
(2019) 02 RAJ CK 0247
In the Rajasthan High Court
Case No : Special Appeal Writ No. 85 Of 2019

Kapil Kumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 26-02-2019

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2019) 02 RAJ CK 0247

Hon'ble Judges : Sangeet Lodha, J; Dinesh Mehta, J

Bench : Division Bench

Advocate : M.A. Siddiqui

Final Decision : Dismissed

Judgement

1. This intra-court appeal is directed against order dated 19.2.18 passed by the learned Single Judge of this Court, whereby the writ petition preferred by the appellant questioning the legality of the action of the respondents in rejecting his candidature for recruitment to the post of Constable (GD) in CAPFs and Riflemen (GD) in Assam Rifles, has been dismissed.

2. The appeal reported to be barred by limitation for 83 days, is accompanied by an application under Section 5 of the Limitation Act, 1953. The only reason assigned for condonation of delay is that the appellant an unemployed person, was preparing for competitive examination hence, could not decide in time to file appeal against the order impugned. The reason assigned for not filing the appeal within limitation, is not plausible and cannot be considered to be a sufficient cause and therefore, the application preferred for condonation of delay deserves to be rejected. However, in the interest of justice, we have examined the matter on merits as well.

3. The Staff Selection Commission issued a Notice/Advertisement for recruitment of Constable (GD) in CAPFs and Riflemen (GD) in Assam Rifles in various States. The selection process consisted of Physical Standard Test (PST), Physical

Efficiency Test (PET), Written Examination and Detailed Medical Examination (DME). Candidates belonging to the State/Union Territory(UT) were to be considered for recruitment only against the posts earmarked for their respective State/UT, on production of valid "Domicile Certificate" issued by the competent authority so authorised by concerned State/UT to prove their domiciliary status. The stipulation made in this regard in the Notice/Advertisement reads as under :

"Candidates belonging to the State/UT will only be considered for recruitment in their respective State/UT on production of valid "Domicile Certificate" issued by the competent authority so authorized by the concerned State/UT to prove their domiciliary status. Since the State of Assam is not issuing Domicile Certificate/ PRC, candidates belonging to the State of Assam are not required to submit the same. However, their selection will be subject to verification of residential status from the concerned District Authorities. West Pakistani refugees who have settled in J&K but have not been given the status of J&K citizen of the State will be recruited without the condition of having a domicile certificate from the designated authority of the J&K State."

4. The appellant belonging to OBC category, having the requisite qualification and domicile certificate issued by the competent authority of State of Rajasthan, filled the application form online for recruitment in CRPF giving option for J&K State. The candidature of the appellant was considered against the vacancies earmarked for Rajasthan State. The appellant could not qualify for any post against the vacancies of the State of Rajasthan and therefore, was not selected. The candidature of the appellant was not considered against the vacancies earmarked for J&K State, keeping in view the stipulation in the Notice/Advertisement as aforesaid. In these circumstances, aggrieved by the non consideration of his candidature against the vacancies of the J&K State, the appellant preferred the writ petition, which has been dismissed by the learned Single Judge relying upon a Coordinate Bench decision of this Court in the matter of 'Sunil Kumar Vs. Union of India & Anr.' (S.B. Civil Writ Petition No.4111/14) decided vide order dated 8.1.16. Hence, this appeal.

5. Learned counsel appearing for the appellant contended that the learned Single Judge has seriously erred in dismissing the petition on the wrong assumption that a candidate was entitled to be considered against the vacancies earmarked for his own domicile State and not against the vacancies of the State for which he had opted while submitting the application form. Learned counsel submitted that the stipulation in the advertisement has been wrongly interpreted by the learned Single Judge. On being asked by the Court whether the appellant had challenged the aforesaid stipulation in the Notice/Advertisement in the writ petition filed, learned counsel submitted that the appellant was not required to challenge the said stipulation inasmuch as in terms of the said stipulation, the appellant is entitled for consideration of his candidature for the vacancies earmarked for the State, he opted for.

6. We have considered the submissions of the learned counsel for the appellant

and perused the material on record.

7. A bare perusal of the stipulation as contained in para 4 (C) of the notice/ advertisement makes it abundantly clear that the candidature of the candidate applying for was only to be considered for recruitment against the vacancies of their respective State/UT, on production of valid Domicile Certificate issued by the competent authority so authorised by the concerned State/UT to prove their domiciliary status. The appellant, admittedly, a domicile of the State of Rajasthan, having Domicile Certificate issued by the competent authority of the State of Rajasthan, could not have applied for the vacancies earmarked for State of J&K. Thus, even if the appellant had secured higher marks than the candidate last selected against the vacancies of the State of J&K, on account of his not fulfilling the eligibility criteria of domicile, he has rightly been denied consideration for recruitment to the post applied for.

8. For the aforementioned reasons, we are in agreement with the view taken by the learned Single Judge.

9. No case for interference by us in intra-court appeal jurisdiction is made out.

10. The intra-court appeal is accordingly, dismissed.