

(2019) 02 RAJ CK 0270

In the Rajasthan High Court

Case No : Civil Writ Petition No. 26746, 27154, 27157, 27168 Of 2018, 151, 557, 933, 1787, 1928, 3214, 2857, 1481, 1883, 1940, 2544,??2571, 2694, 3134, 3206, 1613, 1823, 1853, 2145, 2248 And 1891, 2195, 2439, 2679, 2822, 2851, 2906, 2909, 2916, 2928, 2935, 2940, 29

Ashok Kumar Choudhary And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 13-02-2019

Acts Referred:

Citation : (2019) 02 RAJ CK 0270

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : Satyendra Sharma, V.B. Sharma

Final Decision : Allowed

Judgement

1. The commonality of the issue in these petitions is as to whether the petitioners, having applied for appointment to the post of Constable pursuant to the advertisement dated 25.5.2018, been then admitted thereto and having passed the written examination requisite under the Rajasthan Police Subordinate Service Rules, 1989 (hereafter 'the Rules of 1989') when put through the PET on various dates, also as required under the Rules of 1989, were offered appropriate and proper track conditions for running the 5 km race within the time prescribed of upto 25 minutes.

2. The petitioners participated in the Physical Efficiency Test (PET) at Kota either on 7 or 8 or 9 or 10 or 11 or 13, September, 2018 or on 29.8.2018 at Jaipur (morning or later in the evening). Amongst the petitioners are also those who though first required to report for the PET at Maharao Ummed Singh Stadium, Kota on 6.9.2018 were for reason of 'Bharat Band' on that date then made to participate in the PET on 9. 9.2018.

3. The issue for determination in these petitions as formulated above, has

already been addressed by the Single Bench of the Principal Seat of this Court at Jodhpur in the case of Revant Ram Meghwal and others vs. State of Rajasthan & Others SBCWP No. 13731/2018, and other connected matters decided on 27.11.2018. Therein it was held that the PET held on 8/9/10.9.2018 at Kota as also the one commencing at 4:02 PM at Jaipur on 29.8.2018 were vitiated for reasons of suitable running track not being made available for the candidates as the track/s were swampy/muddied resultant from heavy rains. Such candidates were not able to perform upto their potential and hence entitled to participate in PET to be conducted afresh. The aforesaid judgment has not yet been modified or set aside in appeal-stated to be pending-despite over three and a half months elapsing. This very issue of suitability of the running track/s for the PETs following success in the written examination for the post of Constables pursuant to the advertisement dated 25.5.2018 was thereafter considered in D.B.S.A.W. No. 1907/2018 titled Ravi Kumar Khateek vs. The State of Rajasthan & Others, and other connected matters, decided on 30.1.2019. Therein the Hon'ble DB held that "the nuanced distinction drawn by the learned Single Judge" apparently also in the case of Revant Ram Meghwal (supra) vis-à-vis the condition of the running track at Maharao Ummed Singh Stadium at Kota on 8/9/10.9.2018 on the one hand and at the same venue on 7/11/13.9.2018 was "too tenuous". And so was the distinction on the unsuitability of running track at Jaipur on 29.8.2018 in the evening vis-à-vis in the morning-held the Hon'ble DB. The DB then proceeded to conclude and hold that the running track at Maharao Ummed Singh Stadium, Kota on 7/11/13.9.2018 was also unsuitable for the PETs. It further held that aside of running track at Jaipur on 29.8.2018 being unsuitable for holding of PET at 04:02 PM, it was also unsuitable for the PET held earlier in the morning. Such candidates were thus also entitled to a fresh PET.

4. Mr. Vishna Ram, Addl. S.P. (Legal Cell), present in person for the respondent-Department, as the Advocates are on strike and do not today represent the State, states that a DB Special Appeal Writ has been filed against the judgment passed by the Single Judge in the case of Revant Ram Meghwal (supra) but no order thereon has yet been passed. He further states, on the Court's query in that regard, that he has no information with regard to any SLP/Review Petition having been filed against the judgment passed in the case of Ravi Kumar Khateek (supra).

5. Having taking into consideration the facts of the case, I am of the considered view that this Court has in the circumstance no option except to allow all these petitions in respect of candidates for the recruitment of Constables pursuant to the advertisement dated 25.5.2018 who were successful in the written examination and but unsuccessfully participated in the PET on 29.8.2018 at Jaipur and on 7/8/9/10/11/13.9.2018 at Kota for the reason that the running track for the PET on the said dates was unsuitable and hence vitiated. The petitioners are thus entitled to be given a chance afresh for participating in the PET. This for the reasons that this Court is bound by the findings of fact by the SB of this Court in the case of Revant Ram Meghwal (supra) and the DB in the

case of Ravi Kumar Khateek (supra) where it has been held that the running tracks for the PET on the dates recorded above were unsuitable in view of heavy rains for reason of which the petitioners before this court could not perform upto their potential and were unfairly disadvantaged.

6. Consequently, I would allow these petitions.

7. This judgment however no doubt will be subject to any variation/modification/setting aside of the order passed by Single Judge in the case of Revant Ram Meghwal (supra) in the appeal there against and variation/modification/setting aside by the Apex Court in any appeal filed or may be filed against the judgment dated 30.1.2019 passed in the case of Ravi Kumar Khateek (supra) or review thereof. Further it is directed that the relief granted in this judgment will only be available to those petitioners who, on verification, are found to have earlier participated in PST/PET on the dates earlier notified to them.

8. These petitions are accordingly allowed.

9. A copy of this judgment be placed in each petition.