

(2019) 05 RAJ CK 0046
In the Rajasthan High Court
Case No : Special Appeal Writ No. 514 Of 2019

Anil Kumar Trivedi

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 06-05-2019

Acts Referred:

Citation : (2019) 05 RAJ CK 0046

Hon'ble Judges : S. Ravindra Bhat CJ; Dinesh Mehta, J

Bench : Division Bench

Advocate : Nupur Bhati

Final Decision : Dismissed

Judgement

1. The appellant's grievance with respect to the impugned judgment is that the learned Single Judge erroneously held him ineligible for admission.

2. The facts of the case are that for appointment to the post of Teacher Grade-III, Level-II, an advertisement was issued on 31.07.2008. The petitioner had qualified the Rajasthan Eligibility Examination for Teachers (REET) and apparently secured the required minimum marks.

3. The eligibility conditions required for the candidates reads as follows:-

"9.3 माननीय राजस्थान उच्च न्यायालय, जोधपुर की खण्डपीठ द्वारा विभिन्न याचिकाओं में पारित निर्णय दिनांक 20.05.2011 के क्रम में स्कूल शिक्षा विभाग, राजस्थान के पत्रांक एफ7(1)ई.ई./प्लान/2011 दिनांक 17 जून, 2011 एवं स्पष्टीकरण दिनांक 16.09.2013 के अनुसार निम्न अभ्यर्थी राजस्थान प्राथमिक एवं उच्च प्राथमिक विद्यालय अध्यापक सीधी भर्ती, 2018 में भाग लेने हेतु पात्र होंगे-

(i) ऐसे सभी अभ्यर्थी जिन्होंने राष्ट्रीय अध्यापक शिक्षा परिषद की अधिसूचना दिनांक 27.09.2007 जारी होने से पूर्व शिक्षक प्रशिक्षण पाठ्यक्रमों में प्रवेश लिया है, उन्हें स्नातक स्तर या समकक्ष परीक्षा में न्यूनतम प्रतिशत अंक प्राप्त होने की बाध्यता नहीं है।

(ii) ऐसे सभी अभ्यर्थी जिन्होंने राष्ट्रीय अध्यापक शिक्षा परिषद की अधिसूचना दिनांक 27.09.2007 जारी होने के बाद परन्तु अधिसूचना दिनांक 31.08.2009 के जारी होने से पूर्व शिक्षक प्रशिक्षण पाठ्यक्रमों में प्रवेश ले लिया था, उन्हें

स्नातक स्तर या समकक्ष परीक्षा में न्यूनतम 45 प्रतिशत अंक प्राप्त होने की बाध्यता है।

(iii) ऐसे सभी अभ्यर्थी जिन्होंने राष्ट्रीय अध्यापक शिक्षा परिषद की अधिसूचना दिनांक 31.08.2009 के जारी होने के बाद शिक्षक प्रशिक्षण पाठ्यक्रमों में प्रवेश ले लिया था, उन्हें स्नातक स्तर या समकक्ष परीक्षा में न्यूनतम 50 प्रतिशत अंक प्राप्त होने की बाध्यता है।"

4. The learned Single Judge, after considering the submissions of the parties and also relied upon the Judgment of the Division Bench in Sushil Sompura & Ors. Vs. State & Ors. [D.B.Civil Writ Petition No.3964/2011, decided on 20.05.2011] held as follows:-

"A persual of the above direction of the Division Bench would reveal that the emphasis was laid on the date of obtaining admission in the requisite course like B.Ed. prior to prescription of minimum qualifying marks by NCTE vide Notification dated 27.09.2007 and 31.08.2009 and no other stipulation, relaxation and/or the qualification to the said aspect was prescribed by the Division Bench. Once the stipulation has been prescribed by the Division Bench and the same has been incorporated in the advertisement for recruitment to the post of Teacher Gr.-III, Level -II by the respondents, the petitioners are required to comply with the requirements therewith.

As to what happened pursuant to the RTET, 2009 i.e. the petitioners got admissions in the third round of counselling after the Notification dated 31.08.2009 issued by the NCTE came into force, is wholly irrelevant in so far as the judging the eligibility of the petitioners for grant of appointment on the post of Teacher Gr.-III, Level-II is concerned.

The grant of admission in the qualifying course with delay on account of repeated round of counselling, cannot control/modify the eligibility conditions, which are very specific and, therefore, the contentions raised by learned counsel for the petitioners in this regard cannot be countenanced.

In case such an aspect regarding the delay in obtaining admission in B.Ed. was required to be examined by the respondents in each case of delay, the same would make the eligibility condition floating with a discretion with the respondents, which is not envisaged by the Rules and/or the directions of the Division Bench in the case of Sushil Sompura (supra).

The petitioners admittedly having obtained/granted the admission after 31.08.2009 and having marks less than the eligibility requirement subject to relaxation are, therefore, ineligible for grant of appointment.

The Division Bench in the case of Vijaypal Singh (supra) while relying on judgment in the case of Ashok Kumar Sonkar v. Union of India & Ors. : (2007) 4 SCC 54 laid down that the principles of equity in a case of such nature will have no role to play. The candidate lacking qualification are not having any right to face the process of selection and even in cases where the candidates were granted appointments, it was held that they were not entitled to any relief.

In view of the above factual and legal position, the petitioners having obtained/ granted admission after the cut off date i.e. 31.08.2009 and having failed as per the eligibility requirement of having 50%/45% (for reserved category candidates) marks at the Graduation level are clearly not eligible for appointment to the post of Teacher Gr.-III, Level-II.

Consequently, there is no substance in the writ petitions and the same are, therefore, dismissed."

5. In the present case, it is urged on behalf of the appellant that admission could be secured only in November as far as he is concerned because the process is prolonged and entailed different stages of counselling. Urging that discretion would ensue unless the Court intervenes, it was pointed out that in the same process of admission, others, who secured admission earlier were deemed eligible whereas the appellant was not. The second argument made was that the admission granted to some of the individuals was on the basis of marks which was less and that this would lead to arbitrariness in the process.

6. This Court is of the opinion that the reasons which persuaded the learned Single Judge to reject the writ petition are sound. Clearly, the eligibility indicated that those who secured admission after 31.08.2009 had to necessarily possess 50% marks. The appellant secured admission only in November, 2009. In the light of the clear stipulation, no other conclusion other than that taken by the learned Single Judge could have been arrived at.

7. The appeal lacks merit and is therefore dismissed.