



2024:CGHC:43738-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4200 of 2024

- 1** - Ranveer Singh S/o Dilip Kumar, Aged About 32 Years R/o Village Barihapali, P.O. Bhukel, District- Mahasamund (C.G.).
- 2** - Rambhagat S/o Laxman Ram Aged About 31 Years R/o Village Maladabri, District- Rajnandgaon (C.G.).
- 3** - Deepika Patel S/o Nirbhay Ram Patel Aged About 30 Years R/o Police Training School Rajnandgaon, District- Rajnandgaon (C.G.).
- 4** - Vipin Sidar S/o Sankirtan Sidar, Aged About 29 Years R/o Village Jhilmila, District- Mahasamund (C.G.).
- 5** - Gopal Patel S/o Subhash Patel, Aged About 30 Years R/o Daldali, District- Mahsamund (C.G.).
- 6** - Sandeep S/o Kaushal Aged About 26 Years R/o Kesali, District- Kabirdham (C.G.).
- 7** - Bappi Saha S/o Ratan Saha Aged About 26 Years R/o Village Kirandul District- Dantewada (C.G.).
- 8** - Manoj Kariyam S/o Dhannaram Kariyar, Aged About 29 Years R/o Shivanagar, District- Surajpur (C.G.).
- 9** - Anita Yadav S/o Lakhan Ram Aged About 33 Years R/o Village Silfili, District- Surajpur (C.G.).
- 10** - Ashok Kumar Sahu S/o Premlal Sahu, Aged About 26 Years R/o Baikuthpur, District- Koriya (C.G.).
- 11** - Lekhram Sahu S/o Mohan Ram Sahu, Aged About 42 Years R/o Rudri Road Dhamtari, District- Dhamtari (C.G.).
- 12** - Hemant Kumar Sidar S/o Uday Singh Sidar Aged About 37 Years R/o Village Borda, District- Sakri (C.G.).

- 13** - Akanksha Dewangan W/o Umesh Kumar, Aged About 27 Years R/o Pondishankar, District- Janjgir- Champa (C.G.).
- 14** - Toshpal Sahu S/o Kedarnath Sahu, Aged About 32 Years R/o Kirit, District- Janjgir- Champa (C.G.).
- 15** - Upendra Kumar Dewangan S/o Sahadev Prasad Dewangan, Aged About 38 Years R/o Kusmunda District- Korba (C.G.).
- 16** - Vivek Sharma C/o Kshama Sharma Aged About 33 Years R/o Telipara Bilaspur, District- Bilaspur (C.G.).
- 17** - Khushbu Lahare W/o Bharat Lal Lahre, Aged About 26 Years Pipra, District- Janjgir- Champa (C.G.)
- 18** - Bharat Kumar Yadav S/o Harihar Prasad Yadav Aged About 30 Years Village Sundru District- Jashpur (C.G.).
- 19** - Ashwani Mehra W/o Ramsharan Mehra Aged About 32 Years Chakradhar Nagar Raigarh, District- Raigarh, (C.G.).
- 20** - Shamuel Tigga S/o Arvind Kumar Tigga Aged About 27 Years R/o Chheraghoghera, District- Jashpur (C.G.).

... Petitioners

versus

- 1** - State Of Chhattisgarh Through- Its Secretary, Department Of Forest, Mantralaya, Mahanadi Bhawan, Naya Raipur, Atal Nagar, Post Office Rakhi, Dist- Raipur, C.G.
- 2** - Managing Director, Chhattisgarh State Forest Development Corporation Ltd. Office Block 7-A, Sector- 24, Nawa Raipur, District- Raipur (C.G.).
- 3** - Chairman, Chhattisgarh State Forest Development Corporation Ltd. Office Block-A Sector- 24, Nawa Raipur, District- Raipur (C.G.).
- 4** - Principal Chief Conservator Of Forest Wildlife, Aranya Bhawan North Block- Sector-19 Atal Nagar, Nawa, Raipur, District- Raipur (C.G.).
- 5** - Chief Conservator Of Forest, Aranya Bhawan North Block, Sector- 19 Atal Nagar, Nawa Raipur, District- Raipur (C.G.).

... Respondents

For Petitioners : Shri Goutam Khetrapal, Advocate.

For : Shri Shashank Thakur, Dy.A.G.

State/respondents

No.1, 4 & 5.

For respondents Shri Trivikram Nayak, Advocate.

No.2 & 3.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Amitendra Kishore Prasad, Judge

Order on Board

Per Amitendra Kishore Prasad, J

11/11/2024

Heard.

1. The petitioners have filed this petition questioning the Rule 149 (a) & 149 (b) of M.P. Rajya Van Vikas Nigam Limited Employees Service Regulation, 1984 (hereinafter referred to as 'the Regulation, 1984'). They are seeking appropriate writ while declaring these Rules to be ultra vires as according to them these Rules are contrary to the Article 23(a) of the Constitution of India. The petitioners have sought the following reliefs:-

“(i)issue an appropriate writ, order or direction moreover in the nature of certiorari, setting aside the impugned Rule 149 (a) & 149 (b) of M.P. Rajya Van Vikas Nigam Limited Employees Service Regulation, 1984 (wrongly mentioned as rule 148 in regulation annexed) for being ultra vires with the Article 23(a) of the Constitution of India;

OR

issue an appropriate writ, order or direction moreover in the nature of mandamus, directing the Respondent to change the said policy &

make it employee friendly & lenient.

(ii) Any other relief, which this Hon'ble Court deems fit and proper, may also kindly be granted to the petitioner, in the interest of justice.”

2. On an advertisement issued by the Managing Director, Chhattisgarh State Forest Development Corporation Ltd. dated 29/10/2021 for appointment on the post of Assistant Project Ranger, the petitioners have filed their application and accordingly upon due procedure of law and after undergoing written as well as physical test, they were appointed with another eligible persons. After their appointment, an order was issued on 9/07/2024 and the petitioners as well as the other selected Assistant Project Rangers were directed to undergo a six months forest guard training. They were further directed that they have to execute a bond worth Rs.1 lakh as per Rule 149 (a) & 149 (b) of ‘the Regulation, 1984’. For ready reference of the Rules under challenge is reproduced hereunder:-

“149. Execution of Agreement Bond-

a) For training- All the employees who are deputed by the Nigam for training under various courses, whether professional or for adding qualifications, will have to furnish an agreement bond (annexed herewith) before proceeding for training, binding himself for serving the Nigam, after completion of the training for the periods noted against each

Category of employee	Period of compulsory service in Nigam after completion training "Bond period"
(a) Project Ranger / Assistant Project Ranger Fieldman	5 Years

<p>(b) For the employees who are deputed for special courses, refreshers or other courses for gaining additional qualifications or experience for which expenses are borne by Nigam</p> <p>Duration of the above courses</p> <p>1. More than 1 month but less than 6 months</p> <p>2. 6 months and more but less than 12 months</p> <p>3. 12 months and more</p>	<p>2 years</p> <p>3 years</p> <p>5 years</p>
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In case any employee leaves the service of Nigam or is removed from the services for any reason whatsoever, prior to the completion of the period specified in column 2 against (a) and (b) above, he shall be liable to pay to the Nigam, the total amount of expenses borne by the Nigam on his training, courses etc; including pay and allowance for that period. Provided that the appointing authority may relax the recovery amount to proportionate bond period service.

(b) At the time of appointment in the Nigam- MD may require for certain posts that an individual who joins the services of the Nigam or his/her appointments shall execute a bond to serve the Nigam for a certain minimum period and also furnish solvency for an amount equivalent to his/her pay and allowance for that period. In case, an employee decided to leave the services of the Nigam, he/she shall deposit with the Nigam, the pay and allowance for the period by which, it falls short of that bond period. If an employee fails to deposit the amount, it shall be recovered as arrears of land revenue from him/her or his/her sureties.”

3. The petitioners are aggrieved by the afore stated Rules according to

which they have to deposit a sum of Rs.1 lakh and to execute a bond to this effect that if the petitioners leaves the service or they were removed for any reason before completing the mandatory period of service of five years, the expenses incurred towards their training, pay and allowances during the training period will be recovered from them. Since the order dated 9/07/2024 and the relevant Rules are arbitrary and against the Article 23 (a) of the Constitution of India, as such, the petitioners are challenging the same with a prayer to declare the said Rules to be ultra vires.

4. It has been stated by the petitioners that at the most the respondent should recover the expenses of training incurred by the State. The petitioners have submitted that the training has to be given by the State for betterment of their employment and as such no such bond is required to be executed by them and they cannot be forced to execute such bond which is in violation of petitioners right as enshrined under Article 14 of the Constitution of India. It is also violative of the Article 19 (g) of the Constitution of India. The petitioners further submits that furnishing of such bond is against Article 23 (a) of the Constitution of India. In other department like Chhattisgarh State Power Holding Company Limited some conditions were imposed but the said conditions are reasonable one as the bond was for four years i.e. for probation period and Rs. one lakh were deposited as caution money and after completion of the bond period, the said amount would be refunded. In case during probation period, the concerned employee resigns or is removed from service then only the caution money could be forfeited. The respondents herein can also impose such type of condition but in the present case the Rules in question are arbitrary

and contrary to the provisions of Constitution of India.

5. The respondents No.2 to 3 have filed their reply to the petition while supporting the Rules and while submitting that reasonable restriction has been made in shape of executing bond as per clause 149 (a) and 149 (b) of the Regulation, 1984. They have submitted that the bond is necessitated because of frequent leaving of service by the employees and if such bond is not imposed upon the employee, it will adversely effect the work of the respondent Corporation (Nigam) because they were expending a huge amount of money towards training of such employee, in addition they are also making huge amount towards payment to the employees. Out of 700 sanctioned posts only 350 posts have been filled up and the Company is in urgent need of man power. The condition of execution of bond is reasonable and appropriate. In clause 149 itself power has been given to the appointing authority to relax the condition as well as recovery of the money if any. Hence, even if the individual petitioner is having any grievance, the same can be redressed on the basis of the aforesaid provisions. The Rules challenged by the petitioners are not violative of Article 14, 19 or 23 of the Constitution of India, on the contrary they are just, proper and reasonable. The submission that the other companies like CSPDCL are not imposing such condition is not applicable as they are separate entity and are governing their affairs separately.
6. The respondents No.1, 4 and 5 i.e. State while filing their reply has stated that the relief sought by the petitioners from the respondents No.2 and 3 which is Corporation, a subsidiary of State Government and as such, Corporation being a registered company is having separate legal entity. The Corporation has already submitted a detailed reply.

The State authorities are formal respondents and the matter can be very well adjudicated on the basis of the reply filed by respondents No.2 and 3.

7. Shri Goutam Khetrpal, learned counsel for the petitioners has submitted that the Rules 149 (a) and 149 (b) are against the mandate of Constitution and the same are arbitrary in nature. The employee cannot be forced to execute a bond against the Article 14, 19 and 23 of the Constitution of India. The provisions should be just, proper and reasonable. He has placed reliance upon the judgment of Calcutta High Court in case of **Medha Moitra v. Union of India and others** reported in **2019 SCC OnLine Cal 5748**.
8. On the other hand, Shri Trivikram Nayak, learned counsel for the respondents No.2 and 3 has vehemently argued that the Rules 149(a) and 149(b) are very much just, proper and reasonable and it does not violate Article 14, 19 and 23 of the Constitution of India because when the Corporation is giving training to the petitioners in which huge expenses are being incurred, the execution of bond is required to be fulfilled, otherwise the employee will leave the service or in case he will be removed from service, the Company will suffer heavy monetary loss. In order to support his contention, learned counsel for respondents No.2 and 3 have placed reliance upon the judgment of Supreme Court in the matter of **Association of Medical Super Speciality Aspirants and Residents & ors. Vs. Union of India & ors.** reported in **(2019) 8 SCC 607**.
9. We have heard the learned counsel for the parties and perused the documents annexed with the petition.
10. From the perusal of the Rules 149 (a) and 149 (b) of the Regulation,

1984, it seems that after appointment, the Corporation (Nigam) organizes training under various courses in order to take better service from the concerned employee for a period of six months and for that the employees are required to furnish bond. Before proceeding for training binding themselves for serving the Corporation after completion of the training of six months in bond they have to bind themselves that in case they leave service of the Corporation or they were removed from service for any reason whatsoever prior to the completion of period of six months, they shall be liable to pay the Corporation the total amount of expenses borne by the Corporation on the training of the employee courses including pay and allowances for that period provided in the bond however the appointing authority may relax the recovery amount to the proportionate bond period service. In a similar situation, the matter came before the High Court of Calcutta in the matter of **Medha Moitra** (supra) in respect of execution of the bond while obtaining service under the railways. The High Court of Calcutta after hearing the parties has held as under at para 37 and 38:-

“37. Having perused the judgment prepared by my learned brother Bhattacharyya, J, I respectfully agree with His Lordship that for the reasons proffered the writ petition ought to succeed to the extent as indicated therein. However, upon examining the unreasonable and unconscionable profit making venture resorted to by the concerned zonal railway at the cost of a promising sportsperson who mustered the courage to obtain an employment in the Department of Revenue while being employed in the Department of Railways, both being departments of the mighty Central Government, I wish to pen my views in very brief.

38. One reason for taking exception to the action of the railway is this. The superior courts of India possess the jurisdiction to

invoke Article 14 of the Constitution as also Section 23 of the Contract Act to strike down a clause in a contract which the court feels to be unconscionable having regard to the unequal bargaining power of the parties, is settled law. In the present case, the service bond obtained by the railway from the petitioner, without doubt, was the result of an agreement between two parties not having equal bargaining powers. It contained a clause which required the petitioner (if she were to discontinue service within five years of appointment) to pay back to the railway not only money that she had earned by her service but also money that she could have earned had she continued in service till completion of five years' service, despite the fact that she brought laurels for the railway by winning medals in national level competitions. It is understandable if the expenses incurred for training the petitioner by the railway were asked to be paid back while she leaves service within the bond period. However, coming as it does from an Article 12 authority and particularly when the petitioner had not left her service in the railway being lured by a private employer but having earned her position through a competitive process to serve in another department of the Central Government and thereby serve the people of the nation, the act of the railway in obtaining in excess of Rs. 9 lakh from her as a pre-condition for acceptance of resignation is in itself unfair, unconscionable, oppressive and unconstitutional, against the principles of distributive justice and public policy, and offending Article 14."

11. So far as the judgment placed by the respondents No.2 and 3 are concerned, it is in respect of the bond executed by the doctors which is quite different from the services of the petitioners and which is in respect of the training provided by the concerned Corporation. In the aforesaid case, bond was directed to be executed by the doctors for compulsory service in army for 5 years stating it to be forced labour. In the aforesaid cited case, it was argued that any restriction to be placed

on the freedom to carry on trade and profession should be reasonable and the condition imposed upon the doctors failed the test of reasonableness. The Supreme Court dismissed the plea raised by the doctors holding that the condition of compulsory bonds for admission to the post graduate super specialty courses in Government medical colleges are not in violation of Section 27 of the Contract Act and while dismissing the petition the Supreme Court has suggested the concerned Governments to take suitable steps to have uniform policy regarding compulsory service to be rendered by the doctors who are trained in Government institution. In the said matter, salary and future amount of salary was not directed to be forfeited which is not similar to the present case.

12. Now coming back to the facts and circumstances of the present case, it is quite apparent that the petitioners were selected and appointed on the post of Assistant Project Ranger and it is the Corporation which is providing them training but while directing them to execute a bond for recovery of amount of the expenses borne by the Corporation as well as the salary is infact an unequal bargaining power of the parties. If the bond as required by the Corporation is allowed to be continued, it would be result of an agreement between the two parties not having equal bargaining of powers. The bond contains a clause which requires the petitioners to pay back Corporation not only the expenses of training but the money earned by them by their service but also to the would be money earned by them for a period of five years. It would be reasonable if the expenses incurred for training of the petitioners by the Corporation were asked to be paid back while the petitioners leaves the service within the bond period but in the case at hand the petitioners by

the said Rules were directed to fill up the bond that in case they leave the service of Corporation or they were removed from the service for any reason whatsoever prior to completion of the period of five years they shall be liable to pay the Corporation total amount of expenses borne by the Corporation on their training courses etc. including pay and allowances for the period of five years. The aforesaid Rules i.e. 149 (a) and 149 (b) of the Regulation 1984 by which the petitioners were required to fill up the bond agreeing with the conditions of Rule 149 (a) and 149 (b) of the Regulation 1984 is unfair, unconscionable, oppressive and unconstitutional, against the principles of distributive justice and public policy, and is offending Article 14 of the Constitution of India. Even if in cases where service is governed by a contract of employment, such a contract to serve the government or Corporation can never be a contract of slavery because it would be opposed to the quintessence of equal justice, safeguarded by the Constitution.

13. The terms of contract which are not in consonance with the Constitution cannot be enforced by the Corporation against its employee. The Rule 149 (a) and 149 (b) of the Regulation, 1984 by which the petitioners were directed to execute bond is against Article 14, 19 and 23 of the Constitution of India, as such it cannot be directed to be continued.

14. Accordingly, the Rules 149 (a) and 149(b) of the Regulation, 1984 is declared to be ultra vires and respondents No.2 and 3 cannot enforce such Rule upon the petitioners while directing them to execute bond as per aforesaid Rules.

15. In a result, the writ petition filed by the petitioners are hereby **allowed**. However, the respondent/Corporation are at liberty to frame such

condition in the Rule to direct the employee to pay the Corporation total expenses borne by the Corporation on their training courses, if so advised.

Sd/-

(Amitendra Kishore Prasad)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice