

(2013) 07 RAJ CK 0021
In the Rajasthan High Court
Case No : Civil Writ Petition No. 12016 of 2013

Dr. Rajneesh Soni

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 16-07-2013

Acts Referred:

Citation : (2013) 07 RAJ CK 0021

Hon'ble Judges : M.N. Bhandari, J

Bench : Single Bench

Advocate : Tanveer Ahmed, for the Appellant;

Final Decision : Disposed Off

Judgement

M.N. Bhandari, J.—Respondents issued an Advertisement for appointment on the post of Ayurved Chikitsa Adhikari. Petitioner applied for the post, however, he is aggrieved due to denial of bonus marks towards experience. Learned counsel for the petitioner submitted that Condition No. 7(1) of the Advertisement is contrary to the rule 19 of Rules of 1973. As per amended rule 19, a candidate is entitled to the bonus marks towards experience if he is discharging similar duties as of the post advertised. The respondents erroneously referred working on the post of Ayurved Chikitsa Adhikari in Para 7.1 for award of bonus marks towards experience. It is contrary to the rules. The aforesaid condition deserves to be set aside as name of the post does not exist, rather it should be discharged of similar work to the post advertised. The petitioner is otherwise discharging similar duties as of Ayurved Chikitsa Adhikari while working as Epidemiologist. Thus, the respondents be directed to consider experience certificate for bonus marks.

2. I have considered the submissions made by the learned counsel for the petitioner and perused the record.

3. The condition No. 7.1 of the Advertisement has been challenged in reference to rule 19 of Rules of 1973. The rule aforesaid was amended in the year 2013

and as per amended rule, those having experience would be entitled to the bonus marks provided they are undertaking similar duties to that of the post advertised and are working with the State Government, NRHM, Chief Minister's Scheme etc. The petitioner is working in NRHM but not on the post of Ayurved Chikitsa Adhikari. According to the petitioner, the work assigned to the petitioner as Epidemiologist is similar to that of Ayurved Doctor. I find no material to show that the post of Epidemiologist involves similar work as of Ayurved Doctor. Mere pleading is not sufficient to claim similarity of work of two different posts. This Court can draw conclusion favourable to the petitioner, if material is produced to show that two posts referred above involves similar work. In absence of which, a direction cannot be given for award of bonus marks based on petitioner's assessment and statement. The aforesaid issue is considered after accepting the first grievance of the petitioner where the post of Chikitsa Adhikari has been mentioned in Para 7.1 of the Advertisement though aforesaid is not mentioned in the rules. As per rules, bonus marks towards experience is available to a person doing the same work and accordingly, accepting first issue raised by the petitioner. The further consideration was made that if at all Para 7.1 is read in consonance with rules, the petitioner would be entitled to the bonus marks or not.

4. After considering the facts and material available on record, I do not find that the case is made out to show that the petitioner is discharging similar duties as that of Ayurved Doctor. Thus, even Para 7.1 is read in consonance with rules so amended, this Court cannot issue direction to provide bonus marks towards experience, however, it is kept open for respondents to consider experience certificate in consonance to Rule 19 of the Rules of 1973, as amended. In view of above discussion, the writ petition is disposed of, so as the stay application.