
(2013) 05 RAJ CK 0099

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6837 of 2013

Hukam Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-05-2013

Acts Referred:

Citation : (2013) 05 RAJ CK 0099

Hon'ble Judges : Amitava Roy, C.J;Veerendr Singh Siradhana, J

Bench : Division Bench

Advocate : Kapil Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Amitava Roy, C.J.—Apart from challenging the validity of the Rajasthan Medical & Health Subordinate Service (Amendment) Rules, 2013 (for short, hereinafter referred to as "2013 Rules") effecting amendment to the Rajasthan Medical & Health Subordinate Service Rules, 1965 (for short, hereinafter referred to as "1965 Rules") so far as it enhances/modifies the academic and other qualifications for direct recruitment to the post of Laboratory Technician, the petitioners seek a direction to the respondents to accept their application forms submitted for that post pursuant to the advertisement dated 26.2.2013 initiating a process therefor and the qualification existed for the post of Laboratory Technician under the 1965 Rules with earlier amendment dated 25.7.1995 be upheld. We have heard Mr. Kapil Gupta, learned counsel for the petitioners.

2. For the order proposed to be passed, we do not consider it necessary to issue formal notice.

3. Petitioners Hukam Singh, Balram Singh and Prahlad Singh claim to have passed the secondary examination in the years 1990, 1991 & 1992 respectively and also possessed of 9 months Training Certificate in Laboratory Technology from General Hospital, Bharatpur, Maharaja Bheem Singh Hospital, Kota and Umaid Hospital, Jodhpur in 1995. They belong to the OBC. The petitioners have

averred that as per the 1965 Rules, the conditions of eligibility for direct recruitment to the post of Laboratory Technician had been secondary or its equivalent with 9 months Training Certificate from a institute recognized by the government, and in absence thereof, secondary or its equivalent with Two Years Training Certificate of Laboratory Technology Course run by Santokba Durlabhji Memorial Hospital, Jaipur or B.Sc. with Biology with Post Graduate Diploma in Laboratory Technology from MDS University, Ajmer with Hospital based Training in the JLN Medical College, Ajmer recognized by the government. By the 2013 Rules, the conditions of eligibility have been modified as hereunder:-

1. Senior Secondary with Biology and diploma in Medical Lab technician from institute recognized by State Government, and

2. Registered in Rajasthan Para Medical Council.

4. The post of Laboratory Technician, under the relevant rules, is to be filled up by direct recruitment and promotion in the ratio of 85 : 15. Under the 2013 Rules, the conditions of eligibility of the candidates for promotion have been prescribed thus:-

1. Senior Secondary with Biology and diploma in Medical Lab Technician from institute recognized by State Government

OR

Secondary or its equivalent with 9 months Training Certificate from Institute recognized by Government, and

2. Registered in Rajasthan Para Medical Council.

5. A process for filling up 312 posts of Laboratory Technician, under the 1965 Rules, had been initiated pursuant to the advertisement dated 6.10.2009 issued by the Directorate, Medical Health & Family Welfare Services and the petitioners applied for the post. Pursuant thereto, the petitioners and others being found eligible for that post, were selected and had also worked on the post for a period of one year whereafter, the controversy arose as to whether the candidates possessing the qualification of Two Years Diploma should be given preference or not. Thereafter, in view of the order passed by the Court, revised merit list had been prepared, in which the petitioners' names did not find place. However, after the amendment in the 1965 Rules, another process for filling up 1166 posts of Laboratory Technician having been initiated by the advertisement dated 26.2.2013 by the Directorate of Medical & Health Services, Rajasthan, the petitioners offered their candidature, whereafter a provisional seniority list of in-service candidates for promotion to the post of Laboratory Technician against 15% quota, has been published containing names of 83 candidates, in which the petitioners were not included. Being aggrieved, they have approached this Court seeking redress.

6. Mr. Gupta has argued that the alteration in the conditions of eligibility

introduced by the 2013 Rules is illogical and unwarranted, besides being unfair and discriminatory. The learned counsel has urged that whereas, the academic and other qualifications prescribed for direct recruitment have been modified, the earlier norms have been retained for in-service candidates for promotion against the 15% quota in the posts. Contending that the petitioners also had worked on the post in question, and that, they are otherwise suitable to be inducted thereto by direct recruitment by all means, learned counsel has insisted that in the face of the existing vacancies, a direction ought to be issued to the respondents to consider their case for direct recruitment to the post of Laboratory Technician.

7. Upon hearing the learned counsel for the petitioners and on a consideration of the pleaded facts and the documents on record, we are not inclined to sustain these contentions.

8. The petitioners are seeking appointment to the post of Laboratory Technician as a direct recruit. It is within the discretion and domain of the State respondents to prescribe the norms of eligibility adjudged to be best suited for a post and this Court, in exercise of the power of judicial review, would not interfere, unless such prescription is patently illegal and unconstitutional. Alteration in the existing criteria of eligibility rendering some ineligible thereby, would not ipso facto, make the modification invalid. That the qualifications for the post of Laboratory Technician prescribed by the 2013 Rules are either irrelevant or have no correlation whatsoever with the nature and quality of the services relatable thereto, is not discernible on the face of the records. As the qualifications mandated for the in-service candidates would reveal, the earlier norms of eligibility, in the alternative, have been retained for them. As the in-service candidates have been rendering their services since before the amendment, this initiative on the part of the respondents stands to logic. The petitioners, as contenders for direct recruitment, cannot claim parity or equivalence with the in-service candidate in this regard. The plea of discrimination between the direct recruits and promotees before the induction of the former in service, is wholly misplaced.

9. The contention that the case of the petitioners ought to be considered, even if they are not eligible in terms of 2013 Rules for direct recruitment only because the vacancies exist, also does not commend for acceptance. It would be open for the petitioners to submit an appropriate representation before the concerned respondent authority seeking such appropriate relief(s). In all, we see no merit in the challenge. The petition is devoid of substance and is dismissed. The stay application also stands rejected.