

(1990) 02 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 1940, 2004, 2017, 2019, 2022, 2023, 5042, 5043, 5044, 5045, 5046, and 5047 of 1989

Lal Chand and Others

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 17-02-1990

Acts Referred:

Citation : (1990) 1 RLW 177 : (1991) 2 WLN 347

Hon'ble Judges : M.B. Sharma, J

Bench : Single Bench

Judgement

Mahendra Bhushan Sharma, J.—The present batch of writ petitions is by 12 petitioners who were selected as teachers under the Rajasthan Panchayat Samiti and Zila Parishad Rule, 1955 (for short, the Rule). It is common ground of the parties that under the aforesaid Rules, a large number of persons were selected, some were appointed but some could not be appointed. Who were not selected secured stay orders and therefore, appointments could not be given to the selected teachers. There were writ petitions in this court and there is a decision of a Division Bench of this Court. Smt. Yashoda Rani and Ors. v. State of Raj. and Ors. 1989 (1) RLR 69 and the Division Bench while disposing the writ petitions passed an order which is as under:

Having taken all these facts into consideration we pass the following direction in these writ petitions:

1. The respondents shall first make the appointment of the duly selected candidates which will also include those candidates who are in the waiting/ reserve lists.
2. If the vacancies still remain then the respondent will make the appointments of those petitioners who are better and higher qualified and possess better academic qualification among them and who are otherwise eligible for appointment like having the qualification of teachers training etc.

3. The respondents in making these appointments will follow the principle and policy that the services of the last appointed petitioner will be terminated first and the services of the earlier appointed petitioner will be terminated subsequent i.e. to say on the principle of "last come first go".

4. The respondents will be at liberty to give preference to the lady teachers in the matter of appointment after laying down a policy in this behalf and.

5. The respondents will keep the roster system in view and strictly follow it in the matter of appointment.

2. In Para 7 of that order it was observed that "This order will cover the cases of all teachers whether appointed in the regular schools or under the Black Board Schemes Schools or any other scheme. They shall all be treated on equal footing. This order will also apply to those who have not approached this Court. The respondents will make a compliance of this order within one month from today. The writ petitions shall accordingly be disposed of." Yet another batch of writ petitions came to this court and in the case of Baij Nath v. State of Raj. and Ors. the same Division Bench which had decided the case of Yashoda Rani (supra) held as under:

1. The respondents, shall not terminate the service of the petitioners who have already been appointed, in order to retain in service the non-selected candidates;

2. If the orders of termination of services of the petitioner have been issued, such orders shall stand quashed and they shall be reinstated forthwith; and

3. If the appointments to the duly selected petitioners have not been given, the appointments will be forthwith given now. Those of the petitioners, who have been appointed in pursuance of the interim stay orders passed by this court, will continue in service and appointment orders will be issued to them, if not issued so far." It was also held that even after making appointments of regularly selected candidates, some posts would still remain vacant and available for fresh appointments. The State Government still issued an order on 6-4-1988 taking a policy decision that those teachers who were even appointed on temporary adhoc basis prior to 31-12-1985 shall be confirmed and made permanent."

3. Learned Counsel Shri Rastogi drew my attention to a decision of this court in S.B. Civil Writ Petition No. 2020/89 wherein it was said by this Court that the notification dt. 11-8-89, shall be implemented within 3 weeks from that day. That writ petition was disposed of in view of the undertaking of the Govt. Advocate.

4. It may be stated that I have accepted the principles laid down in the above mentioned two cases decided by the Division Bench and those cases will govern all the cases of selected and non-selected candidates. The learned Govt. Advocate says that the Govt. wants to amend the rules. The State Govt. can amend the rules but unless the rules are amended the Circular has absolutely no legal sanctity.

5. In my opinion, therefore, all the writ petitions are disposed of in terms of the orders of Division Bench which have been referred earlier and the petitioners shall be governed by those principles. The services of the petitioners who have been appointed after 31-12-85 will not be terminated unless it becomes necessary to do so in order to adjust the duly selected candidates. If those appointed after 31-12-85 can be retained as aforesaid, then their services will not be terminated unless the rules are amended and they are screened in accordance with the amended rules and their suitability under the rules is adjudged.