

(2024) 11 RAJ CK 1308

In the Rajasthan High Court, Jaipur Bench

Case No : Civil Writ Petition No. 13683 Of 2021

Kanchan Yadav

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 18-11-2024

Acts Referred:

Rajasthan Tenancy Act, 1955 — Section 239, 239(1)

Citation : (2024) 11 RAJ CK 1308

Hon'ble Judges : Manindra Mohan Shrivastava, CJ; Ashutosh Kumar, J

Bench : Single Bench

Advocate : Himanshu Sogani, Akshat Khandelwal, Pawan Pareek, Raghvendra Singh

Final Decision : Allowed

Judgement

Arun Monga, J

1. Petitioner herein is before this Court seeking quashing of an order dated 14.09.2021 passed by respondent No.2 vide which persons lower in merit have been allotted District Alwar and an order dated 02.02.2018 vide which District Bhilwara has been allotted to the petitioner in place of District Alwar.

2. Briefly speaking, relevant facts first, as pleaded in the petition are as follows:-

2.1 Respondent no. 2 issued an advertisement on 11.09.2017 for the post of Teacher Grade-III. The petitioner submitted her application for the position of Teacher Grade-III 2016, Level-2 (English, Non-TSP). Para 10 of the advertisement specified that the state-level merit would be based on marks obtained in REET/RTET. Additionally, para 10.3 mentioned that districts would be allotted based on the candidates' preferences, as indicated in their application forms, and a district-wise list would be sent to the respective Zila Parishads. Petitioner opted her district preferences as follows: 1. Alwar, 2. Jaipur, 3. Bhilwara.

2.2 Respondent no. 2 published a cut-off list and a provisional selection list of 4768 candidates for document verification. The petitioner was selected under the General Female Category, and her name appeared at Sr. No. 1502 in the list. Respondent no. 2 then issued the district allotment list, including merit numbers for 4768 candidates. The petitioner was assigned Bhilwara district, as stated in the last column of the list. The second column indicated that the petitioner's merit number was 1917.

2.3 Subsequently, respondent no. 2 issued a list of 3499 eligible candidates for Teacher Grade-III 2016, Level-2 (English, Non-TSP) after document verification. The petitioner's name appeared at Sr. No. 1403, with a merit number of 1917 in this list. On 26.03.2018, respondent no. 4 issued an order assigning the district to the petitioner at Panchayat Samiti Hurda and she joined her duties at the assigned place.

2.4 The petitioner remained posted in Bhilwara, but on 20.08.2018, respondent no. 2 reshuffled the list and assigned the same district to the petitioner. In the reshuffled list, the petitioner was placed at Sr. No. 1583, with a merit number of 1583, despite having a merit number of 1917 initially.

2.5 On 14.09.2021, respondent no. 2 issued an order selecting 511 more candidates from the waiting list. This order also allocated the home district of Alwar to candidates ranked lower than the petitioner, with their names appearing at Sr. No. 12, 24, 27, 39, and 41. It is evident that the respondents unjustly allotted Alwar district to candidates with lower merit, while the petitioner, with a higher merit position, was not allotted her preferred district, Alwar. Hence, the present petition.

3. In response, reply has been filed by the respondents, wherein following stand has been taken:-

3.1 The petitioner has challenged the order dated 14.09.2021, which allocated districts to newly selected candidates from the waiting list to fill vacant positions. The petitioner argues that less meritorious candidates were allotted District Alwar and seeks modification of this order.

3.2 The petitioner compares her case to other candidates selected in the same recruitment, but this comparison is inappropriate. For instance, one candidate, Anita Kumari, was initially allotted District Alwar by an order dated 03.06.2019. However, an error was later corrected, and she was reassigned to District Tonk by order dated 21.06.2019, in accordance with available vacancies.

3.3 The respondents further clarify that the waiting list was issued following the directions of this Hon'ble Court in the case of State of Rajasthan & Ors. v. Urmila Devi & Ors. (D.B. SAW No. 924/2019, passed on 07.01.2020), which mandated the issuance of a category-wise waiting list. However, the Court did not direct a complete reshuffling of districts, which is why the petitioner is not entitled to a reshuffling of her district at this stage.

3.4 The initial select list for the 2016 recruitment was issued on 25.01.2018, and the reshuffled list followed on 20.08.2018. The allocations made were in accordance with the candidate's category, merit, preference, and the available posts at that time. Therefore, the petitioner is not entitled to be allotted District Alwar and therefore, the writ petition should be dismissed.

4. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

5. Having heard the same, I am of the view that the controversy raised herein has already been put to rest by Division Bench rendition of this Court in State of Rajasthan & Ors. Vs. Mohd. Barkat Khan & Ors. vide D.B. Spl. Appl. Writ No. 477/2021. Relevant of the same is reproduced hereinbelow:-

"At the outset, we may note here that while deciding the controversy, the learned Single Bench drew analogy from the judgment in the case of Poonam Sharma (supra) and extended the relief to the writ-petitioners herein. It is worthwhile to mention that the recruitment in the case of Poonam Sharma (supra) was made under the Rajasthan Education Subordinate Service Rules, 1971 for the post of Senior Teachers whereas, the cases at hand pertain to recruitment on the post of Teacher Grade-III (Level-1 & Level-II) under the Rajasthan Panchayati Raj Act, 1994 and Rajasthan Panchayati Raj Rules, 1996. Thus, on the face of it, the ratio in the case of Poonam Sharma (supra) could not have been applied to the recruitment which was made under a different set of Rules. It is an admitted position that in the case of recruitment to the Teachers Grade-III, (Level-I & Level-II), the seniority lists are maintained district-wise. The State Government has taken a policy decision dated 25.02.2019 not to re-shuffle the seniority lists more than once because if frequent process of re-shuffling is undertaken, the postings/districts of the previously selected candidates would be disturbed. This causes serious administrative difficulties inasmuch as fresh counselling is required to be undertaken in the new district and significant additional expenditure is incurred. The State Government has passed the direction No.3.1 (reproduced supra) that only one exercise of re-shuffling would be undertaken to fill to fill the posts which remain vacant on account of non-joining of the candidates/rejection of the candidature of the candidates pursuant to the document verification. It has been decided that reshuffling would be undertaken by strict adherence to the Rules of reservation and thus, the position of the candidates who have already joined in pursuance of the first select list would not be disturbed. The candidates who are selected by operation of the waiting list would be offered postings against district-wise vacancies based on counseling and as per their choice.

We are of the firm view that this exercise can only be undertaken qua the candidates who have come into the zone of to non-joining by successful consideration owing to non-joining by successful candidates and exclusion of the candidates pursuant to document verification. The candidates who have been selected by operation of waiting list cannot be integrated into the original merit

list while offering them the place of posting because such a course of action would lead to chaos, grave administrative difficulties and significant expenditure. Thus, the impugned orders passed by the learned Single Bench, accepting the writ petitions of the respondents on the basis of the Division Bench Judgment in the case of Poonam Sharma (*supra*) are not sustainable in the eyes of law and are hence, reversed.

The intra-court appeals are allowed in these terms. No order as to costs.”

6. In view of the aforesaid observation / ratio of the Division Bench, I am unable to persuade myself with the assertion of the petitioner that merely because her result was revised subsequently, she should steal a march over those who have already exercised their option for district Alwar. In fact, it so appears that even before revision of her result, she stood higher in the merit list, but the one who were in the waiting list, and due to non-joining of the candidates in the merit list in district Alwar, the ones in the waiting list were given the option to join and pursuant thereto, the said candidates in the waiting list were allocated the district Alwar.

7. In fact, the earlier merit list and the later merit list after revision of the list result, does not give any fresh cause of action to the petitioner other than the fact that her seniority may change in the District which she had originally opted pursuant to the revised result, provided of course, she is found entitled to the same.

8. With these observations, no grounds to interfere are made.

9. Writ petition is accordingly dismissed.

10. Pending application, if any, stands disposed of.