

(2018) 10 RAJ CK 0084
In the Rajasthan High Court
Case No : Civil Writ No. 16893 of 2018

Bhagyawati Jain @APPELLANT@Hash State Of Rajasthan

Date of Decision : 30-10-2018

Acts Referred:

Citation : (2018) 10 RAJ CK 0084

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Khet Singh, Deepika Purohit, P.R. Singh

Final Decision : Allowed

Judgement

This writ petition has been filed by the petitioner aggrieved against order dated 24.10.2018 (Annexure-9), whereby, candidature of the petitioner has

been rejected on account of her obtaining a decree for divorce after the cut off date. It is, inter alia, submitted by the petitioner that the petitioner

applied for the post of Teacher Gr.-III (English), Non TSP pursuant to the advertisement dated 31.07.2018, wherein, in the column pertaining to the

marital status, she indicated her status as divorcee. In the cut off issued by the respondents, the cut off for General Female was 67.93% with date of

birth as 25.08.1991 and the petitioner secured 72.2% marks.

It is submitted that initially the case of the petitioner was kept pending as the Chief Executive Officer sought instructions from the Director, as divorce

decree of the petitioner was after the cut off date. As the petitioner came to know of the said aspect, she gave a representation in writing, inter alia,

indicating that as she has got more marks than the cut off, even if, the decree of divorce is after the cut off date, petitioner need not be treated as a

divorcee and be granted appointment. However, by order dated 24.10.2018 (Annexure-9) on account of the fact that the decree of divorce was after

the cut off date the petitioner has been held ineligible.

Learned counsel for the petitioner submitted that irrespective of the status of petitioner as a divorcee, as the petitioner falls within the cut off as

declared by the respondents, merely because a decree of divorce was issued after the cut off date would have no implication and, therefore, rejection

of the petitioner's candidature cannot be sustained.

Learned counsel appearing on caveat supported the order and submitted that once the petitioner has applied in the category of divorcee and has

obtained decree of divorce after the cut off date, she is not entitled for consideration and, therefore, the writ petition deserves to be dismissed. I have

considered the submissions made by learned counsel for the parties and have perused the material available on record.

It is not in dispute that the petitioner has secured 72.2% marks, whereas, the cut off for General Female is 67.93% i.e. the petitioner has more marks

than the cut off. Once the petitioner falls within the general cut off, there was no necessity for the respondents to look at her status as a divorcee and

even if she is not treated in that category, she is entitled to grant appointment on the strength of her merit i.e. having obtained more marks than the cut

off and, therefore, rejection of petitioner's candidature by the respondents holding her ineligible for the reasons indicated in the order dated

24.10.2018 (Annexure-9) cannot be sustained.

Consequently, the writ petition filed by the petitioner is allowed. The order dated 24.10.2018 (Annexure-9) qua the petitioner is quashed and set aside.

The respondents are directed to accord appointment to the petitioner with all consequential benefits. Needful may be done within a period of four

weeks.