
(2014) 05 RAJ CK 0216
In the Rajasthan High Court
Case No : Civil Writ Petition No. 772/2013

Kamal Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-05-2014

Acts Referred:

Citation : (2014) 05 RAJ CK 0216

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : P.S. Sharma, Advocate for the Appellant; A.S. Khangarot, Additional Government Counsel, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Mohammad Rafiq, J.—Petitioners have filed this writ petition praying for a direction to respondents to give them posting letters as per final selection list on the post of Constable and accordingly assign them proper place in the seniority list and further to pay them all back wages with consequential benefits.

2. Pursuant to advertisement, petitioners applied for the post of Constable. The respondents, after taking written test, physical test and verifying the testimonials, issued selection list on 20.08.2011, wherein the petitioners were shown as selected. On that basis, number of candidates have been given appointment but the petitioners have been left out and are not issued posting letters. The respondents have not cancelled the vacancies as yet.

3. It is contended that the petitioners were shown in the merit as per assertion made in para 6 of the writ petition, which reads thus,

6. That the list issued by the respondents shows the name of the petitioner No. 1 at S. No. 2, petitioner No. 2 at S. No. 5, petitioner No. 3 at S. No. 9, petitioner No. 4 at S. No. 19, petitioner No. 6 at S. No. 22, petitioner No. 7 at S. No. 23, petitioner No. 9 at S. No. 26 are shown. The name of the petitioner No. 5 and 8 are not shown in the final list as their verification was made later on, however,

they have been included in the final selection list. Thus, all the 9 petitioners stood selected.

4. The respondents in reply to aforesaid para contended that the petitioners were extended the benefit of concessions and relaxations as admissible to the reserved category candidates during the process of selection and in view of their merit position they came to be selected against the posts meant for general category.

5. Learned counsel for the petitioner, in support of his case, cited a Division Bench judgment of this court in Special Appeal (Writ) No. 769/2012 - Rajesh Singh and Others Vs. The State of Rajasthan and others, wherein the Division Bench has modified the judgment passed by the Single Bench holding as under:-

Upshot of over-all discussions made (supra), all the special appeals (Schedule A) are disposed of and we modify the impugned judgment dt. 27/04/2012 and 08/11/2013 passed by the learned Single Judge to the extent of relaxation in age having been availed by candidates of reserved category and find place in the select list on dint of merit of general/open category vacancies, deserves to be migrated against general/open category vacancies; but at the same time, candidates availing special relaxation/concessions while participating in competitive test/process of selection, if find place in select/merit list of general/open category vacancies, they are not eligible to be migrated against open/general category vacancies and shall occupy the reserved seat in their respective category; as a result whereof, para (a) of the Circular issued by the State Government dt. 11/05/2011 being not in conformity with the mandate of law cannot be made applicable for public employment & accordingly deserves to be quashed & set aside.

6. As per the petitioners, they have only availed the relaxation of age and fees. The controversy raised in this matter is squarely covered by the decision of Division Bench of this Court in Rajesh Singh, supra. Even otherwise, according to the petitioners, they were liable to be selected in OBC category.

7. In the result, the writ petition is disposed of with a direction to the respondents to consider the case of the petitioners in the light of Division Bench judgment of this Court in Rajesh Singh, supra, and if found them suitable, then to give them appointment within two months from the date of receipt of a copy of this judgment. Their appointments would relate back to the appointment already given to similarly situated persons. However, they would be entitled only for notional benefits for the intervening period.