
(1979) 08 RAJ CK 0006

In the Rajasthan High Court

Case No : Civil Writ Petition No. 144 of 1979

Madanlal Purohit

APPELLANT

Vs

The State of Rajasthan and Another

RESPONDENT

Date of Decision : 10-08-1979

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1979) WLN 288

Hon'ble Judges : S.K. Mal Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.K. Mal Lodha, J.—This is a petition under Article 226 of the Constitution of India, by Nandlal praying that writ in the nature of mandamus may be issued, quashing the list (Anx. P/1) and the office order (Anx. P/2).

2. The petitioner is employed as LC, CID. Zone Jodhpur and has completed 8 years of service on this post. The Deputy Inspector General of Police CID (Intelligence) Rajasthan vide circular dated September 14, 1978 invited applications for the posts of Head Constables. It was stated by the petitioner that being eligible for the promotion for the post of Held Constable, he applied for the same on September 14, 1978 through proper channel. After scrutiny of various applications, which were received, the petitioner was asked to undertake the written examination to be held for the purpose on December 4, 1978, According; to the petitioner, department has to fill 16 vacancies by promotion and recruitment written examination took place for filling the aforesaid 16 posts on December 4, 1978. The petitioner passed the written examination along with 90 other candidates. He was required to undertake the parade test, which he also qualified along with 73 other candidates. Thereafter, the Selection Board was requited to select 16 persons in Interview, as there existed sixteen vacancies only. The Selection Board, by its order (Anx. P/I) dated December 16, 1978 issued a list of 66 successful candidates In pursuance of the order (Anx. P/I), 12

persons were appointed on the post of Head Constable and it was laid down that onwards the persona will be promoted to the post of Head Constable according to the seniority assigned to them in the list framed by the Selection Board. This order was submitted by the petitioner along with the writ petition marked as Anx P/2 The petitioner has challenged the list. Anx. P/1 and the order Anx. P/2.

3. On February 8, 1979, show cause notice was issued to the respondents. In pursuance of the show cause notice, reply to the writ petition was filed The writ petition is opposed on various grounds Along with reply copy of office note Ex. R/1), dated December 3, 1978, which is on the file of Establishment Branch of CID. (SB.), Rajasthan. Jaipur, was also submitted. Arguments were heard on August 9, 1979. When I began to dictate the order, at about 4 p.m. it was brought to my notice that a rejoinder supported by affidavit was presented on August 9, 1979 in the office. Learned Deputy Government Advocate stated that neither its copy was delivered to him nor he was informed about its presentation. In those circumstances, I. postponed the dictation of order. I ordered that the case be again listed for admission today. When the case was taken up today, learned Counsel for the petitioner submitted that he has filed rejoinder to the reply filed by the respondents yesterday after arguments. The copies of the rejoinder and the affidavit were supplied to the learned Deputy Government Advocate today. I heard the arguments and ordered that rejoinder be taken on record. Arguments of the learned Counsel for the petitioner and learned Deputy Government Advocate were heard afresh.

4 Having heard the learned Counsel for the parties, I am satisfied that this writ petition has no merit.

5. It was contended by the learned Counsel for the petitioner that the list (Anx P/1) and order (Anx. P/2) are in contravention of Rule 9 (1) and Rule 24 of the Rajasthan Police Subordinate Service Rules, 1974 (which will hereinafter, for the sake of brevity, be referred to as "the Rules";, in as touch as, under r.9(1) of the Rules, vacancies are required to be determined every year and under Rule 24(2) of the Rules, the Selection Board can frame list of suitable candidates only upto one and a half times of the number of posts determined to be filled under Rule 9 of the Rules. He submitted that the department had to fill 16 vacancies and examination was held for filling 16 vacancies and as such the Selection Board could only frame a list of 24 suitable candidates in order of seniority. He, therefore, contended that the list (Anx. P/1) issued on December 16, 1978 is bad and consequently the order (Anx. P/2) is also invalid.

6. Mr. R Balia, learned Deputy Government Advocate on the other hand, strongly opposed the arguments raised by the learned Counsel for the petitioner. He urged that the case of the petitioner that there were sixteen vacancies to be filled up, is without foundation and that in fact the department had to fill 44 vacancies in the next year for which the vacancies were determined before making selection for the post of Head Constable. He referred to Ex.R/1, to show that the Deputy Inspector General of Police, CID. (Intelligence) determined the

vacancies.

7. I have considered the rival contentions. Rule 9(1) of the Rules is as under:

Determination of vacancies. (1) Subject to the provisions of these rules the Inspector General of Police or such authority as may be nominated by him shall determine each year the number of vacancies anticipated during the following twelve months and the number of persons likely to be recruited by each method. Such vacancies shall be determined again before the expiry of 12 months the last determination of such vacancies

Rule 24(2) of the Rules, runs as under:

The Boards constituted under this Rule shall consider the cases of all the persons included in the list, interviewing all of them, and shall prepare a list containing names of suitable candidates in order of seniority, Who secure 45 percent marks in qualifying examination part II and 50 percent aggregate of the total marks of the qualifying examination, part I & II upto one and & half times the number of such posts as determined to be filled under Rule 9.

In interviewing candidates for promotion regard shall be had to the following factors that:

- (i) they have passed Part I qualifying examination
- (ii) their previous record of service (good and bad entries)
- (iii) integrity
- (iv) intelligence, tact and energy
- (v) technical and general knowledge
- (vi) personality and character
- (vii) experience and efficiency
- (viii) physical fitness and capacity to discharge duties of the post to which promotion is to be made including aptitude to undertake extensive tours, and
- (ix) practical knowledge of law and procedure

According to Rule 9(1) of the Rules, Inspector General of Police or such authority, which may be nominated by him, is required to determine each year, the number of vacancies anticipated during the following 12 months and also the number of persons, who are likely to be recruited by each of the methods mentioned in Sub-rule (2) of Rule 9 of the Rules It has been enjoined upon the authority under Rule 9 (!) to determine the vacancies again before the expiry of 12 months of the last determination of such vacancies. A perusal of Ex. R/I, dated December 3, 1978 shows that department was required to fill 44 vacancies in the next one year for which the vacancies were determined before making selection for the post of Head Constable. The examination was held between 4-12- 1978 to

8-12-78, in which (6 prisons were declared successful in qualifying examination. The number of vacancies to be filled was 44 in the next one year. The Selection Board was required to prepare a selection list, keeping in view the number of vacancies and also the number of anticipated vacancies during next one year. According to Rule 24 (2) the Board constituted under Rule 24(1) was required to prepare list upto one and a half times of the number of vacancies determined to be filled under Rule 9(1) of the Rules. In these circumstances, there was nothing wrong, when the respondents prepared list of 66 candidates. In pursuance of the list Anx. P/1, 12 persons were appointed to the post of Head Constable and it was provided therein that hence-forward the persons will be promoted to the post of Head Constable according to the seniority assigned to them in the list Anx. P/1 framed by the Selection Board. It is clearly provide in sub-r (2 of 24 that the Board shall prepare a list of suitable candidates in order of seniority, who secured 45% marks in qualifying examination part II and 50% aggregate of the total marks of the qualifying examination part I and II upto one and a half times. It was not disputed by the learned Counsel that the criterion laid down in the list of the suitable candidates so prepared is not in accordance with Sub-rule (2) of Rule 24 of the Rules. He only disputed selection of 66 persons. In these circumstances, I am unable to agree with the learned Counsel that the vacancies in the year 1978 were only 16 and the examination that was held was for filling 16 vacancies, This is not borne out from the office note (Ex R/I). The qualifying examination was held from December 4, 1978 to December 8, 1978 and the list Anx. P/1 was prepared on December 16, 1978. Twelve persons were appointed on the post of Head Constable in pursuance of the that list. In these circumstances I have no hesitation in saying that this determination in the vacancies in Ex. R/I for the year 1979, was in accordance with Rule 9(1) of the Rules and as such it is in order. There is neither contravention of Rule 9(1) nor of Rule 24(2) of the Rules. The appointment of 12 persons to the post of Head Constable, as mentioned in order (Anx.P/2) is, therefore, valid. No valid exception can be taken to the direction that from on-wards the persons, whose names are mentioned in the list will be promoted to the post of Head Constable according to the seniority assigned to them.

8. No other point was argued by the learned Counsel for the petitioner The result is that this writ petition has no force and it is, accordingly, dismissed.