
(2003) 09 GAU CK 0016

In the Gauhati High Court

Case No : Writ Petition (C) No. 1630 of 2000

Kshetrimayum Pratima Devi and Others

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 12-09-2003

Acts Referred:

Citation : (2003) 3 GLT 404

Hon'ble Judges : D. Biswas, J

Bench : Single Bench

Advocate : R.K. Nakulsana, for the Appellant; Kh. Nimaichand, for the Respondent

Judgement

D. Biswas, J.—The three writ Petitioners who are Doctorate in different streams submitted their application in pursuance of notification dated 23.2.1998 issued by the Manipur Public Service Commission inviting applications from candidates who possessed Master Degree in relevant subjects with atleast 55% marks or its equivalent grade from a recognized University for appointment to the post of lecturers in Government Colleges. The advertisement was issued under the Recruitment Rules of 1989 on the recommendation of the State Government. Despite completion of all formalities in receiving the applications, the Public Service Commission did not hold the selection test. In the meantime, in supercession of the Rules of 1989, new Rules were framed by the notification dated 15th January, 1997. The eligibility criteria/qualifications as prescribed in the 1989 Rules stood changed. The new Rules provide the following educational criteria as eligibility for appointment to the post of Lecturers in the Government Colleges:

(1) At least 55% marks at post Graduate level.

(2) Passed Accredited State Level Eligibility Test (to be conducted by the M.P.S.C.).

Or

Passed National Eligibility Test/JRF conducted by U.G.C./CSIR.

NOTE: "Candidate who had submitted their Ph.D. Thesis upto 31.12.93 and candidates who have done M. Phil upto 30.12.92 had been exempted from passing Accredited State Level National Eligibility Test.

Or

Passed National Eligibility Test/JRF conducted by U.G.C./CSIR.

(qualification relaxable at the discretion of the Commission)".

2. In view of the note to para-2 in the Rules, the Petitioners became ineligible for consideration for appointment to the post of Lecturer since they acquired Doctorate Degree after the cut-off date mentioned therein. Their grievance is that had the Commission completed the selection process in pursuance of the advertisement issued on 23.2.1998, they would have a fair chance of getting selected for appointment. It is because of the laches on the part of the Commission, they have been deprived of their right for selection for appointment. Hence, they have filed this petition for appropriate direction for setting aside the rules framed on 15th January, 1997 which rendered them ineligible for consideration for appointment and also for a direction to complete the selection process as per advertisement dated 23.2.1998 with consequential reliefs.

3. The question to be answered in this petition is whether the Commission could abandon the selection process initiated by the notification dated 23.2.1998 (Annexure - A/1) and whether the writ Petitioners have any right of selection in pursuance thereof?

4. It would appear that the Commission had again notified and advertised the posts on 21st November, 1998 (Annexure-A/10) in pursuance of the amended Rules with new eligibility criteria. As a result, the writ Petitioners could not submit their applications in response to the advertisement. In pursuance of the subsequent advertisement, selection has been made and the selected candidates have been appointed. This shows that the Commission had totally abandoned the earlier advertisement. This question of revocation was dealt with in Civil Rule No. 177 of 1998. By the order dated 12th May, 1998, the aforesaid Civil Rule was disposed of. In that judgment, the learned Single Judge held that the learned Govt. Advocate produced a notification issued by the Manipur Public Service Commission on 16th April, 1998 and submitted that the Government of Manipur had withdrawn the requisition for recruitment of Lecturers. The learned Single Judge after perusal of the aforesaid notification held that the writ petition (Civil Rule No. 177 of 1998) had become infructuous on withdrawal of the requisition. Accordingly, the said writ petition was disposed of. The aforesaid decision in Civil Rule No. 177 of 1998 resolved the question regarding revocation of the advertisement dated 23rd February, 1998. The order of the Learned Single Judge has not been challenged and as such it has attained finality. That apart, the

Commission by its subsequent conduct in inviting applications and selecting candidates for the post of Lecturers under the new Rules also impliedly revoked the advertisement in question. Therefore, the writ Petitioners are not entitled to any direction for completion of the selection process in pursuance of the said advertisement.

5. Though the Rules of 1989 was again brought into force by an order of stay of the new Rules passed by the Government by the notification dated 10th February, 1998, the revocation of the advertisement rendered the writ petition as infructuous. No direction can be given to the State Government for consideration of the Petitioners' candidature for appointment under the 1989 Rules. However, in 1999 the Rules have been again amended and fresh eligibility criteria has been provided whereunder the writ Petitioners became eligible for consideration to the posts in question. Though at present, the writ Petitioners are eligible for consideration in view of the Rules made in 1999, they would not be entitled to apply for appointment since they have crossed the age limit prescribed under the Rules.

6. The learned Counsel for the Petitioners also relied upon the decision of the Hon'ble Supreme Court in P. Mahendran and others Vs. State of Karnataka and others, , Y.V. Rangaiah and Others Vs. J. Sreenivasa Rao and Others, , N.T. Bevin Katti, etc., Vs. Karnataka public Service Commission and others, and Union of India and Others Vs. M/s. Ganesh Das Bhojraj, The ratio available in the aforesaid judgments is of no help to the writ Petitioners since the Government has revoked the advertisement. Submission of application did not vest any right with the writ Petitioners for consideration, the power of the State Government to revoke an advertisement being a settled proposition of law. For this purpose, the decision of the Hon'ble Supreme Court in para-5 of the State of M.P. and Others Vs. Raghuveer Singh Yadav and Others, is relied upon. No direction can be given by this Court to complete the selection process in pursuance of the notification dated 23rd February, 1998 which has already been withdrawn by the State.

7. In the facts and circumstances of the case, the writ petition is disposed of with a direction that as and when advertisement is issued for recruitment of lecturers for Government Colleges and if the Petitioners submit their applications in pursuance thereof, their applications may be entertained for consideration by relaxation of age since great injustice has been caused to them by the inaction on the part of the authority i.e. the State Government as well as the Public Service Commission.

8. No costs.