
(2009) 02 RAJ CK 0119
In the Rajasthan High Court

Jasvir Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 18-02-2009

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 17

Citation : (2009) 1 WLN 330

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—By this petition for writ, petitioners are seeking a declaration for their appointment being regular one on the post of Physical Training Instructor Grade-III. The appointment on the post aforesaid was given to petitioners by an order dt. 27th February, 1999 on being selected as per rule 20 of the Rajasthan Educational Subordinate Service Rules, 1971. They continued in service uptil the end of educational session, but on commencement of new educational session they were not allowed to resume duties by raising a question regarding recognition of the qualification possessed by petitioners i.e. Bachelor's Degree in Physical Education from colleges affiliated with Nagpur University, Nagpur. As per respondents, the institutions through whom the petitioners acquired qualification were not possessing requisite recognition from National Council for Teachers' Education, constituted under the National Council for Teachers Education Act, 1993.

2. A detailed affidavit, sworn in by one of the petitioners- Jasvir Singh, has been filed on 02nd March, 2008 giving necessary details relating to recognition to the educational institutions from where petitioners acquired qualification of Bachelor's in Physical Education. Petitioners have also placed necessary documents along with the additional affidavit to substantiate the fact that institutes where they were undergoing the course of Bachelor's Degree in Physical Education were recognized. The facts averred in the affidavit and the documents annexed thereto

are not denied by the respondents.

3. I have also examined all the documents from perusal whereof it is apparent that all the petitioners acquired qualification of Bachelor in Physical Education in the academic session 1997-98 and for this period, the institutes concerned were having provisional recognition up to session 1998-99.

4. A Division Bench of this Court in *Ummed Ali v. State of Rajasthan and Ors.* DBCWP No. 2887/1999, while examining the effect of provisions of sec.17 of the National Council for Teachers Education Act, 1993, held as follows:

In this connection, sub-Section (3) of Section 17 of the Act of 1993 is also relevant to be noticed which reads as under:

Once the recognition of a recognized institution is withdrawn under sub-Section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-Section (1), with effect from the end of the academic session next following the date of communication of the said order.

The combined effect of reading of these provisions leads us to conclude that the Jyotiba College of Physical Education, Hingana Road, Nagaur, where the petitioner was trained for physical education, was provisionally recognized up to the academic session 1998-99. The degree for physical education granted to the petitioner in the year 1997-98 to a trainee in that institute can not be ignored for the purpose of considering requisite eligibility for giving appointment to the post of Physical Training Instructor.

5. In view of the fact that the institution where from petitioners acquired Bachelor's Degree in Physical Education was recognized up to academic session 1998-99, it can not be said that the petitioners were not possessing requisite eligibility for being appointed to the post of Physical Training Instructor.

6. In view of it, this petition for writ deserves acceptance, therefore, the same is allowed. Petitioners be permitted to continue in service as Instructor (Physical Education) Grade-III consequent to their selection in pursuant to order Annx.1 dt. 27th February, 1999. The petitioners shall be treated as regular appointee to the post concerned from the date of their initial appointment and they are entitled to all benefits consequent to directions above.

No order as to costs.