

(2019) 05 RAJ CK 0105

In the Rajasthan High Court

Case No : Civil Writ Petition No. 13605 Of 2018

Lalita Kunwar Chouhan

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 13-05-2019

Acts Referred:

Citation : (2019) 05 RAJ CK 0105

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Keshav Bhati, Kailash Choudhary, Manish Vyas

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner seeking a direction to the respondents to consider the candidature of the petitioner for TSP area to the post of Teacher Gr.III (Level-II), subject Science & Maths.

It is inter alia indicated in the writ petition that pursuant to the advertisement dated 31.7.2018 (Annex.1), the petitioner filled online application form on 11.8.2018 (Annex.2) and applied in the Non-TSP category. The petitioner obtained 74.14% marks, when the cut-off declared by the respondents by their notification dated 3.9.2018 (Annex.5), the cut-off for TSP General was 65.52 and for Non-TSP was 75.17, when the petitioner realized that based on the notification dated 19.5.2018 (Annex.3), whereby, the scheduled areas were altered and the residential area of the petitioner came within the scheduled area, the petitioner could have applied for TSP area, however, as the petitioner was unaware of the notification dated 19.5.2018, the petitioner may be permitted to change her category.

Further submissions have been made that the respondents did not indicate in the advertisement that based on the altered scheduled areas as per the notification dated 19.5.2018, the candidates would be entitled to apply for TSP area.

Further submissions have been made that in Clause 11.2, reference has been made to notification dated 4.7.2016 pertaining to scheduled areas and as the notification dated 19.5.2018 was not indicated therein, the petitioner was misled and, therefore, could not apply in the TSP area. It is prayed that the petitioner may be permitted to change her category from Non-TSP area to TSP area and as she has got higher marks than the cut-off, her candidature for TSP category may be considered.

Reliance has been placed on judgment in Kavita Choudhary v. The Registrar (Examination) RHC Jodhpur: D.B. Civil Special Appeal (Writ) No.1700/2017, decided on 1.11.2017 at Jaipur Bench.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

A perusal of the documents indicate that the scheduled areas were altered by notification dated 19.5.2018. The advertisement was issued for recruitment to the post of Teacher Gr.III (Level-II) for TSP area on 31.7.2018. The advertisement did not restrict the area to any particular notification and only indicate that all the bonafide residents of TSP area would be eligible for applying for the post pursuant to the advertisement.

In view of the said stipulation in the advertisement pertaining to areas, which were included by notification dated 19.5.2018, were obviously included in the advertisement and petitioner could have very well apply for TSP area, however, in the online application filled on 11.8.2018, she applied in the category of Non-TSP area and thereafter also did not seek any change in category before the result was declared. On declaration of result, the petitioner found that the cut-off was higher for Non-TSP area than the marks obtained by her and the cut-off for TSP area was lower than marks obtained by her, she has filed the present writ petition seeking change in category. The various grounds sought to be raised by the petitioner seeking to change in category has no substance at all.

The plea raised that the petitioner was unaware of the notification dated 19.5.2018, is apparently is of no consequence as once the notification has been published in the Gazette of India, the knowledge as per law is ascribed to all.

So far as the submission pertaining to the stipulation made in the advertisement, there is nothing in the advertisement so as to confuse the petitioner regarding non-applicability of scheduled areas as added by notification dated 19.5.2018. The plea raised is even otherwise not available to the petitioner in view of the submissions made by the petitioner that the petitioner was unaware of the notification dated 19.5.2018.

It is not the case of the petitioner that despite being resident of TSP area, the petitioner could not have applied for Non-TSP area and as the petitioner has chosen not to apply in TSP category despite being resident of TSP area, there does not appear to be any reason for permitting the petitioner after the result

has been declared to change the category.

So far as the reliance placed on judgment in Kavita Choudhary (supra) is concerned, the Division Bench indicated therein that if the change in category is sought before the second stage of selection, the same can be permitted, however, in the present case, it is not a second stage selection, the selection is based on the application only which has already taken place vide declaration of result dated 3.9.2018.

In view of the above discussion, there is no substance in the writ petition, the same is, therefore, dismissed.