

(2015) 01 RAJ CK 0133

In the Rajasthan High Court

Case No : Civil Writ Petition Nos. 19402, 20796, 17067 and 21728/2013 and 415, 416, 417, 429, 443, 444, 445, 447, 1039, 1839, 2079, 2931, 3305, 12625, and 13708/2014

Divya Bharia and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-01-2015

Acts Referred:

Citation : (2015) 01 RAJ CK 0133

Hon'ble Judges : Bela M. Trivedi, J.

Bench : Single Bench

Advocate : Gaurav Tanwar, Arkit Srivastava, Shailesh Prakash Sharma, Vijay Pathak, Vigyan Shah, Praveen Sharma, Kamlesh Sharma, Pavan Sharma, for the Appellant; S.K. Gupta, AAG and Shyam Arya, AAG, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Bela M. Trivedi, J.—All these petitions pertain to the appointments on the post of Live Stock Assistants. The group of petitions being No. CWP Nos. 3305/2014, 19402/2013, 20796/2013, 21728/2013, 12625/2014 and 13708/2014 (hereinafter referred to as the first set of petitions) have been filed by the petitioners, who were not included in the select list dated 3/10/2013 prepared for the post of Live Stock Assistant in the Animal Husbandry Department, pursuant to the advertisement dated 6/8/2013 issued by the respondents. They have challenged the said select list on the ground that the respondents have committed glaring irregularities in preparing the same. The other group of petitions being Nos. 415/2014, 416/2014, 417/2014, 429/2014, 443/2014, 444/2014, 445/2014, 447/2014, 2079/2014, 2931/2014, 17067/2013, 1039/2014 and 1839/2014 (hereinafter referred to as "the second set of petitions") have been filed by the petitioners who were included in the said select list but their appointments have been cancelled by the respondents vide the impugned order dated 18/12/2013. They have prayed for setting aside of the said order dated 18/12/2013.

2. The short facts, giving rise to the present petitions, are that all the petitioners of all the petitions had applied for the said post of Live Stock Assistants pursuant to the advertisement dated 6/8/2013 issued by the respondents. The relevant condition mentioned in the said advertisement for the educational qualification reads, as under:--

3. Thus, as per the said condition, the candidate should have passed the Senior Secondary with the subjects mentioned therein from the Board of Secondary Education, Rajasthan or equivalent thereto. As per the process of selection mentioned in the condition No. 11 of the said advertisement, the merit list was to be prepared on the basis of the marks secured in Senior Secondary and in the diploma course of Animal Husbandry, as well as weightage to the experience of working in the Government Department. Initially the weightage of experience was 30% which was later reduced to 15%. Hence, 85% weightage was to be given to the marks obtained in Senior Secondary and Diploma Course. The respondents after scrutinizing the application forms and the documents submitted by the candidates, prepared and issued the select list of 1701 candidates on 3/10/2013. The said candidates were also given their respective postings as mentioned therein.

4. It appears that the petitioners of writ petition No. 17067 of 2013 and 19402 of 2013 i.e. of first set of petitions having challenged the said select list dated 3/10/2013 on the ground that number of irregularities were committed in preparing the said select list, and this Court having issued the notices to the respondents in the said petitions, the impugned order dated 18/12/2013 came to be passed by the Director, Animal Husbandry Department i.e. the respondent No. 2, canceling the appointments of sixteen candidates. Out of the said sixteen candidates, thirteen have approached this Court challenging the said order dated 18/12/2013. Their appointments have been cancelled by the respondents on the ground that the said petitioners did not hold the certificates of Senior Secondary Examination of the Board which could be treated as equivalent to the Board of Secondary Education, Ajmer.

5. The respondents have filed their replies in the respective petitions contending inter alia that the appointments of 16 candidates, who were included in the select list dated 3/10/2013 have been cancelled as they did not possess the certificates of the Board of Secondary Education, equivalent to the Board of Secondary Education, Rajasthan, Ajmer. According to the respondents, the Guidelines, 2013 were issued by the Board of Secondary Education, Rajasthan, Ajmer listing the names of Boards, which were required to be treated as equivalent to the Senior Secondary (10+2) of the Board of Secondary Education, Rajasthan, Ajmer, and the Sixteen appointees whose appointments have been cancelled did not possess the certificates of the Boards included in the said guidelines.

6. It is pertinent to note that the Court while issuing notices to the respondents in S.B. Civil Writ Petition No. 1039 of 2014 and others had passed the ex-parte

order on 17/2/2014, staying the operation of the impugned order dated 18/12/2013. The said order is continuing as on today.

7. The learned counsels appearing for the petitioners of the first set of petitions drawing the attention of the Court to the various glaring irregularities, more particularly as narrated in the petition being No. 13708 of 2014 submitted that the 16 candidates whose selections have been cancelled by the impugned order dated 18/12/2013 had no right to continue in service as they did not possess the requisite qualification as per the condition mentioned in the advertisement. They pointed out that apart from that, the mark sheets submitted by such petitioners were also ex-facie false and forged one. From the petition being No. 3305 of 2014, they also pointed out that apart from those 16 candidates whose appointments have been cancelled, there were number of other candidates, who had produced forged mark sheets and certificates in order to get the appointments

8. However, the learned counsels for the petitioners of the second set of petitions have submitted that they were given appointments after proper verification of their documents, and they having already been appointed and are serving on the said posts since last one year, their appointments should not have been cancelled by the respondents without giving them opportunity of hearing. They also submitted that the respondents had not published the list of Boards, which were to be treated as equivalent to the Board of Secondary Education, Rajasthan, Ajmer, and that the certificates issued by the concerned Board like Educational Council, Delhi and others were treated as valid for the purposes of diploma course in Animal husbandry by the Rajasthan University.

9. The learned counsel Mr. S.K. Gupta, AAG, and Mr. Shyam Arya, AAG for the respondent-Department have also submitted that the appointments of 16 candidates were cancelled as the certificates produced by them were not found to be genuine ones and the Boards which issued such certificates were not recognised as being equivalent to the Board of Secondary Education Rajasthan Ajmer. Mr. Gupta, AAG also submitted that the respondents shall reverify the documents of all the selected candidates, and prepare the revised select list, if directed by the Court.

10. Having regard to the submissions made by the learned counsels for the parties and to the documents on record of all the petitions, many glaring irregularities have been noticed by the Court in the selection of candidates for the post of Live Stock Assistants in question. It is not disputed that all the petitioners had applied for the said posts pursuant to the advertisement dated 6/8/2013 issued by the respondents, in which the minimum education qualification prescribed was passing of Senior Secondary Examination with the subjects mentioned therein from the Board of Secondary Education, Rajasthan or equivalent thereto. It is also not disputed that as per the said advertisement, the selection was to be made on the basis of weightage to be given on the marks obtained in Senior Secondary and Diploma Course, as well as on the basis of the

experience in the Government Department in the ratio of 85:15. Issuance of the select list dated 3/10/2013 of 1701 candidates and cancellation of appointments of sixteen candidates as per the office order dated 18/12/2013, are also not in dispute. During the course of hearing of the petitions, many glaring irregularities have been pointed out by the learned counsels for the petitioners of the first set of petitions, more particularly the irregularities as narrated in the petition being No. 13708 of 2014. They are as under:--

11. Apart from the above irregularities, the learned counsel appearing in the petition being No. 3305 of 2014 also pointed out from the additional affidavit of the petitioner that many other candidates had produced the mark sheets of Jamiya Urdu Aligarh, which was not given equivalence to the Board of Secondary Education, Rajasthan, Ajmer. He also pointed out that the forged mark sheets of Gurukul University, Vrindavan, Mathura were produced by many selected candidates in order to get appointments on the said posts.

12. The Court, after going through the record of the petitions has found much substance in all these allegations made in the first set of petitions. On the bare perusal of documents i.e. the certificates of concerned Boards and mark sheets, produced in the second set of petitions, it transpires that some of the petitioners of such petitions had shown school of Rajasthan and Haryana, and produced the Board Certificate of Delhi. Certain Boards, whose certificates were produced by such petitioners, did not even exist. A very glaring instance of forgery was also noticed by the Court in the mark sheet produced by the petitioner Kritesh Kumar of petition being No. 1039 of 2014 in which, the marks obtained in theory and practical of Hindi and English subjects have been shown to be XX and XX respectively and the total marks shown in the said subjects are 68 and 70 respectively and the total marks shown in the said subjects are 68 and 70 respectively, apart from the fact that Madhiyamik Shiksha Parishad, Delhi was not equivalent to the Secondary Education Board of Rajasthan Ajmer as per the Guidelines, 2013 issued by the respondents.

13. In view of the above, the Court has no hesitation in holding that the select list dated 3/10/2013 prepared by the respondents for the post of Live Stock Assistant was prepared by the respondents without proper verification of the documents submitted by the selected candidates and hence not only the impugned order dated 18/12/2013 deserves to be confirmed the entire select list deserves to be prepared afresh, with a view to see that certain unscrupulous candidates who have got the appointments on the basis of false and forged documents may not continue on the said posts and the meritorious candidates who have not been included in the said select list may not suffer, and they get the appointments on the said posts. The concerned clerks/officers of the respondents also prima facie appear to have derelicated from their duties by not properly verifying the documents produced by the selected candidates. Because of their negligence and carelessness, intentional or otherwise, the meritorious candidates have remained out of the merit list and non-meritorious and

unscrupulous candidates have found place in the said merit list. Such dereliction of duties should be strictly viewed by the respondents.

14. For the reasons stated above, following directions are given:--

(i) the respondent No. 2-Director of Animal Husbandry Department, Government of Rajasthan, Jaipur is directed to review the cases of all selected candidates of the select list dated 3/10/2013 and reverify the documents produced by them, to see as to whether they hold the requisite education qualification as per the conditions mentioned in the advertisement dated 6/8/2013 and whether they possess the requisite certificate of the Board, treated as equivalent to the Board of Secondary Education, Rajasthan, Ajmer as per the Guidelines, 2013 issued by the respondents. The Director shall carry out the entire exercise on or before 27/2/2015, and prepare the revised select list on or before 15/3/2015.

(ii) The concerned petitioners of the first set of petitions shall be at liberty to make representations to the respondent No. 2 pointing out the illegalities and irregularities, if any found in the selection of any of the candidates mentioned in the merit list dated 3/10/2013, on or before 28/1/2015.

(iii) the respondent No. 2-Director shall afford reasonable opportunity of hearing to the concerned candidates whose documents are found to be doubtful or forged one and whose appointments are likely to be cancelled on account of such irregularities. The appointments of ineligible candidates shall be cancelled on the preparation of the revised select list.

(iv) The impugned order dated 18/12/2013 canceling appointments of sixteen candidates is hereby confirmed.

(v) It is needless to say that the respondent No. 2-Director shall be at liberty to take appropriate actions against the concerned employees of his department, who were responsible for the verification of the documents submitted by the candidates, and whose negligence and carelessness has led to the selection of unscrupulous and non meritorious candidates, and institution of so many petitions.

(vi) It is further directed that the candidates, who find place in the revised merit list shall be entitled to their seniority as per their merits, and their appointments shall relate back to the date of the first merit list dated 3/10/2013, however they shall not be entitled to any monetary or other benefits except the benefit of seniority."

15. In view of the above, the petitions being Nos. 415/2014, 416/2014, 417/2014, 429/2014, 443/2014, 444/2014, 445/2014, 447/2014, 2079/2014, 2931/2014, 17067/2013, 1039/2014 and 1839/2014 are dismissed and petitions being No. 3305/2014, 19402/2013, 20796/2013, 21728/2013, 12625/2014 and 13708/2014 are disposed of in terms of the above stated directions. By this order, stay applications and other pending applications, if any also stand disposed of. A copy of this order be placed in each of the connected petitions.