
(2009) 11 RAJ CK 0042
In the Rajasthan High Court

Lalit Kumar Bairwa and Another

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 17-11-2009

Acts Referred:

Citation : (2009) 11 RAJ CK 0042

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Rastogi, J.—The petitioner submitted application in pursuance to an advertisement dt. 31/05/2008 issued by the respondents for holding selection on the post of Prabodhak which is included in the scheduled appended to the Rajasthan Panchayati Raj Prabodhak Service Rules, 2008. Alongwith application form all required documents were annexed by the petitioner in regard to his academic qualification as also of experience which is of more than 5 years of a recognized educational institution but the teaching experience was not considered to be valid on the premise that there was a break in service on account of summer vacation as he did not discharge duties during intervening period which was considered by the respondents as a break in service. Taking note thereof, his candidature was rejected on the premises that he was not holding 5 years of continuous teaching experience from a recognized institution.

2. It has been brought to the notice of this Court that the coordinate Bench of this Court, while deciding CWP-5951/2008 alongwith connected bunch of petitions, which were decided by a common judgment dt. 07/01/2009, has taken note of the controversy which has been raised in the instant petitions in Para No. 11 of the judgment and finally observed that period of summer vacation/medical leave will not be treated as break in service while computing five years continuous teaching experience as referred to under the Scheme of Rules of 2008. The extract of the judgment dt. 07/01/2009, which deals with the issue in question, referred in Paras No. 11, 12 and 13 of the judgment, referred to

(supra) is quoted here as under:

Similarly, period of summer vacation cannot be treated as a break in service as during this period the employee remains out of employment due to the circumstances beyond his control. As such, non-consideration of the candidature of the petitioner for the purpose of appointment as Prabodhak on the count that he is lacking experience is not just and proper and for the purpose of calculating the requisite experience, the period of summer vacation be counted in teaching experience.

Similar controversy has already been resolved by the coordinate Bench of the Jodhpur High Court vide judgment dated 15.10.2008 rendered in the case of Beeram Ram Choudhary v. State and Ors. (SBCWP No. 6273/2008).

In some of the writ petitions, the petitioners are not having requisite experience ignoring the period of summer vacation and medical leave. As per the provisions of law, since they are not having required statutory experience i.e. of five years, therefore, such candidates are not entitled for appointment on the post of Prabodhak.

3. Counsel for the respondents has also not been able to controvert about the issue being decided by this Court of which reference has been made (supra).

4. Consequently, in the light of the judgment referred to (supra), the writ petition stands allowed. The petitioner is held eligible to participate in the process of selection initiated by the respondents in pursuance to advertisement dt. 31/05/2008 for the post of Prabodhak so far as the requirement of five years of continuous teaching experience is concerned. The respondents are directed to allow the petitioner to participate if he is otherwise eligible/suitable for the post of Prabodhak, may be considered for appointment. If the petitioner is found ineligible or unsuitable for any other reason, he may be informed assigning reasons for which he is held unsuitable for appointment. The respondents shall ensure compliance of the order within three months.