

**(2008) 11 RAJ CK 0062**  
**In the Rajasthan High Court**

Babu Lal Bairwa

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

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**Date of Decision :** 06-11-2008

**Acts Referred:**

**Citation :** (2009) 3 RLW 2143 : (2009) 7 SLR 541

**Hon'ble Judges :** Mohammad Rafiq, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Mohammad Rafiq, J.—Heard learned Counsel for the parties.

2. This writ petition has been filed by the petitioner with the prayer that the respondents be directed to consider his candidature for appointment in Rajasthan Co-operative Subordinate Services (Co-operative Inspector Gr. II) as per his placement in the order of merit prepared pursuant to the advertisement 15.5.99. According to the learned Counsel for the petitioner, though the petitioner had given preference for appointment in the Rajasthan Co-operative Service but eventually he was not appointed because of his merit position. Subsequently, the petitioner came to know that candidates lower in merit than him, were given appointment in the Rajasthan Co-operative Subordinate Services (Co-operative Inspector Gr.II) ignoring the petitioner for such appointment, therefore, he filed writ petition with the prayer that action of the respondents be declared illegal and the respondents be directed to recommend his case for appointment in such service.

3. Learned Counsel for the respondents opposed the writ petition and submitted that select list was prepared as per merit and ultimately recommendation for appointment in various services including subordinate service was made on the basis of preference indicated by the candidates in their application forms. While the petitioner in the option form indicated his preference and opted for being appointed in Rajasthan Co-operative Services which is State Service but no

option was exercised by him for his appointment in Rajasthan Co-operative Subordinate Services. He cannot therefore now claim to be appointed in that services. It was contended that the dispute pertains to the selection of the year 1999 and appointment on all the advertised posts have been made long ago. At this stage, even otherwise, nothing can be done.

4. A perusal of Rule 19 of the Rajasthan State & Subordinate Services (Direct Recruitment by Combined Competitive Examinations) Rules, 1999 indicates that at the relevant time when the recruitment was held in 1999, a candidate was required to indicate his preference separately for appointment against the posts of State Services included in Schedule I and Subordinate ices in Schedule-II. According to Rule 20 of the Rules, the Commission was required to select the candidate in order of merit and the appointing authority was required to make appointment of such candidate in order of merit in the list prepared by the commission under Rule 17, strictly in accordance with the option given by the candidates in their application form for different services/posts. Rule 17 of the Rules requires the Commission to prepare the merit list as per marks secured by the candidates but Sub-rule (2) thereof, gives a rider thereto by providing that the commission while making preference to the posts in different services expressed by the candidate in his application, may recommend him for appointment to any post for which it considers him suitable. The indication of preference given by the candidate for the services in Schedule-I and II appended to the Rules 1999, has therefore, a significant role to play in the ultimate recommendation that may be made by the Commission to the Government. If the petitioner did not exercise the option for his appointment in the Rajasthan Co-operative Subordinate Services, he is to blame himself for such a situation, which is the creation of his own. If what is contended by the petitioner is accepted, the very system of preference to be given by the candidate for appointment in the services included Schedule-I for State Services and Schedule-II for subordinate services would be rendered meaningless.

5. In view of the above discussions, I do not find any merit in the writ petition. The writ petition is therefore dismissed.