state that a direction may be issued to the respondent authorities to take appropriate steps for the issuance of the appointment order in favor of petitioner.

- 4) On the other hand, learned State counsel would oppose. He would submit that some of the candidates have worked in other States and to ascertain their credibility, it was necessary on the part of those petitioners to submit documents with regard to the mode of payment of salary. He would further contend that according to the application form, the petitioner was required to submit documents showing mode of payment of salary, experience certificate, order of appointment etc. He would also contend that the petitioner failed to place on record those documents. He would argue that for transparency and fairness, this decision was taken by the Recruitment Agency. He would fairly admit the fact that there is no such provision either in the Rules of 2014, or 2019 or in the advertisement. He would contend that the respondent authorities after due scrutiny rejected the candidature of the petitioner. It is contended that technical education is the subject of the concurrent list and Rules have been framed by the Union of India and the same

are being followed by the State.

- 5) I have heard the learned counsel appearing for the parties and perused the documents placed on the record.
- 6) Admittedly, the petitioner participated in the recruitment process for the post of Training Officer pursuant to an advertisement issued by respondent No. 2. The petitioner was declared successful. The petitioner was called for verification of the documents and he was asked to submit documents with regard to his educational qualification, experience and salary paid to him but there was no requirement to submit documents showing mode of payment of salary. In the advertisement also, there is no such condition. As per the application form, the candidates were required to submit the experience certificate, salary details, appointment order etc.
- 7) The NCVT issued instructions in the Management Manual for Industrial Trainee Institutes and one of the clauses deals with Payment of Salary to Vocational Instructors of ITIs/ITCs (Regular/Contract basis) through banks/post offices only.
- 8) The instruction/recommendation is reproduced herein below:-

“It was brought to the notice of DGET that some of the ITIs/ITCs are paying very meager salary to instructors appointed on contract basis. As a result, good quality instructors were not attracted to these jobs. Therefore, to bring further transparency and uniformity in the system, it was proposed (in 39th meeting of the Council held on 12th January, 2011) that all instructors(regular/contract basis) engaged in ITIs/ITCs should be paid their remunerations only through banks/post offices. This system should ensure that recommended salaries are paid to these instructors regularly and also on time.”
- 9) The language used in the above referred instructions would make it clear that it was issued to bring transparency and uniformity in the recruitment process. One of the objectives was to ensure the payment

of salary regularly and on time. As this condition is not mentioned either in the recruitment Rules or in the advertisement, therefore, in the opinion of this Court, this instruction / recommendation is directory in nature and its non-compliance will not lead to the rejection of the candidature of any of the candidates.

- 10)** If any of the entries made in the application of the petitioner is found doubtful or incomplete, the recruitment agency or the respondents ought to have conducted an inquiry to ascertain the veracity of entries made in the application form. In this case, the candidature of the petitioner has been rejected only on the ground that he was getting salary in cash.
- 11)** In the first round of litigation, the petitioner was permitted to make a representation before the respondent authorities. Respondent No. 2 rejected the representation of the petitioner assigning one reason that the petitioner was not getting salary either through bank account or post office. The reason assigned by respondent No. 2, while rejecting the representation of the petitioner is not sustainable in the eyes of the law as the same is contrary to the Rules and conditions enumerated in the advertisement, therefore, the order passed by respondent No. 2 whereby the candidature of the petitioner was rejected is hereby quashed.
- 12)** The respondent authorities are granted 30 days to scrutinize the candidature of the petitioner with regard to his suitability. The candidature of petitioner shall not be rejected on the ground that he failed to place on record any document with regard to the mode of payment of salary. The respondent authorities would be at liberty to inquire into other criteria, if necessary. The entire exercise shall be

completed by the respondent authorities within a period of 60 days and thereafter, the respondents are directed to issue the appointment order in favor of the petitioner within a further period of 15 days.

13) With the aforesaid observations and directions, this petition stands **disposed of.**

Sd/-
Rakesh Mohan Pandey
JUDGE

Ajinkya