

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. _____/2026
[ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL)
NO.26656/2025]**

THE STATE OF CHHATTISGARH

APPELLANT(S)

VERSUS

REKHA SONI & ANR.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. Heard learned counsel for the parties.
3. This appeal impugns judgment and order of the High Court of Chhattisgarh at Bilaspur¹ dated 04.12.2024 passed in Writ Appeal No.817 of 2024, whereby appellant's intra court appeal against the judgment and order of the learned Single Judge of the High Court dated 18.06.2024, passed in Writ Petition No.1395 of 2024, was dismissed.
4. The relevant facts are as under:
 - (i) Chhattisgarh Public Service Commission² issued an advertisement on 23.01.2019 for recruitment to the post of Assistant Professor (Chemistry).
 - (ii) The first respondent applied and participated in the recruitment process and was placed in the wait list.

¹ High Court

² Commission

(iii) The candidate placed in the select list was appointed. However, after joining the post, the appointed candidate resigned.

(iv) Pursuant to the resignation, on the resultant vacancy, the first respondent staked its claim. When its claim was not considered, a writ petition was filed. The said petition was disposed of vide order dated 24.11.2023 thereby requiring the concerned authorities to consider its representation. This representation was however rejected vide order dated 14.02.2024 by placing reliance on Rule 19.6 of Chhattisgarh Public Service Commission Procedure Rules, 2014³.

(v) Impugning the rejection of the representation, the first respondent filed a writ petition (i.e., Writ Petition No.1395 of 2024) before a Single Judge Bench of the High Court for a direction that she be appointed against the resultant vacancy.

5. The learned Single Judge by relying on Rule 12(7) of Chhattisgarh Education Services (Collegiate Branch), Recruitment Rules, 2019⁴ allowed the writ petition vide order dated 18.06.2024 and issued a direction to the State to appoint the writ petitioner on the resultant vacancy within a specified period.

6. Aggrieved by the decision of the learned Single Judge, the appellants filed a writ appeal before the Division Bench of the High Court which affirmed the order of the

³ Procedure Rules, 2014

⁴ Recruitment Rules, 2019

learned Single Judge and thereby dismissed the writ appeal by the impugned order.

7. The short submission of the learned counsel for the appellant is that Rule 12(7) of the Recruitment Rules 2019 does not confer any right on the wait listed candidate to be appointed against a vacancy which arises from resignation of a candidate appointed from the Select List, rather it is an enabling provision which confers discretion on the Commission to make a recommendation from the wait list for appointment against such a vacancy. Therefore, when the post fell vacant, consequent to resignation of the candidate appointed from the Select List, there existed no indefeasible right of the candidate placed in the Wait List to be recommended by the Commission. Moreover, Procedure Rules, 2014 stood amended on the date when the resultant vacancy came into existence and, therefore, by virtue of amended Rule 19.6, the Commission could not have made recommendation from the wait list on a post that fell vacant after resignation by the appointed candidate. It is submitted that High Court fell in error in construing Rule 12(7) of Recruitment Rules, 2019 as one conferring a right on the candidate placed in the wait list for appointment against a vacancy caused by resignation of a candidate appointed from the Select List.

8. *Per contra*, the learned counsel for the first respondent submitted that the Recruitment Rules, 2019 are framed under Article 309 and are specific to the post concerned whereunder a wait listed candidate gets a right to be considered for appointment on a vacancy arising from resignation by a person appointed from the Select List.

Moreover, the amendment to the Procedure Rules, 2014 came into existence after the advertisement was published. In such circumstances, Rule 19.6 of Procedure Rules, 2014 could not have whittled down the right available under the Recruitment Rules, 2019. Therefore, the impugned order does not warrant interference.

9. We have considered the rival submissions and have perused the materials placed on record.

10. Before we proceed to address the submissions made before us, it would be useful to notice the relevant dates. Recruitment Rules, 2019 were notified on 16.01.2019. Recruitment advertisement was published on 23.01.2019. Rule 19.6 of Procedure Rules, 2014 was amended on 02.05.2019. Pursuant to advertisement, examinations were held on 05.11.2020 and result was declared on 19.01.2021. The Select List was declared by the Commission on 26.06.2021. The candidate from the Select List, on appointment, took charge in May 2022 and he submitted his resignation in September 2022.

11. As the principal issue which falls for our consideration is the interplay of Rule 12(7) of Recruitment Rules, 2019 and Rule 19.6 of Procedure Rules, 2014, it would be useful to reproduce the relevant rules. Rule 12(7) of Recruitment Rules, which has been relied by the High Court to allow the writ petition of the first respondent, reads as under:

“12(7) Any candidate, whose name is included in the selection list, do not join the duty within the valid period or resigns or for any reason

he is found unfit or the selected candidate dies during the valid period, the name of candidate from the waiting list can be recommended by the Commission for appointment.

12. Rule 19.6 of the Procedure Rules, 2014 on which the appellant places reliance reads thus:

"19.6 If any candidate mentioned in the main selection list has resigned from the post after assuming charge or the post has become vacant due to appointment elsewhere or due to the death of the candidate, that post shall not be considered vacant. Only if for any reason a candidate is not available or becomes ineligible for appointment or has not assumed charge and the post remains vacant during the validity period of the selection list, then the vacant posts can be filled from the candidate of the concerned category from the supplementary list."

13. In our view, a plain reading of sub-rule (7) of Rule 12 of the Recruitment Rules, 2019 would indicate that it does not confer any right on the candidate placed in the wait list to be appointed against the vacancy which arises on resignation by a candidate after appointment. The same is an enabling provision empowering the Commission to make a recommendation from the wait list if any candidate whose name is included in the select list does not join within the specified period, or resigns, or for any reason is found unfit, or dies during the validity period. It does not mandate the Commission to make a recommendation from

the wait list. Thus, by use of word 'can' in place of 'shall', the legislature /the rule making authority has left a degree of discretion with the Commission to recommend or not to recommend from the wait list in the given eventuality.

14. Insofar as Rule 19.6 of the Procedure Rules, 2014, as it stood prior to the date of resignation/ declaration of result, is concerned, it governs the business of the Commission. Thus, on the date when the result was declared, or for that matter when vacancy arose consequent to resignation, even the exercise of discretion to make such recommendation was ruled out inasmuch as Rule 19.6 of the Procedure Rules, 2014 clearly stipulated that the post which falls vacant after resignation by the candidate appointed from the select list will not be treated as vacant. Once such is the position, the Commission could not have made a recommendation from the wait list even if the wait list remained valid on the date of resignation.

15. In our view, therefore, the High Court misconstrued Rule 12 (7) of the Recruitment Rules, 2019 as one conferring a right on the candidate placed in the wait list to be considered against a vacancy arising from resignation by a candidate after joining the post. Since, in our view, Rule 12 (7) of Recruitment Rules, 2019 was a mere enabling provision empowering the Commission to make a recommendation without a corresponding obligation to make such a recommendation, a writ of mandamus to the State respondent to make appointment from the wait list ought not to have been issued. We may observe that no mandamus will lie where the duty sought to be enforced is of a

discretionary nature unless the exercise of discretion is made with oblique motives or extraneous purposes or extraneous considerations⁵. Here the discretion was taken away by the extant Rule 19.6 of the Procedure Rules, 2014. Thus, the direction issued by the learned Single Judge as affirmed by the Division Bench is not sustainable.

16. Consequently, the appeal is allowed. The impugned judgment and order of the High Court is set aside.

17. Pending application(s), if any, shall stand disposed of.

.....J
[MANOJ MISRA]

.....J
[MANMOHAN]

New Delhi
January 29, 2026

⁵Chingleput Bottlers vs Majestic Bottling Company, (1984) 3 SCC 258, Para 13.

ITEM NO.5

COURT NO.13

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO.26656/2025

[Arising out of impugned final judgment and order dated 04-12-2024 in WA No. 817/2024 passed by the High Court of Chhatisgarh at Bilaspur]

THE STATE OF CHHATTISGARH

Petitioner(s)

VERSUS

REKHA SONI & ANR.

Respondent(s)

IA No.189910/2025 - EXEMPTION FROM FILING O.T., IA No. 189912/2025-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ ANNEXURES

Date : 29-01-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :Mr. Bishwajit Dubey, A.A.G.
Mr. Vinayak Sharma, Adv.
Mr. Ravinder Kumar Yadav, AOR
Mr. Kaustubh Rai, Adv.
Mr. Yashvardhan Shah, Adv.
Mr. Kshitiz Aggarwal, Adv.

For Respondent(s) :Mr. Pranjal Kishore, AOR
Mr. Nagarjun Sahu, Adv.
Mr. Sarthak Goel, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is allowed in terms of the signed order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(SAPNA BANSAL)
COURT MASTER (NSH)