
(2019) 03 RAJ CK 0037
In the Rajasthan High Court
Case No : Civil Writ No. 2977 Of 2019

Manee Tabiyad

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 01-03-2019

Acts Referred:

Citation : (2019) 03 RAJ CK 0037

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Bharat Singh

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner aggrieved against the order dated 15/2/2019 (Annex.11), whereby, the petitioner has been held ineligible as a divorcee and a prayer has been made that Point No. 23 in the guidelines dated 11/6/2018 (Annex.12) be quashed and set aside.

The respondents issued an advertisement dated 12/4/2018 for direct recruitment to the post of Teacher Level-I for TSP Area. The petitioner applied for the post of General Teacher Level-I (TSP Area) by filling up on-line application on 25/4/2018, indicated her marital status as 'divorcee', however, indicated name of her spouse as Dinesh Chandra Parmar.

During the course of document verification, the petitioner produced a compromise dated 13/6/2018 entered into between the parties i.e. petitioner and her husband, whereby, the parties agreed to dissolve the marriage and indicated that proceedings have been initiated in the court for dissolution of marriage in which Dinesh Chandra Parmar would not raise any objection. The petitioner had also initiated proceedings on 12/1/2018 before the Civil Judge, Dungarpur seeking declaration about dissolution of marriage between the parties.

In the result dated 1/6/2018 declared by the respondents, all the candidates in

the category of divorcee were selected. The cut off for TSP ST Category for female candidates was 51.33, however, the petitioner had obtained 47.33% marks. In the district allotment list, the petitioner was allotted District Dungarpur. However, as at the time of counselling the petitioner produced the decree dated 24/7/2018 pertaining to dissolution of her marriage, in the list published regarding appointment, the petitioner was not accorded appointment. The petitioner made representation dated 14/2/2019 (Annex.10), wherein, the C.E.O., Zila Parishad Dungarpur passed the order dated 15/2/2019 indicating that as the petitioner has produced decree of divorce which was subsequent to the last date of application, she was ineligible.

It is submitted by learned counsel for the petitioner that the action of the respondents in holding the petitioner ineligible in the category of divorcee is illegal. It was submitted that the petitioner has produced the decree dated 24/7/2018 before the respondents and in fact by way of compromise between the parties, there was already a customary divorce between the parties and as the petitioner belongs to ST category, such customary divorce is recognized and, therefore, the action of the respondents in holding the petitioner ineligible as divorcee cannot be sustained.

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

A perusal of the advertisement and its various clauses, specially clause (ix) and (x) (Page 21 of the writ petition) specifically provided that the decree of divorce should be prior to the last date of on-line application and the benefit of being a divorcee would be available only if the competent court or by law such divorce is recognized. The last date of filing on-line application was 30/4/2018.

As already noticed, the petitioner filled her on-line application on 25/4/2018. From the material which has been produced on record, even as per the compromise entered into between the parties, the dissolution of marriage took place between the parties on 13/6/2018 and as the petitioner had already initiated proceedings for dissolution of marriage, based on the compromise dated 13/6/2018, the decree was passed by the competent court on 24/7/2018. Both, the date of compromise and date of decree pertaining to dissolution of marriage are after the last date of filling on-line application i.e. 30/4/2018 and in fact on 25/4/2018 when the petitioner filled her on-line application, she could not have claimed herself a divorcee and, therefore, in those circumstances, the respondents were justified in coming to the conclusion that the petitioner was ineligible in the category of divorcee for grant of appointment and as in the general category marks obtained by the petitioner in REET 2015 were less than the cut off, she was ineligible for grant of appointment.

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