
(1992) 11 RAJ CK 0001
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5409 of 1991

Lalita Sankhala

APPELLANT

Vs

The State of Rajasthan

RESPONDENT

Date of Decision : 02-11-1992

Acts Referred:

Citation : (1993) 3 WLC 650 : (1992) WLN 236

Hon'ble Judges : Jasraj Chopra, J

Bench : Single Bench

Judgement

Jasraj Chopra, J.—This writ petition is directed against the refusal of admission to the petitioner in S.T.C. Course by respondent No.2 on the ground that admissions have been closed by 3.9.1991 and, therefore, she cannot be granted admission to the S.T.C. Course.

2. The case of the petitioner is that she passed her Senior Higher Secondary Examination in the year 1991 and thereafter, she applied for admission to Two years School-Teachers Training Course (for short the STC Course). She was called for interview by respondent No .2 and was informed that her name stands at serial No. 18/2 in the Waiting List relating to Female Candidates. It is alleged that one Miss Manju Yadav, who was standing at serial No. 18/1 in the Waiting list relating to Female Candidates was admitted in the course on 3.9.1991 itself and as a result thereof, the petitioner remained at serial No. 1 in the Waiting List relating to Female Candidates. Thereafter, it appears that one Smt. Chandrakala who was at serial No. 5 in the merit list and was admitted in the STC Course on 21.9.1991, has decided not to continue her studies in the Course and, therefore, she moved an application alongwith an affidavit stating therein that for some family reasons, she is unable to continue her studies in STC course and, therefore, her admission may kindly be cancelled. When the petitioner came to know about this fact, she on the very day moved an application that against the vacancy of Smt. Chandrakala, she may be adjusted but her application was refused on the ground that admissions have already been closed. Hence, the

petitioner has filed this writ petition.

3. This writ petition was admitted on 24.10.1991 and while issuing notice, the following ad-interim order was passed:

Meanwhile, the non-petitioners will give provisional admission to the petitioner in the Teacher's Training Course (STC Course) during the current session if the petitioner's name now appears on the top of the Waiting List and there is a

The petitioner has been provisionally admitted in the STC Course and has already appeared in the First Year Examination of the STC Course.

4. The contention of Mr. Sahgeet Lodha, the learned Counsel appearing for the petitioner is that a vacancy did exist on account of leaving of the course by Smt. Chandrakala on 20.9.1991. Even in her rejoinder to the reply filed on behalf of the respondents, the petitioner has claimed that as many as 18 persons have been admitted from 24.10.1991 to 4.11.1991 and, therefore, the claim of the respondents that admission have already closed on 3.9.1991 appears to be wrong. Mr. Lodha has submitted that moreover, the instruction contained in Annexure R. 1 are only directory in nature and no useful purpose will be served to keep any such vacancy unfilled by denying admission to a person who is on the top of the Waiting list, specially when somebody has already left the course. Mr. Lodha has submitted that admission should not be denied to the petitioner on mere technical grounds. According to Mr. Lodha, when admission has been granted to other 18 persons by relaxing the condition contained in the Instructions Annexure R. 1, the same relaxation should have also been granted to this petitioner and the petitioner should have been granted admission in STC course.

5. In support of his submission, Mr. Lodha has placed reliance on a decision of their Lordships of the Supreme Court in Vishundas Hundumal and Others Vs. State of Madhya Pradesh and Others, , wherein certain persons who were existing operators were allowed to operate on the overlapping portion of the notified route but this facility was denied to others and, therefore, their lordships of the Supreme Court have observed that such a discriminatory treatment cannot be meted out to the persons who are not existing operators.

6. Reliance was also placed on a decision of their lordships of the Supreme Court in Principal, King George's Medical College, Lucknow Vs. Dr. Vishan Kumar Agarwal and Another, , wherein their lordships of the Supreme Court have observed that the rigour of a rule can be relaxed provided such relaxation is permissible under the rules or if the rule is directory and not mandatory. And even if it is permissible to relax a rule such relaxation must be governed by defined guidelines or objective considerations. No Public authority, least of all a University which is entrusted with the future of the student community, can pick and choose persons for receiving the benefit of relaxation of the rules.

7. Reliance was also placed on a decision of their lordships of the Supreme Court

in *Sangara Singh v. State of Punjab* AIR 1984 SC 1499. In that case, the State of Punjab initiated disciplinary action and dismissed about 100 members of the Police Force on the ground that they had participated in an agitation which was impermissible under the rules governing the discipline in the Police Force of the State of Punjab. A number of criminal prosecutions were filed against the participants in the agitation. Some of the members of the Police Force, who were dismissed from Service filed writ petitions in the High Court of Punjab and Haryana but they were dismissed. After the dismissal of the writ petitions about 1000 former members of the Police Force were reinstated and criminal cases pending against some of them were withdrawn. A committee consisting of members of the superior rank of the Police Force was constituted by the State Govt. to review the cases of the dismissed agitators and reinstatement followed on the recommendations of the Committee. It was conceded that of the 1100 dismissed agitators 1000 were reinstated and the rest were left to fend for themselves. Those who were weeded out by the Committee filed writ petitions in the High Court and the High Court dismissed those writ petitions. In those facts, their lordships of the Supreme Court have observed that the order of the High Court dismissing the petitions was liable to be quashed. Logically, the petitioners must receive the same benefit which those reinstated received in the absence of any distinguishing feature in their cases. Accordingly, the petitioners would be entitled to reinstatement in service.

8. In this case also, the contention of the petitioner that 18 persons whose names have been given by her in para 2 of her rejoinder have been granted admission in the STC Course in between 24.10.1991 to 4.11.1991, has not been controverted either by filing a return or by filing an additional affidavit. This fact has not been disputed before me by the learned Addl. Govt. Advocate. Thus, when 18 persons could be admitted to the Course in relaxation of certain conditions then there is no ground to refuse admission to the petitioner, who is on the top of the Waiting list relating to the Female Candidates. Thus, the equities also exist in favour of the petitioner because she has already been admitted to the Course provisionally and has already appeared in the First Year Examination of the STC Course and a vacancy was there when she applied for admission to the Course because Smt. Chandrakala has refused to prosecute her further studies.

9. In this view of the matter, I am declined to accept this writ petition and order that the petitioner be allowed to continue in the STC Course. It was submitted by Dr. Bhandawat that the petitioner has not yet paid her fees. This was never the intention of the Court that she should be admitted without payment of fee. If the petitioner has not deposited her fees, then fees be recovered from her alongwith interest @ 12% and thereafter, she should be allowed to appear in the Final Examination. The petitioner shall pay her fees alongwith interest @ 12% within a period of three weeks from today.

10. In the facts and circumstances of this case, the parties are left to bear their

own costs of this writ petition.