
(2014) 01 RAJ CK 0035

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4008 of 2013

Dhirendra Singh

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 31-01-2014

Acts Referred:

Citation : (2015) 1 CDR 371 : (2015) 2 RLW 1066

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Rajendra Kumar Sharma, Advocates for the Appellant; B.S. Rajawat, Dy. Govt. Counsel, Advocates for the Respondent

Judgement

Mohammad Rafiq, J.—This writ petition has been preferred by the petitioner Dhirendra Singh, who is a Scheduled Caste candidate with the prayer that the action of the respondents in not calling the petitioner for interview and not selecting him for appointment on the post of Sub-Inspector of Police be declared arbitrary and illegal and the respondents be directed to consider the case of the petitioner for appointment declaring result of the petitioner on the basis of written examination as well as interview. The facts of the case are that the respondents issued an advertisement on 25.11.2010 inviting applications from eligible candidates for appointment on 34 posts of Sub-Inspector under Rajasthan Police Subordinate Service Rules, 1989. Petitioner applied in response to the aforesaid advertisement and participated in the competitive examination. He qualified the examination and thereafter he was called for the physical efficiency test and qualified therein. It was thereafter that the respondents by letter dt. 26.6.2012 called the petitioner to appear for the interview on 6.9.2012 at 9.00 AM. The result was declared on 3.2.2012. Thereafter, it appears that certain objections/representations were received by the respondents with regard to inaccuracy/mistakes in several questions/answers of the written examination held by them and number of writ petitions were filed before this Court. This Court while disposing of those writ petitions, directed the respondent-RPSC to

constitute an expert committee to examine all such objections. Pursuant to the recommendation of the expert committee, certain questions/answers were varied/deleted/changed and thereafter the revised answer key was prepared on 5.12.2012 and on that basis, revised result was declared on 30.10.2012. Thereafter, result was again revised and was declared on 21.12.2012. The respondents invited certain new candidates to face the interview, who were earlier not called.

2. Shri Rajendra Kumar Sharma, learned counsel for the petitioner has argued that the respondents have wrongly interpreted Rule 21 of the Rajasthan Police Subordinate Service Rules, 1989, inasmuch the respondents have wrongly not selected the petitioner on the assumption that he has not Figured within the candidates three times the number of vacancies reserved for Scheduled Caste to be called for the interview.

3. Learned counsel in this connection referred to sub-rule (3) of Rule 21, supra, which provides that a candidate who obtains 36 percent marks in each paper and 40 percent in the aggregate, shall be deemed to qualify examination conducted by the Commission. It is argued that petitioner has qualified that requirement and has secured 286.61 marks in SC category. However, candidates lower in merit than him in this category have been selected due to faulty interpretation of Rule 21 made by the respondents. Learned counsel has invited attention of the Court towards the table given in para 7 of the reply to the writ petition giving particulars of the SC category candidates, who have been selected with lesser marks than the petitioner.

4. Per contra, Shri S.S. Raghav, learned counsel, for the RPSC has opposed the writ petition and submitted that the commission invited application for appointment on 361 posts of Sub-Inspector of Police and 34 posts of Platoon Commander. Vide corrigendum dt. 19.7.2011, it enhanced the total posts by 178 and then bifurcated the posts category wise. The written examination, which carried 200 marks, was conducted on 25.5.2011 spread over 150 questions. All questions carried equal marks and each question was objective type and was having alternative responses marked as (1), (2), (3) and (4). The candidates were required to darken only one circle in OMR sheet. The OMR sheets were divided in four different series i.e. A, B, C & D. The result of the examination was declared on 30.9.2011 and uploaded on the website of the Commission and also published in the newspapers. Since in the first process, petitioner secured qualifying marks, he was called to face physical endurance test, which too he qualified. Thus, he was called for the interview on 6.9.2012. Subsequently, number of writ petitions were filed before this Court by certain candidates and this Court directed the respondent-Commission to constitute an expert committee and evaluate the answers. Consequently, revised result was declared on 29.1.2013 whereby total 220 candidates were called for interview. Since the petitioner did not qualify in third revised result due to change in answer key, he was not called for interview.

5. Shri B.S. Rajawat, learned Deputy Govt. Counsel for the State has also opposed the writ petition and adopted the arguments made by Shri M.S. Raghav, learned counsel for the RPSC.

6. I have given my anxious consideration to the rival submissions and perused the material on record.

7. At the outset, it would be apposite to reproduce sub-rules (3) & (6) of Rule 21 of the Rules of 1989:

"(3) Candidates who obtain 36 per cent of marks in each paper and 40 per cent in the aggregate, shall be deemed to have passed the qualifying examination conducted by the Commission or the Recruitment Board as the case may be. The Commission shall send the list of such successful candidates to the Recruitment Board referred to in sub-rule 6(a).

Provided that relaxation upto 5 marks will be available to candidates belonging to the Scheduled Castes and Scheduled Tribes in each paper and in the aggregate.

(6) Candidates who are declared successful in the written test under sub-rule (3) and in the physical efficiency test under sub-rule (5) shall be eligible for aptitude test and interview:

Provided that the number of candidates called for aptitude test and interview shall be restricted to three times the number of vacancies on the basis of merit based on the aggregate marks obtained both in the written and in the physical efficiency test except in the case of scheduled castes and scheduled tribes candidates who shall be eligible for interview in excess of the prescribed limit if they have qualified in the written examination and the physical efficiency test."

Perusal of sub-rule (3) of Rule 21, supra indicates that a candidate is deemed to have passed the qualifying examination conducted by the Commission only if he secures 36 per cent marks in each paper and 40 per cent marks in aggregate. It is not the case of the respondents that the petitioner has not either obtained 36 per cent marks in individual paper and 40 marks in aggregate. Sub-rule (6) of Rule 21 provides that a candidate who was declared successful in the written test under sub-rule (3) and in the physical efficiency test, shall be eligible for aptitude test and interview. It is not even disputed by the respondents that the petitioner has qualified the physical efficiency test. In fact, the situation that has arisen in the present case is the result of faulty interpretation placed by the respondents on proviso to sub-rule (6) of Rule 21, which stipulates that number of candidates called for aptitude test and interview shall be restricted to three times the number of vacancies on the basis of merit based on the aggregate marks obtained both in the written and in the physical efficiency test. But there is a further exception to this proviso which is that in case of schedule castes and scheduled tribes candidates, who shall be eligible for interview in excess of the prescribed limit if they have qualified the written examination and physical efficiency test, this restriction would not apply. In other words, restriction of

three times number of vacancies on the basis of aggregate marks obtained in written test and physical efficiency test is applicable to General/OBC candidates, but not to Scheduled Caste and Scheduled Tribe candidates, who shall be eligible for interview in excess of prescribed limit i.e. three times of the number referred to above, provided they have qualified in written test and the physical efficiency test. In other words, the candidates belonging to Scheduled Caste and Scheduled Tribe if they qualified the written test by securing minimum marks prescribed and have also qualified the physical efficiency test, would be eligible to be called for the interview.

8. What is significant to notice is that petitioner has given particulars of such Scheduled Caste candidates with reference to their roll, numbers in para 7 of the writ petition, who even though appeared at merit No. 954, 957 and 964 with only 281.18, 280.99 and 280.49 marks respectively in the written examination, much lower marks than those of the petitioner, who had 286.61 marks in the written test, have been selected. Each of those candidates have secured 20 marks in the interview. If 19 marks of the petitioner awarded in the interview are added, he would have 305.61 marks, whereas upon adding marks of interview those candidates respectively secure 301.18, 300.99 and 300.49 marks. It is thus that the candidates with lessor marks than the petitioner have been appointed in Scheduled Caste category.

9. In view of above interpretation placed on proviso to sub rule (6) of Rule 21 of the Rules of 1989, action of the respondents in not appointing the petitioner only because he did not figure within three times of number of candidates with reference to proviso to Sub-rule (6) of Rule 21, supra has to be therefore held illegal and not in conformity with law. Since the petitioner has already appeared in interview, there is no need of calling him for interview for the second time. The marks secured by him in the interview at the initial stage would hold good for his selection and appointment on the post of Sub-Inspector of Police.

10. In view of above discussion, the writ petition deserves to be succeed and is accordingly allowed. The respondents are directed to consider the candidature of the petitioner as per his merit and if found suitable, grant him appointment with effect from the date candidates immediately below him in merit are appointed. The petitioner shall not be entitled to salary for the intervening period, although his appointment would be deemed to have been made from the date, such candidate was appointed and he shall be entitled to notional benefits from such date. Compliance of the judgement be made within a period two months from the date copy of this judgement is produced before the respondents.