

(2019) 05 RAJ CK 0226

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1347, 1348 Of 2019

Devendra Singh Shaktawat And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 29-05-2019

Acts Referred:

Citation : (2019) 05 RAJ CK 0226

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Ramesh Kumar, K.K. Bissa

Final Decision : Dismissed

Judgement

These writ petitions have been filed by the petitioners seeking grant/extension of benefit of gazette notification dated 19/5/2018 (Annex.4) by adding reservation for TSP Area candidates in the Recruitment - 2013 for the post of L.D.C. and consequential relief that the applications made by the petitioners be treated as applications for appointment in TSP area and accord them appointment, if they fall in merit.

It is inter alia claimed in the writ petitions that an advertisement for recruitment on the post of L.D.C. was issued by the respondents in the year 2013. The petitioners submitted their online application forms. It is claimed that the recruitment process is still in progress and in the meanwhile, a notification dated 19/5/2018 (Annex.4) has been issued, wherein, the residential area of the petitioners has been declared as TSP Area and petitioners obtained certificates in this regard and approached the respondents seeking change of their category from Non-TSP to TSP, however, the prayer made by the petitioners in this regard has been declined.

It is submitted by learned counsel for the petitioners that once the area of the petitioners has been included in TSP area and the recruitment process is still in progress, the action of the respondents in not permitting the petitioners to

change their category from Non-TSP to TSP area is not justified inasmuch as at the time of filing of the applications, the petitioners could not have claimed their status as TSP candidates, however, once the said status is now available to the petitioners, there is no reason for the respondents to deny the said benefit and, therefore, the respondents be directed to permit change of category.

Reliance has been placed on a judgment of coordinate bench of this Court in *Manish Kumar Nagda vs. State of Rajasthan & Ors.* : S.B.Civil Writ Petition No. 8529/2018 decided on 23/7/2018.

Learned counsel appearing for the respondents with reference to judgment in *Devendra Kumar Meena vs. State of Rajasthan & Ors.* : S.B.Civil Writ Petition No.7187/2009 decided on 10/4/2015 submitted that the issue stands covered by the said judgment, wherein, in similar circumstances, the prayer made was refused.

The judgment in the case of *Manish Kumar Nagda (supra)* was sought to be distinguished on the ground that in the said case when the process of selection was at the stage of submitting online application, the relief was granted, whereas, in the present case the appointments have been offered to the meritorious candidates long back and whatever process remains is based on the wait listed candidates and, therefore, the notification, which has come after five years of issuance of the advertisement cannot be used for the purpose of change of category and/or seek appointment in TSP area.

Reliance was placed on *Gurdeep Singh vs. State of J&K* : (1995) Suppl 1 SCC 188 and *Rakesh Kumar Sharma vs. State of Rajasthan* : (2013) 11 SCC 58.

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

The facts are not in dispute wherein, as per the advertisement (Annex.2) the last date of filing application was 22/3/2013, pursuant thereto the petitioners made their applications on 14/3/2013. The notification (Annex.4), whereby, certain areas were included in TSP area has been issued on 19/5/2018. The averments made by the respondents in reply regarding the recruitment process pursuant to the advertisement of 2013 being already over and the issue of wait listed candidates only remains pending has not been controverted by the petitioners.

In the case of *Devendra Kumar Meena (supra)*, in a similar circumstance, it was laid down by this Court as under:

"Undisputedly, the process wherein the petitioner applied was initiated through the advertisement issued in the month of April 2007. The examination for selection was held in the month of August 2007. The notification dated 12.9.2007, whereby TSP area reservation was declared was notified and published in the official Gazette on 12.9.2007 and therefore, obviously the benefit of such reservation was not required to be extended to the candidates, who had appeared in the examination conducted before the publication of the

notification. Any such action would amount to giving a retrospective effect to the notification declaring an area specific reservation, which in the opinion of this Court, is not permissible. So far as the petitioner's claim that the action of the respondents in giving benefit of the TSP area reservation to such candidates, who appeared in the recruitment examination pursuant to the advertisement (Annex.11) dated 1.6.2007 is concerned, the same is also of no avail whatsoever to the petitioner for the simple reason that the advertisement itself stipulated that the probable date of the examination would be in the month of October 2007. By that time, the TSP area reservation was notified and therefore, any selection process conducted thereafter had to be governed by the said notification. As a consequence, the petitioner's claim that he should be extended the benefit of TSP area reservation introduced by the notification (Annex.4) on the ground of parity is unacceptable. It is further relevant to note that the selection process wherein, the petitioner seeks a direction for appointment was completed long back. No interim protection was provided to the petitioner. Thus, otherwise also, the petitioner is not entitled to the relief claimed in the writ petition. Accordingly, the writ petition being devoid of any merit is hereby dismissed."

The ratio of the said judgment applies on all force to the facts of the present cases.

So far as the reliance placed on the judgment in the case of Manish Kumar Nagda (supra) is concerned, besides the fact that it is difficult to decipher the ratio of the said judgment, merely based on the relief granted in the said case, the said judgment cannot have any general application and, therefore, nothing turns on the judgment in the case of Manish Kumar Nagda (supra).

In view of the above fact situation, the issue raised in the present petitions stands squarely covered by the judgment in the case of Devendra Kumar Meena (supra) and, therefore, the petitioners are not entitled for any relief.

Consequently, there is no substance in the writ petitions and the same are, therefore, dismissed.