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HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5300 of 2023**Judgment Reserved On : 20.02.2026Judgment Delivered On :02.04.2026

- 1 - Lalit Kumar Gupta S/o Parmeshwar Prasad Gupta, Aged About 40 Years R/o Pachpedi, District Bilaspur Chhattisgarh, Pincode- 495551
- 2 - Anup Kumar Patel, S/o Amrut Lal Patel, Aged About 31 Years, R/o N/22, Jamchapar, Lendhra, District Raigarh Chhattisgarh, Pincode- 496551
- 3 - Ushakiran Khute, W/o Someshwar Khute, Aged About 30 Years R/o Pamgarh District Janjgir Champa, Rasonta, Janjgir- Champa, Chhattisgarh, Pincode- 495554
- 4 - Rituraj, S/o Gajanand, Aged About 30 Years R/o Ward-03, Megh-Market, Utai, District Durg (Chhattisgarh)
- 5 - Hulsi, D/o Revaram, Aged About 32 Years R/o Dabharapara Ward-02, Sounga, P.O. Girod, District Dhamtari Chhattisgarh, Pincode- 493662
- 6 - Rupesh Nirmalkar S/o Kumal Ram Nirmakar, Aged About 27 Years,

R/o Ward No. 17, Lalbhadrur Nagar, District Rajnandgaon Chhattisgarh
Pincode- 491557.

7 - Thaneshvar Kumar, S/o Vigtan Kumar, Aged About 31 Years R/o 40
Goji, District Dhamtari Chhattisgarh Pincode- 493663

8 - Jayanyi Patel, D/o Radheshyam Patel, Aged About 30 Years R/o
House No. 123, Patelpara, Dandhapali, Raigarh, Madhopali,
Chhattisgarh Pincode- 496551

9 - Kartikeshwar Dansena, S/o Hemlal Dansena, Aged About 26 Years
R/o Hemlal Dansena, Ward No. 08, Rajivnagar, Sariya, District Raigarh,
Chhattisgarh Pincode- 496554

10 - Pawan Kumar Chouhan, S/o Suraj Chouhan, Aged About 30 Years
R/o House No. 83, Boirdih Marg, District Raigarh Chhattisgarh,
Pincode- 496551

11 - Himani Rajput, D/o Patrhakhan Singh, Aged About 25 Years, R/o
208, Durga Nagar Birgaon, Ward No. 29, District Raipur Chhattisgarh
Pincode- 493221

12 - Priyanka Kushwaha, D/o Omprakash Kushwaha, Aged About 31
Years R/o Ward No. 04, Kushwahapara, Madanpur, Surajpur
Chhattisgarh Pincode- 497001

13 - Kanak Kumar S/o Pramod Kumar, Aged About 31 Years R/o Baba
Talapara, Ranitarai, District Durg Chhattisgarh. Pincode- 491223

14 - Samantak Kumar Tandan, S/o Darash Ram Tandan, Aged About
39 Years, R/o 57, Ward No. 06, Mahka, District Janjgir Champa,
Chhattisgarh, Pincode- 495556

15 - Ravindra Kumar, S/o Bholaram Painkra, Aged About 28 Years R/o Ward No. 10, Nilkanthpur, Balrampur, Chhattisgarh, Pincod- 497224

16 – Kartikeshwar Dansena, S/o Hemlal Dansena, aged about 26 years, R/o Ward No.08, Rajivnagar, Saria (np), Chhattisgarh, Pincod- 496554

17 - Kishore Kumbhkar S/o Purushottam Kumbhkar, Aged About 26 Years R/o Ward No. 54, Sanjay Nagar, Near Ramjanki Mandir, Distt- Raipur Chhattisgarh, Pincod- 492001

18 - Man Singh Sahu S/o Sita Ram Sahu Aged About 30 Years R/o Parkhanda Gudguda, Parkhands, Dhamtari Chhattisgarh, Pincod- 493663

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through Its Secretary Health and Family Welfare Department Mantralaya, Mahanadi Bhawan, Capital Complex, Atal Nagar Police Station And P.O. Rakhi Nawa Raipur, District Raipur, C.G.

2 – Director, Health Services, Directorate, Indrawati Bhawan, Atal Nagar, Nava Raipur, District Raipur (C.G.)

3 - Divisional Joint Director, Health Services, Raipur/ Durg Division, District- Raipur, Chhattisgarh

--- **Respondent(s)**

WPS No. 9297 of 2023

1 - Anil Deshmukh S/o Mr. Sahadev Deshmukh, Aged About 40 Years R/o Ward No. 18, Bhendsar, Durg, (C.G.)

2 - Mohammad Azaz S/o Mohammad Murad, Aged About 30 Years R/o House No. 976, Ward No. 01, Panchsheel Nagar, Durg (C.G.)

3 - Nand Kishor S/o Mr. Naresh Ram, Aged About 27 Years R/o Potora, Durg (C.G.)

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Health Services, Mahanadi Bhavan, Mantralaya, Atal Nagar, Naya Raipur, District Raipur (C.G.)

2 - Director Directorate Of Health Services, Indrawati Bhavan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh

3 - Divisional Joint Director Health Services, Raipur/Durg Division, Old Nursing Hostel, D.K.S. Bhawan Premises Raipur, District Raipur, Chhattisgarh

--- **Respondent(s)**

(Cause Title downloaded from CIS Periphery)

For Respective : Mr. P. Acharya and Mr. Arpan Verma,
Petitioner(s) Advocates

For Respondent(s) : Mr. Sangharsh Pandey, Government Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. The Writ Petitioners in both the captioned petitions are aggrieved by the decision of the respondent authorities in cancelling the recruitment process for the posts of Staff Nurse, Radiographer, Medical Lab Technologist and Ophthalmic Assistant. This cancellation pertains to the recruitment process initiated vide the

advertisement dated 24.3.2022.

2. Since both the writ petitions involve a common question of law and are founded on similar facts and circumstances, they have been clubbed together, heard analogously, and are being disposed of by this common order.
3. The petitioners in WPS No.5300/2023 have prayed for the following reliefs :

(1) That, this Hon'ble Court may kindly be pleased to issue a writ/writs, direction/directions, order/orders quashing the order/notice dated 23/06/2023 (Annex.P/1) and issue appropriate writs to reinstate the recruitment process for advertisement dated 18.7.2022 (Annex.P/6) for the post of ophthalmic assistant from the stage it stood cancelled.

(2) 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.

4. The petitioners in WPS No.9297/2023 have prayed for the following reliefs :

(1) That, this Hon'ble Court may kindly be pleased to issue a writ/writs, direction/directions, order/orders quashing the impugned order dated 20.11.2023 (Annex.P/1), passed by Divisional Joint Director, Health Services and the Hon'ble Court may kindly be pleased to quash the decision of the respondents in respect of the cancellation of the

entire selection process initiated in pursuance of the advertisement dated 18.07.2022.

(2) 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.

5. For the sake of convenience and clarity, WPS No.5300/2023 has been treated as the lead case, and the facts of the said petition are being referred to for the purpose of adjudication. The decision rendered herein shall, however, govern the connected writ petition as well, as the issues raised therein are identical in nature.
6. The grievance of the petitioners is that the respondent authorities initiated a recruitment process for the post of Ophthalmic Assistant vide an advertisement dated 24.3.2022. Though the process progressed through multiple stages, including issuance of an eligibility list and the verification of documents, but the advertisement was subsequently cancelled without assigning any reasons. The petitioners contend that this cancellation was done in an arbitrary and capricious manner.
7. The case, as canvassed by the petitioners in WPS No.5300/2023 (treated as the lead case), is that vide a letter dated 23.8.2021, a total 65 posts of Ophthalmic Assistant were sanctioned for the Raipur Division, to be filled through a direct recruitment process. It was specifically mandated that these posts were sanctioned exclusively for direct recruitment, accordingly any seats reserved

for promotional vacancies were not to be included in the aforementioned sanctioned strength. Respondent No.1 (Secretary, Department of Health and Family Welfare) issued a directive vide letter dated 21.3.2022 to conduct recruitment based on merit, whereby 85 marks were to be allotted for academic merit and 15 marks for experience. Pursuant to this, an advertisement was issued on 24.3.2022 for 06 posts of Ophthalmic Assistant in the Raipur Division, however, the said advertisement was subsequently amended on 25.3.2022, and the said posts were withdrawn without assigning any reasons. Thereafter, a fresh advertisement dated 18.7.2022 was issued by respondent No.3 (Divisional Joint Director, Health Services) inviting applications for 50 vacancies for the post of Ophthalmic Assistant across the Raipur/ Durg Divisions. The aforesaid advertisement indicated that the sanctioning of posts was based on the letter/order dated 23.8.2021 and it categorically stated that the number of seats was subject to modification. Furthermore, the advertisement stipulated that the selection would be conducted based on merit and experience, as detailed in Clause 15. Subsequent of submission of application forms, a list of eligible candidates was published, wherein about 216 aspirants were found eligible. After the invitation of objections, candidates were called for document verification on 5.9.2022. However, despite the documents having been duly verified and while the candidates were awaiting the final results, the entire selection process was cancelled for the third time, without assigning any

reasons whatsoever. This illegal action of the respondent authorities has caused irreparable prejudice to the several candidates, many of whom have now become age-barred, thereby losing their eligibility for public employment. In this regard, asserting that the decision to cancel the advertisement was illegal and arbitrary, the petitioners in WPS No.9297/2023 moved a representation before the concerned authorities seeking a reconsideration of the recruitment process. The said petitioners also filed WPS No.8884/2023 before this Court, wherein, by order dated 10.11.2023, the concerned authority was directed to consider and decide the representation of the petitioners within a stipulated period. Subsequently, the representation filed by the petitioners was rejected vide letter dated 20.11.2023. This rejection letter also fails to assign any specific reason by the respondent authorities, only citing 'unavoidable reasons' for the cancellation of the advertisement and the recruitment process. Furthermore, the letter states that a fresh advertisement will only be issued after receiving sanction from the Finance Department and thereafter, the recruitment would be conducted through the CG Professional Examination Board (Vyapam). Hence, these Petitions.

8. Mr. P. Acharya and Mr. Arpan Verma, learned counsel for the respective petitioners would jointly submit that the entire action taken by the respondent authorities is per se illegal. They submit that the cancellation of the advertisement is arbitrary and unsustainable in law, as no reasons were assigned for the same.

The recruitment process had reached an advanced stage, the select list had been prepared and the documents were duly verified. At a stage where appointment orders were expected to be issued, the cancellation of the advertisement and the entire selection process is nothing but a manifestation of the whimsical attitude of the respondent authorities. Learned counsel for the respective petitioners further submit that no model employer can be permitted to act in such an arbitrary and malafide manner. They further submit that the cancellation of advertisement infringes the legal rights of the petitioners. Although the petitioners do not have a vested right to appointment, they possess a legitimate expectation of a fair conclusion to the recruitment process. He submits that having submitted their candidature for the post(s) of Ophthalmic Assistant and having progressed through the stages of merit-based selection and document verification, the petitioners reasonably expected to be considered for appointment. Instead, the respondent authorities arbitrarily cancelled the entire recruitment process at its final stage and such an action warrants interference of this Court under Article 226 of the Constitution of India. They also submit that the rights which have been accrued in favour of the petitioners have been denied in a casual manner. In support of their submissions, learned counsel for the petitioners would rely upon the judgments rendered in the matters of **State of Assam and others Vs. Arabinda Rabha and others** reported in (2025) 7 SCC 705, **Anamica Mishra Vs. U.P. Public Service**

Commission, reported in **1990 Supp SCC 692, Union of India and others Vs. Rajesh P.U. Puthuvalnikathu and another**, reported in **(2003) 7 SCC 285** and **Sachin Kumar Vs. Delhi Subordinate Service Selection Board and others**, reported in **(2021) 4 SCC 631**. Learned counsel for the petitioners lastly submit that due to the arbitrary and illegal acts of the respondent authorities, some of the petitioners have now crossed the requisite age limit. It is, therefore, submitted that in the interest of justice, the petitioners must be considered in any subsequent or fresh recruitment process by granting them necessary age relaxation.

9. On the other hand, Mr. Sangharsh Pandey, learned counsel for the State submits that the petitioners do not possess an absolute right to appointment only by virtue of their names appearing in the Select List. He submits that the preparation of a Select List does not confer any indefeasible right upon a candidate to claim appointment. Moreover, as the entire advertisement and subsequent selection process have been cancelled, the petitioners cannot seek appointment on the basis of an advertisement that has ceased to exist. He further submits that no legal rights accrued in favour the petitioners simply because a Select List was prepared or their documents were verified. He submits that the Hon'ble Supreme Court has held, time and again, that mere appearance of a name in the Select List does not confer any indefeasible right upon a candidate to claim appointment. Once the recruitment process itself has been

terminated, the petitioners cannot claim a right to appointment. He further submits that it was specifically mentioned in the letter dated 20.11.2023 that the advertisement was cancelled due to unavoidable reasons. Furthermore, the order stipulated that upon receiving the requisite sanction from the Finance Department, fresh recruitment for the post of Ophthalmic Assistant would be initiated through the CG Professional Examination Board (Vyapam). Hence, the petitions being devoid of merits, are liable to be dismissed.

10. I have heard learned counsel for the parties and have also perused the documents annexed with the writ petitions.

11. Admittedly, as per the rejection letter dated 20.11.2023 issued in response to the representation filed by the respective petitioners, the respondent authorities sought to justify the cancellation of the advertisement and the recruitment process by citing 'unavoidable reasons'. The letter further avers that after obtaining the requisite sanction from the Finance Department, fresh recruitment proceedings would be initiated through the Chhattisgarh Professional Examination Board (Vyapam).

12. The first and foremost issue for consideration is whether the petitioners possess any indefeasible right to claim appointment on the basis of the subject advertisement and the recruitment process initiated by the respondent authorities.

13. It is trite law that mere inclusion of a name in the Select List does not confer any indefeasible right upon the petitioners to claim appointment. The Hon'ble Supreme Court has repeatedly held

that the successful completion of a selection process does not, by itself, grant an aspirant a vested right to be appointed. In the present case, although the advertisement was cancelled at an advanced stage, the fact remains that no recruitment process is currently pending. Once the advertisement itself has been cancelled, the petitioners can no longer assert a legal right to recruitment based on a process that has ceased to exist. The recruitment and subsequent cancellation of a selection process fall within the exclusive domain of the concerned employer. An employer, after evaluating the relevant circumstances, is entitled to cancel the process at any stage, subject to the rider that such action must not be illegal, arbitrary or whimsical in nature.

14. From a perusal of the averments in the writ petitions, it appears that the entire recruitment process had reached an advanced stage and was subsequently cancelled owing to lack of requisite sanction from the Finance Department. Since there was an administrative requirement for financial sanction, the reasons provided by the respondent authorities for cancellation of the recruitment process appear to be legally justified. Further, in the absence of clearance from the Finance Department for the sanctioned posts, the respondent authorities were left with no alternative but to cancel the advertisement and the entire selection process. While this action undoubtedly caused grievance to the petitioners, we must weigh this against the administrative and financial constraints faced by the State. It is evident that without the requisite financial sanction, the

respondent authorities cannot proceed with appointments, as such sanction is a prerequisite for disbursement of salaries and other benefits.

15. Learned counsel for the respondent/State has also contended that certain anomalies were detected in the advertisement, therefore, in order to rectify these discrepancies and ensure a transparent process, the respondent authorities took a policy decision to cancel the entire selection process. In my view, such an action cannot be termed unjustified. The decision to cancel the recruitment is found to be bona fide, justifiable and free from the vice of arbitrariness, as it was further necessitated by the valid administrative requirement of obtaining clearance from the Finance Department

16. In the matter of **Arabinda Rabha (supra)**, the Hon'ble Supreme Court has considered this aspect and has held in para 59 & 60 as under :

59. We are conscious of the line of decisions of this Court and have noted some of them here, which lay down the law that mere empanelment/enlistment does not result in accrual of any indefeasible right in favour of such empanelled/selected candidate as well as the law that the employer may, in its wisdom, either decide to cancel the select list or not carry on the process further resulting in the notified/advertised vacancy/vacancies not being filled up pursuant to the selection process, which has been conducted. What it means is that an empanelled/selected candidate can claim no right of appointment, if the State has cogent and germane grounds for not making the appointment. However, at the same time, it is also the law

that the appointing authority cannot ignore the select panel or decline to make the appointment on its whims. *Shankarsan Dash* [*Shankarsan Dash v. Union of India*, (1991) 3 SCC 47 : 1991 SCC (L&S) 800] cautions that the State has no licence to act in an arbitrary manner. In *R.S. Mittal v. Union of India* [*R.S. Mittal v. Union of India*, 1995 Supp (2) SCC 230 : 1995 SCC (L&S) 787] , a coordinate Bench held that when a person has been selected by the Selection Board and there is a vacancy which can be offered to him, keeping in view his merit position, then, ordinarily, there is no justification to ignore him for appointment and that there has to be a justifiable reason to decline to appoint a person who is on the select panel. The position in law finds reiteration in a decision of recent origin in *Dinesh Kumar Kashyap v. South East Central Railway* [*Dinesh Kumar Kashyap v. South East Central Railway*, (2019) 12 SCC 798 : (2019) 2 SCC (L&S) 693] , where the majority held that the employer must give cogent reasons for not appointing selected candidates.

60. Any decision taken not to appoint despite there being vacancies and a valid select list, obviously, is in the nature of a policy decision. It has to be borne in mind that securing public employment is the dream of many, who put their heart and soul to prepare for it. Nowadays, aspirants undertake rigorous study sessions as well as training modules to equip themselves, which also comes at a heavy cost. That apart, since every process of recruitment necessarily involves substantial expenses which are borne from the public exchequer and at the same time the aspirants for the posts (who, as per their own estimation, have performed sufficiently well and therefore stand a good chance of being appointed upon figuring in the select list) cherish fond hopes of a bright and secure future, the law is clear that the policy decision not to carry the process forward must be taken bona fide,

there has to be justifiable reason if the process is abandoned midway, and such decision must not suffer from the vice of arbitrariness or the whims of the decision maker. This acts as a check on the employer's power deciding against not making any appointment from the select list despite availability of vacancy/vacancies on the advertised/notified public post(s). A writ court may, upon reaching the requisite satisfaction, intervene in such manner and make such directions as the facts and circumstances warrant. We, therefore, do not find it acceptable that the aspirants, not having an indefeasible or vested right of appointment, do not also have the right to question any decision adverse to their interest affecting achievement of their goals to secure public employment. Whether, and to what extent, any relief should be granted, must depend on the facts of each case.

17. Likewise, in a judgment rendered in the matter of **Employees State Insurance Corporation and another Vs. Dr. Vinay Kumar and others**, reported in **(2022) 18 SCC 358**, the Hon'ble Supreme Court has held in para 7 & 8 as under :

7. The cardinal principle we must bear in mind is that this is a case of direct recruitment. A candidate who has applied does not have a legal right to insist that the recruitment process set in motion be carried to its logical end. Even inclusion of a candidate in the select list may not clothe the candidate with such a right. This is, however, different, no doubt, from holding that the employer is free to act in an arbitrary manner. But, at the same time, in the first place, direction which is given by the High Court to conclude the recruitment within 45 days is clearly untenable. This is for the reason that, as noticed, the advertisement dated 1-3-2018 was put on hold on 21-3-2018 before the last date indicated for filing the application by

advertisement dated 1-3-2018. As the very advertisement was put on hold, it is quite likely that any candidate who may have been desirous of applying, may not have applied being discouraged by the fact that the advertisement has been put on hold. Therefore, the direction to conclude the proceedings within 45 days is unsupportable.

8. Question would arise as to whether the direction could be given to proceed with the recruitment process by giving peremptory direction to the appellant. Here again, we cannot be oblivious to the first principle which we have indicated viz. the absence of any legal right with the candidate who has merely made an application. At the same time, we do feel trammelled by the fact that the case which is sought to be set up viz. that there may not be any need for filling up the post, was not as such set up before the High Court or the Tribunal. Such an attempt is being made before this Court. In such circumstances, we are of the view that a fair and time-bound decision must be taken by the appellants not oblivious to the fact that persons have applied and they would also look forward to a fair treatment at the hands of the body like the appellant.

18. Furthermore, in a judgment rendered in the matter of **The Transmission Corporation of Telangana State Limited and another Vs. Chukkala Kranthi Kiran and others**, reported in **2025 SCC OnLine SC 1785**, the Hon'ble Supreme Court has held as under :

32. High Court turned Section 79 on its head and held the said provision did not create an embargo on the new State to make appointment in its services from a select list prepared for the composite State of Andhra Pradesh. The reasoning of the High Court flies in face of the fact that a selected candidate does not have a vested right to appointment and Section 79 cannot be read as an

enabling provision vesting such a right and encroaching on the appellant's right to take an independent decision in light of the altered circumstances to continue with the earlier selection process or to initiate a fresh selection process.

19. Reverting to the facts of the present case, when the matter is examined in light of the principles laid down in the aforesaid judgments rendered by the Hon'ble Supreme Court, it is apparent that the respondent authorities possessed justifiable grounds for cancellation of both the advertisement and the recruitment process. The core issue remains the absence of financial sanction, which was not accorded to the respondent authorities. Since the petitioners do not possess an indefeasible right to seek a writ of mandamus for their appointment, this Court does not find any cogent ground to interfere with the administrative decision of the State/Employer.
20. The recruitment is a complete process, commencing with the issuance of an advertisement based on sanctioned posts and culminating in the appointment of the candidates concerned. In the present case, while rejecting the representation, the respondents have categorically stated that the recruitment process was cancelled due to lack of financial sanction from the Finance Department. They have further informed that after obtaining the requisite sanction, the posts shall be re-advertised and a fresh selection process will be conducted through the Chattisgarh Professional Examination Board (Vyapam).

21. In light of the foregoing reasons and considering the facts and circumstances of the case, this Court is of the view that a policy decision based on valid administrative grounds, such as lack of financial sanction, falls within the permissible exercise of executive discretion and it can't be termed as arbitrary or malafide. Hence, the relief sought by the petitioners cannot be granted. However, the respondents are under an obligation to initiate a fresh recruitment process in a timely manner. Notably, the advertisement was cancelled on three separate occasions, as a result, many aspirants who were initially in the prescribed age limit may now have become overaged. This situation warrants serious consideration by the respondent authorities.
22. In view of the above, this Court deems it appropriate to direct the respondent authorities to grant appropriate age relaxation to the petitioners while issuing a fresh advertisement for the subject posts. As a model employer, it is expected that the concerned respondents will pass appropriate orders in this regard in accordance with law.
23. With the aforesaid directions/observations, the Writ Petitions are disposed of.

Sd/-

(Amitendra Kishore Prasad)
Judge