
(2019) 01 RAJ CK 0314
In the Rajasthan High Court
Case No : Civil Writ Petition No. 356 Of 2019

Kapil Foujdar

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 10-01-2019

Acts Referred:

Evidence Act, 1872 — Section 114

Citation : (2019) 01 RAJ CK 0314

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : Rahul Sinsinwar, Vibhuti Bhushan Sharma

Final Decision : Dismissed

Judgement

The case of the petitioner is that he having passed the written examination for appointment to the post of Constable under the Rajasthan Police Subordinate Service Rules, 1989 (hereafter 'the Rules of 1989') held pursuant to the advertisement dated 25.5.2018, he was called for the Physical Standard Test (PST) and thereafter required to participate in the Physical Efficiency Test (PET) on 7.9.2018 at Jaipur which entailed running 5 kms within the prescribed time. The petitioner submits that at the time the PET under the Rules of 1989 was conducted on 7.9.2018 at Jaipur, the running track was muddied for reason of heavy rains which resulted in obstructing the petitioner's performance up-to-his potential and his resultant failure. It has been submitted that the petitioner should in the circumstances be given another opportunity as given to several candidates, who failed the PET at Kota also in the course of recruitment of Constables under the advertisement dated 25.5.2018 on 8/9/10 September, 2018, vide order dated 27.11.2018 passed by the Principal seat of this Court at Jodhpur in the case of Revant Ram Meghwal & Others vs. State of Rajasthan & Others and other connected matters, SBCWP No.13731/2018.

Heard. Perused the petition. Considered.

Admittedly the petitioner's PET was held on 7.9.2018 at Shri Pratap Yadav Stadium, Chitrakoot, Jaipur. This petition has been filed on 3.1.2019 after an inordinate and unexplained delay of over four months. There is nothing on record to show that any grievance as now agitated in this petition was set forth by the petitioner at the relevant time. Further the condition of the running track at the stadium in issue at the time relevant to PET is a question of fact which this Court would loath to address more so belatedly at this stage when the selection process has been largely completed and those appointed after success in the recruitment undergoing training for over the last two months. The issue with regard to the condition of track in the course of PET for recruitment of Constable in other Districts and Court's order thereon is of no event for the purpose of PET at Shri Pratap Yadav Stadium, Chitrakoot, Jaipur on 7.9.2018. There is nothing on record to even prima facie justify the petitioner's allegation, such as weather report with regard to alleged heavy rains at Jaipur on 7.9.2018. So too there is also nothing on record to establish that the running conditions of track at Jaipur on 7.9.2018 when the petitioner's PET was held, was not suitable for the test being held. Contrarily the presumption under Section 114 of the Evidence Act, 1872 as to regularity of official acts obtains against the petitioner.

In view of the overall facts of the case, I am inclined to dismiss this petition both for reasons recorded above, wherefrom neither any of the petitioner's legal or fundamental rights appear to have been infringed nor any case of arbitrariness of respondents is made out.

Petition is accordingly dismissed.