
(2015) 09 RAJ CK 0043

In the Rajasthan High Court

Case No : Civil Writ Petition Nos. 2638/2015, 2367/2015, 2498/2015, 2738/2015, 2846/2015, 2983/2015, 3161/2015, 3162/2015, 3293/2015, 9438/2015, 9471/2015, 2776/2015, 3346/2015, 2758/2015 and 7490 of 2015

Bajrang Lal and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-09-2015

Acts Referred:

Citation : (2015) 09 RAJ CK 0043

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : R.S. Choudhary, Kailash Jangid, Sukesh Bhati, M.S. Rajpurohit, B.S. Deora, Vikas Bijarnia, Abhishek Sharma, K.R. Saharan, V.R. Choudhary and A.D. Ujjawal, for the Appellant; V.K. Mathur, R.R. Kanwar, GC and A.S. Shekhawat, AGC, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sandeep Mehta, J—Heard learned counsel for the parties. Perused the material available on record.

2. The instant bunch of writ petitions is preferred by the petitioners prosecuting a common cause of action and praying for an identical relief and are thus being decided together by this common order.

3. Succinct facts essential and relevant for the disposal of these writ petitions are enumerated in the ensuing paragraphs.

4. The respondent Rajasthan Public Service Commission (RPSC) issued an advertisement dated 30.10.2006 inviting applications for selection on the posts of Teachers Grade-II and Teachers Grade-III. The controversy in these writ petitions is the fallout of the procedure adopted by the RPSC in the mode of recruitment for the post of Teachers Grade-III particularly, the reservation

applied for female candidates. It appears that while issuing the result, RPSC committed a blunder and gave vertical reservation to the female candidates whereby, they were appointed beyond the available quota of seats. By applying vertical reservation, a large number of female candidates were migrated to the general category seats, thereby curtailing the number of available general quota seats for male candidates. As a consequence, the petitioners and other general category candidates were illegally deprived of selection in the original merit list published by the RPSC.

5. Some of the general category male candidates who were aggrieved by the action of the RPSC in extending vertical reservation to the female candidates and thereby unjustly curtailing their quota of seats, approached the Jaipur Bench of this Court by filing bunch of writ petitions led by S.B. Civil Writ Petition No. 3414/2009 (Naresh Kumar Sharma & Ors. v. State of Rajasthan & Anr.). The writ petitions came to be decided by the learned Single Bench by order dated 20.9.2011. The Court held that RPSC erred in applying vertical reservation for the female candidates contrary to the judgments rendered by the Hon"ble Supreme Court in the cases of (1) Anil Kumar Gupta and Others Vs. State of U.P. and Others, (1995) 5 JT 505 : (1995) 4 SCALE 573 : (1995) 5 SCC 173 : (1995) 2 SCR 396 Supp and (2) Rajesh Kumar Daria Vs. Rajasthan Public Service Commission and Others, AIR 2007 SC 3127 : (2007) 115 FLR 10 : (2007) 10 JT 154 : (2007) 10 SCALE 50 : (2007) 8 SCC 785 : (2007) 8 SCR 972 : (2007) AIRSCW 5650 . The Court decided the writ petitions with the following directions:--

"The fact, however, remains that appointments were given almost three years back, thus while not disturbing the selection as well as appointment made in favour of the candidates, I direct the respondents to consider the case of the petitioners for appointment in order of merit, if 686 female candidates would not have been given appointment in excess to the reservation. If any of the candidates come in the merit list as against the excess reservation in favour of the female candidates, then respondents are directed to give the appointment to the petitioners. It is clarified that if any of the candidates fall at a lower place in the merit list, if 686 female candidates would not have been given appointment in excess to reservation, that petitioners would not be entitled for appointment. Direction aforesaid has been given in the light of the judgment of the Hon"ble Apex Court in the case of Anil Kumar Gupta (supra). Therein also while clarifying the issue of horizontal reservation, a direction was given to provide admission to the petitioners to complete the justice. Thus, direction for appointment to the petitioners is given accordingly. Direction aforesaid may be complied with within a period of three months from the date of receipt of certified copy of this order."

The above order was not challenged and thus, attained finality.

6. As a result of the above directions, the result was revised and as many as 686 general category male candidates, who had earlier been illegally deprived of selection on account of wrong application of vertical reservation by the RPSC,

came within the cut off and became entitled for selection. The revised merit list was published by the RPSC on the internet on 30.9.2014. After the RPSC had revised the result, a meeting was held in the Education department of the State of Rajasthan and it was resolved as below:--

Thus, as per the said resolution, the RPSC was required to publish the result and to intimate the freshly selected candidates and invite detailed applications from them along with their educational testimonials etc. and after verification, recommend their names to the primary education department.

7. Learned counsel for the petitioners contended that the RPSC washed its hands off by giving a small press release in Ajmer edition of a few Hindi newspapers and thereby, the petitioners were not apprised of the fact that they had been selected in the revised result. The petitioners firstly came to know regarding their selection in the revised result when they received individual registered letters of different dates between February/March, 2015 issued by the RPSC wherein it was intimated to each of the petitioners that they were required to submit a detailed application form by the last date fixed by the RPSC but they failed to do so and thus, their selections were being cancelled. The petitioners claim that having been declared failed with the publication of the original result of the competitive examination on 16.3.2007, they could not have entertained a faintest idea that the result could be revised and they could be brought in the zone of consideration once again and thus, they had no occasion to look up the internet in the year 2014 for any fresh select list published by the RPSC. Some of the applicants claim to be residing in remote areas having no access to internet. The petitioners have set up a case that having revised the result after such a long interval, it was incumbent for the RPSC to have individually informed each candidate who came into merit on account of revision of result or atleast to have published the result in the newspapers having wide circulation in the entire State.

8. The petitioners have approached this Court through this writ petition assailing the legality and validity of the communication issued by the RPSC cancelling their candidature and raising a grievance that the RPSC was under an obligation of law as well as duty bound in terms of the Education department's resolution dated 1.10.2014 to individually inform each of the candidates selected in the revised merit regarding their success in the competitive examination and also to make Statewide publication of the result so that the meritorious candidates who were initially deprived of selection owing to the wrong application of reservation by the RPSC, could be informed of the new development and, could be provided an opportunity to submit their documents and stake their rightful claim on the general quota seats.

9. Notice of the writ petitions were issued to the respondents. Learned counsel Mr. V.K. Mathur has put in appearance for RPSC. Learned Govt. counsel Mrs. R.R. Kanwar and learned Addl. Govt. Counsel Mr. A.S. Shekhawat have put in appearance for respondents State.

10. A short reply has been filed by the RPSC wherein, the specific assertion of the petitioners that the RPSC failed to communicate the revised result as per law, is denied. It is stated at para No. 8 of the reply that the revised result was uploaded on the website of RPSC informing that the successful candidates as per the revised merit list are required to submit the detailed application forms by the last date fixed by it, failing which their candidature would be rejected. It is also contended that the format of the application form was also uploaded with the revised merit list. Copies of various newspaper cuttings have been annexed with the reply as Annex.3. The newspaper cuttings reflect that the Secretary of the RPSC simply gave a press release to the Ajmer edition of a few newspapers which the print media printed as per their own convenience. On going through the newspaper cuttings, it is further evident that the news item was published in the Ajmer Edition of Rajasthan Patrika, Dainik Bhaskar and Dainik Navjyoti only. No formal publication of the result was made as required by the Education Department's resolution dated 1.10.2014. Since the original result was published long back on 16.3.2007, the petitioners, who at that point of time were not selected, had no occasion to keep on checking internet, as they could not have entertained even a faintest idea that the result could possibly be revised. Seven years down the line, it would be foolhardy to expect that a candidate, who was declared failed in the year 2007, would, hoping against hope, keep checking the internet till the year 2014 in the belief that the RPSC would revise the result and he would be selected.

11. The RPSC having committed a blunder in applying vertical reservation whilst declaring the original result on 16.3.2007, cannot be allowed to wash its hands off the whole affair by claiming that it gave a press release of the revised result in various newspapers and thus, the successful candidates can be presumed to have received intimation thereof.

12. Mr. V.K. Mathur, learned counsel appearing for the RPSC, was asked to satisfy the Court as to whether or not the press release issued by the RPSC was published in newspapers having wide circulation all over the State. He candidly conceded that all the newspaper cuttings which were provided to him by RPSC, have been placed on record with the reply and that these are from the Ajmer city editions only.

The term "press release" is defined in the Oxford Advanced Dictionary as an official statement issued to the newspapers giving information on a particular matter. The import of the term "publication" was examined by the Hon'ble Supreme court in the case of State of Madhya Pradesh and Another etc. Vs. Ram Ragubir Prasad Agarwal and Others, AIR 1979 SC 888 : (1979) 4 SCC 686 and it was held as below:--

"In our view, therefore, "publication" to the educational world is the connotation of the expression. Even the student and the teaching community may have to know what the relevant syllabus for a subject is, which means wider publicity than minimal communication to the departmental officialdom.

22. If this view be sound, the State Government has failed to comply with the requisite of publication of the syllabus before prescribing the text-books. On that ground alone the order of the Government prescribing textbooks must fail because the condition preceding such prescription, namely, publishing of the syllabi has not been complied with."

Thus, there is a significant difference in the act of publication and a simple press release. Viewed in light of the ratio of the above judgment and considering the fact that the RPSC did not publish the revised result, the grievance raised by the petitioners in these writ petitions that they were not apprised and intimated of the revised result and are thereby being unjustly denied appointment is totally justified.

As a consequence, this Court has no hesitation in holding that RPSC failed to publish the revised merit list all over the State of Rajasthan in terms of the Education department's resolution dated 1.10.2014 and as per the requirements of fairness and natural justice. The argument advanced by the learned counsel for the RPSC that the RPSC was not required to give individual intimation to the newly selected candidates (alike the petitioners) other than the writ petitioners before the Jaipur Bench, is absolutely untenable.

As a matter of fact, the resolution of the education department goes to the extent of requiring the Commission to individually inform 597 candidates who were selected in the revised result other than the petitioners in the writ petitions filed at Jaipur Bench of this Court. Keeping in view the fact that the result was revised after nearly 7 years, the RPSC was under an obligation to individually intimate each candidate regarding his selection in merit pursuant to revision of result. This all the same was more necessary, considering the fact that the RPSC communicated rejection of the candidature to each candidate individually by letters of different dates between February/March, 2015. The cancellation of selection of the petitioners is absolutely arbitrary and illegal and contrary to the principles of natural justice.

13. Since the RPSC intimated the candidates regarding the cancellation of their selection by individual letters, it was obliged to adopt the same procedure by intimating them of the revised result and their consequential selection by sending them individual communications.

14. As a result of the aforesaid discussion, the instant writ petitions deserve to be and are hereby allowed. The RPSC shall make a fresh publication of the revised result in newspapers having wide circulation in the State of Rajasthan providing an outer limit of one month to the candidates for submitting their complete application forms with the requisite educational testimonials. Upon submission of the application forms within the stipulated time, the suitability of each applicant shall be examined and if found fit, the candidates' names shall be recommended for appointment to the State Government as per law. Such candidates who might have crossed the outer age limit for appointment shall be

entitled to age relaxation. The petitioners and other such meritorious candidates who are aware of the revised result, shall be entitled to submit their applications without waiting for such publication. The petitioners' appointment orders shall relate back to the date of issuance of the appointment orders for 88 candidates who filed the writ petitions before Jaipur Bench. The petitioners shall be entitled to notional benefits during the intervening period from the said date till the date they actually join the service.

15. Stay petitions are also disposed of.

16. No order as to costs.

17. A copy of this order be placed in each file.