
(1995) 01 RAJ CK 0048
In the Rajasthan High Court
Case No : CWrit Petition No. 1154 of 1994

Bhanwar Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 30-01-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1996 Raj 106 : (1996) 3 WLC 78

Hon'ble Judges : N.K. Jain, J

Bench : Single Bench

Advocate : Anand Purohit, for the Appellant; R.P. Dave, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Jain, J.—By this writ petition, the petitioner seeks a direction to be issued to the respondents to admit the petitioner to the training course of Lab Technician at Jodhpur Centre. It has been prayed that the respondent may be directed to allow the petitioner to complete the said course and allow him to appear in the examination.

2. Briefly stated the facts of the case as alleged by the petitioner are that the petitioner who passed Secondary Examination in the year 1992 from the Board of Secondary Education Rajasthan, Ajmer has applied for Laboratory Technician Course in pursuance of the Advertisement No. 93/87 dated 20-1-1993 (Annx. 2) by which applications were invited for said course for ten training centres. Thereafter a merit list was prepared by the duly constituted Selection Committee wherein the candidates who have passed Secondary in Science subject having Chemistry, Biology and Physics (Medical Group) were selected on the basis of merit, as per the information received by the petitioner on enquiry. It is alleged that on the basis of merit, respondent No. 2 issued an office order dated 15-2-1994 (Anx. 3) selecting 21 candidates from general category 5, in S.C. category and 4 in S.T. category and all those candidates were directed to join the training course latest by 2-3-1994. Being aggrieved by the action of the non-

petitioner not giving admission to the petitioner to the said training course, he has approached this Court under Article 226. In response to the notice reply has been filed but no counter has been filed. The respondents have filed copies of the marksheets of some of the candidates who were given admission.

3. Mr. Purohit, learned counsel for the petitioner has contended that the petitioner has passed the Secondary Examination with one Science subject which includes Physics, Chemistry and Biology, fulfilling all the conditions for the purpose of admission to the training course of Lab Technician having 78% in all and in science he has secured 86% but the respondents have illegally denied him admission whereas admission have been given to the candidates who have secured lesser marks than the petitioner. He has also contended that the denial of admission to the petitioner in the said training course amounts to discrimination. He has relied on Pankaj Tanwar v. State (S. B. C. W. Petition No. 510/94) decided on 10-2-1994, Mahesh Chandra v. State (S.B.C.W. Petition No. 1886/94) decided on 3-5-1994, Ambika Devi v. State 1994 WLR 840 Smt. Reeta Sharma v. State 1987 RLW 757 and Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another,

4. Mr. Dave, learned counsel for the non-petitioners has urged that in the advertisement there was a specific condition that preference will be given to the candidates having Physics, Chemistry and Biology (Medical Group) which was prescribed looking to the nature of the duties of Lab Technician. He has also submitted that as sufficient number of candidates were available having separate subjects of Physics, Chemistry and Biology admission was not given to any other candidate having one Science subject only and, therefore, the same is not hit by Article 14 particularly when the petitioner has not challenged the Advertisement Anx. 2 itself, and the petitioner cannot take advantage of the cases cited.

5. I have heard learned counsel for the parties and perused the material on record, as also the case law.

6. So far as the contention of Mr. Purohit that the denial of admission to the petitioner is discriminatory is concerned, suffice it to say that in the Advertisement Anx. 2 itself, it has been specifically mentioned that the preference will be given to the candidates who have passed Secondary Examination with Physics, Chemistry and Biology (Medical Group), therefore, it cannot be said that the petitioner has been treated discriminately particularly when no other candidate like the petitioner having one subject as Science has been given admission in the Laboratory Technician Course. That apart what the advertisement envisages is selection for the purpose of sending candidates for training of Lab Technician which will ultimately make them eligible for consideration for appointment as Lab Technician and providing of a preference clause cannot be said to be arbitrary as a candidate who is ultimately aspirant for appointment on the post of Lab Technician must have sufficient training in Science subject and the very nature of functions and duties of a person appointed on the post of Lab Technician require knowledge in Science subject of

Physics, Chemistry and Biology (Medical Group). Thus, the contention of the petitioner has no legs to stand that too when the petitioner has not challenged the impugned condition provided in the Advertisement dated 20-1-1993. Reference can be made to a decision of this Court rendered in *John Dolly v. State* (S.B.C.W. Petition No. 2478/93) decided on 5-7-1994 (reported in *John Dolly Elizabeth Vs. State of Rajasthan and Another*, which has been affirmed by the Division Bench of this Court.

7. As regards the contention that the Secondary Examination passed by the petitioner under the New 10+2+3 Scheme with Science subject includes Physics, Chemistry and Biology, therefore, the petitioner fulfils all the conditions and eligible for admission. Of course, the Science subject possessed by the petitioner may include Physics, Chemistry and Biology and passing of Secondary Examination with the one consolidated Science subject make him eligible for admission, has not been disputed by Mr. Dave but he submits that when adequate number of candidates are available as per the condition of the advertisement, the petitioner is not entitled for admission. Admittedly, the respondents have specifically provided that preference will be given to those who have Physics, Chemistry and Biology (Medical Group) looking to the nature and duties of the Lab Technician for which the respondents are well within their competence, therefore the relief sought cannot be granted. Moreso, it would not be appropriate for this Court to sit in judgment over the decision of the competent authority providing preference clause unless the same is arbitrary or unreasonable, which the petitioner has failed to show.

8. It has been next contended that the candidates having lesser marks than the petitioner have been given admission but the same is of no avail as sufficient candidates of Medical Group were available and merit list was prepared accordingly whereas the petitioner was not having the said three subjects as per preference clause and, therefore, the non-petitioners have not acted illegally in denying admission to the petitioner. Reference may be made to a decision of this Court at Jaipur Bench in *Sunit Kurnar v. State* (S.B.C.W. Petition No. 1824/93) decided on 2-3-1994.

9. So far as the cases cited by the counsel for the petitioner are concerned, they are not of any help to him. The decision rendered in *Pankaj Tanwar's* case (supra) is not applicable. That case pertains to Notification dated 21-12-1991 (Advertisement No. 91/ 1563) wherein there was no such condition as has been imposed in this case vide Advertisement No. 93/87 dated 20-1-1993 for which as stated above the respondents are fully competent and justified in providing preference to the candidates having Secondary Examination with Physics, Chemistry and Biology (Medical Group). The decision given in *Mahesh Chandra's* case (supra) is also not helpful in the absence of specific denial of the respondents that not a single candidate having Science subject was given admission, which has not been disputed. Further it is evident from the marksheets produced by the non-petitioners of the candidates given admission,

in compliance of the order of this Court. Apart from that after training when admittedly examination have already been taken place and the petitioner did not move any application for appearing in the examination before this Court in time and the results have also been declared on 17-12-1994. Therefore, even training obtained by the petitioner in pursuance of the interim orders of this Court dated 4-3-1993 wherein there was a specific condition that provisional admission will not create any right or equity in favour of the petitioner is of no avail. The petitioner also produced, an application dated 2-12-1994 moved by the petitioner before the concerned authorities but that is not helpful as he has filed the same before this Court on 10-1-1995. In view of this, on the basis of equity also no relief can be granted and the petitioner cannot take advantage of the interim order. Reference may be made to a D.B. decision of this Court rendered in Ashok Kumar Aseri v. University of Jodhpur 1993 (3) WLC 320 .

10. In view of what I have discussed above, it cannot be said that any legal right of the petitioner has been infringed, so as to call for any interference in the writ jurisdiction.

11. No other point has been pressed before me.

12. Accordingly, the writ petition has no force and the same is hereby dismissed.