

(2002) 01 MP CK 0039

In the Madhya Pradesh High Court

Case No : Writ Petition No's. 5461/99 and 2066 and 2263 of 2000

Jila Panchayat, Balaghat

APPELLANT

Vs

Commissioner, Jabalpur and Others

RESPONDENT

Date of Decision : 23-01-2002

Acts Referred:

Madhya Pradesh Panchayat Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1997 — Rule 2, 5

Citation : (2002) 2 MPHT 45 : (2002) 3 MPLJ 448

Hon'ble Judges : A.K. Mishra, J

Bench : Single Bench

Advocate : Riyaz Mohd. In W.P. No. 2263/2000, S. Paul and Vinod Mehta, for the Appellant; Riyaz Mohd. (In W.P. Nos. 5461/99 and 2066/2000) and R.K. Thakur, for the Respondent

Judgement

Arun Mishra, J.

In these three writ petitions common question is involved; whether the selection list on the basis of selection process should have been prepared on the total marks obtained in "concerned subject group" or on the basis of marks obtained in particular "subject" of the group.

The matter of appointment of Shiksha Karmi Grade-II, is governed by the M.P. Panchayat Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1997, which were notified on 1st January, 1998. The Schedule-II to the rules framed under Rule 2 (c) and Rule 5 of the rules as it stood on the date of advertisement; 27-4-1998 provided educational qualification for Grad-II Shiksha Karmi "a second class graduate degree in the related subject group". Advertisement; Annexure P-2 in W.P. No. 5461/1999, the qualification which was prescribed was degree in the subject, whereas the selection list which was prepared by the District Panchayat was not on the basis of marks obtained in related subject group. The total marks were discarded. The selection list was prepared on the basis of the marks obtained in subject concerned not the "subject group". Since

the marks obtained in related subject group were required to be considered and the District Panchayat considered only the marks obtained in the subject concerned only. The marks of all the subject of the group were not taken into consideration. Thus, the whole of the selection list stood vitiated and it was prepared in infraction of rules. The Commissioner held in Appeal No. 720/A/89/98-99 that the preparation of selection list was contrary to the rules. Hence, the selection list was directed to be prepared afresh in accordance with the rules. However, in appeal No. 191/A/89/98-99, the order passed on 15-2-1999 (Annexure P-1, in W.P. No. 5461/99), the Commissioner came to the conclusion that the exclusion of Smt. Rama Mishra was illegal. She was wrongly excluded and illegally deprived of her appointment and directed her appointment to be made on addition of marks of "related subject group".

After hearing learned counsel for the parties, I am of the considered opinion that the marks obtained in the "related subject group" of all the years of the graduation were required to be taken into consideration, not the marks in the particular subject. The marks in "relation subject group" ought to have been considered. Thus the selection list which was prepared was faulty and in violation of the rules.

The subject group means all the subjects which are allowed by University in B.A./B.Sc./B.Com. as the case may be. It was totally impermissible to pick one subject of B.A. Group of subjects or B.Sc. or B.Com. Total aggregate was required to be considered which is provided under the rules as only related "subject group" is allowed to be undertaken in the B.A./B.Sc./B.Com or other degree courses.

The issuance of direction with respect to appointment of Smt. Rama Mishra was uncalled for. The only direction which ought to have been issued was the preparation of fresh selection list, not direction for individual appointments.

District Panchayat is directed to prepare the selection list within three weeks from today on the basis of process of interviews for Shiksha Karmi Grade-II, which has not been assailed by any of the parties. Till such time, fresh list is prepared, in the manner aforesaid present arrangement be continued. The incumbents who are working as on today are not required to be removed at this stage. The order is modified to the extent indicated above. Previous selection list and waiting list are quashed. Fresh selection list is directed to be prepared in accordance with rules prevalent on date of advertisement. However, the present arrangement is to continue as per the previous selection list till the fresh selection list is prepared by the District Panchayat within 3 weeks from today and only those incumbents shall be removed who fail to qualify for appointment. Costs on parties .