

(2013) 05 RAJ CK 0135

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6561 of 2013

Anand Kumar Sharma

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-05-2013

Acts Referred:

Citation : (2014) LabIC 33 : (2013) 4 WLN 334

Hon'ble Judges : Amitava Roy, C.J.;Veerendr Singh Siradhana, J

Bench : Division Bench

Advocate : Banwari Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

Amitava Roy, C.J.—In challenge is the prescription contained in Rule 23 of the Rajasthan Rural Development and Panchayati Raj State and Subordinate Service Rules, 1998 (for short, hereinafter referred to as "1998 Rules") effected by the Rajasthan Rural Development and Panchayati Raj State and Subordinate Service (Amendment) Rules, 2013 (for short, hereinafter referred to as "2013 Rules") providing weightage by way of marks for length of experience exceeding one year by persons in works similar to that of Computer Instructor (PR) under MGNREGA or any scheme or project of the Department of Rural Development and Panchayati Raj or the Department of Education in the State. For the order proposed to be passed, it is considered inessential to issue format notice.

2. We have heard Mr. Banwari Sharma learned counsel for the petitioner.

3. The relevant facts, in short, are that the petitioner claims himself to be eligible for appointment as Computer Instructor (PR) under the 1998 Rules and following his selection earlier, was appointed on contract basis as MIS Manager under the MGNREGA on 1.7.2010. After rendering his services in that capacity from 7.7.2010 to 31.1.2011, he joined the services of Sunshine Infosoft Private Limited and has been continuing therein as a Programmer, so much so, that as on date, he has a working experience as Programmer/Computer Operator of

three years and nine months.

4. Rule 23 of the 1998 Rules was amended vide the 2013 Rules in the following terms:--

4. Amendment of Rule 23.--The existing first proviso to Rule 23 of the said rules shall be substituted by the following, namely:--

Provided that in case of appointment to the post of Junior Engineer, Assistant Programme Officer, Computer Instructor (PR), Accounts Assistant, Co-ordinator Training, Coordinator J.E.C. and Co-ordinator Supervision merit shall be prepared by the Appointing Authority on the basis of such weightage as may be specified by the State Government for the marks obtained in such minimum academic qualification or technical qualification, except allied qualifications, as mentioned in the Schedule of these rules and such marks as may be specified by the State Government having regard to the length of experience, exceeding one year by persons on the similar work under MGNREGA, or any scheme or project of the Department of Rural Development and Panchavati Raj or the Department of Education in the State.

5. Schedule I of the 1998 Rules was also amended inter alia by incorporating the post of Computer Instructor (PR) to be filled up 100% by direct recruitment. The eligibility criteria therefor was prescribed by the 2013 Rules as hereunder:--

(1) Graduate with Computer Science or Electronics and Communication or Information Technology from a University established by law in India

OR

3 years" Diploma in Computer Application from a Institution recognized by the Government

OR

Graduate from a University established by law in India with "A" Level Certificate course conducted by the DOEACC under the control of Department of Electronics, Government of India

AND

(2) 2 years" working experience of computer operations in a Government Organization/Government undertakings/Public Limited/Private Limited company.

6. The petitioner is before this Court with the grievance that in the face of weightage of marks to be accorded to the candidates for the post of Computer Instructor (PR) on the basis of length of experience exceeding one year, who had performed similar works under the MGNREGA or any scheme or project of the Department of Rural Development and Panchayati Raj or the Department of Education in the State, he would be disadvantageously placed. As the petitioner is not possessed of the length of experience exceeding one year for similar works under this scheme/project/departments, in terms of the amended Rule 23, he

would not be granted weightage of marks therefor. He has, thus, questioned the validity of this norm to be unfair, discriminatory and unconstitutional. The learned counsel for the petitioner has asserted the same.

7. In view of the limited challenge projected in the instant proceeding, the scrutiny would be confined thereto.

8. Though the norms of eligibility for direct recruitment to the post of Computer Instructor (PR) require as an imperative, two years' work experience of Computer Operations in Government Organizations/Government undertakings/Public Limited/Private Limited Company, the same per se, in our opinion, would not entitle a candidate having such experience in a private limited company, to weightage of marks only on the basis thereof. The rule making authority, in its wisdom, as the amended Rule 23 would disclose, envisaged grant of weightage by way of marks for length of experience exceeding one year to persons doing similar works as of Computer Instructor (PR) under MGNREGA or any scheme or project in the Department of Rural Development and Panchayati Raj or the Department of Education in the State, while judging the comparative merit of the contending candidates for this post. Admittedly, the petitioner does not have the required length of experience exceeding one year as contemplated to be qualified for the weightage of marks. On this count, his plea to construe his work experience as Computer Instructor in a private establishment beyond six months of his stint under the MGNREGA for earning such weightage of marks, according to us, is not tenable.

9. Having regard to the fact that the post involved is lodged in public service, the insistence for length of work experience exceeding one year under MGNREGA or any scheme or project of the Department of Rural Development and Panchayati Raj or the Department of Education in the State in our opinion, cannot per se be repudiated as constitutionally impermissible or legally invalid. Apart from the fact that the State Government is empowered to formulate the norms for recruitment, no apparent arbitrariness, irrationality or unreasonableness, in the stipulation for length of experience exceeding one year for works in the schemes or projects referred to in the amended Rule 23, is discernible to proscribe the same to be unconstitutional and null & void. The writ petition lacks in merit and is dismissed. No costs. Stay application also stands rejected.