
(2019) 05 RAJ CK 0114
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3631 Of 2019

Manju Suthar

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 14-05-2019

Acts Referred:

Citation : (2019) 05 RAJ CK 0114

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : A.K. Singh, Bharat Devasi, Manas Khatri

Final Decision : Allowed

Judgement

This writ petition has been filed by the petitioner aggrieved against the order dated 27.02.2019 (Annex.-3), whereby the petitioner has been accorded posting at Govt. Women Polytechnic College, Bharatpur pursuant to her selection by RPSC on the post of Lecturer.

It is, inter alia, indicated in the writ petition that pursuant to advertisement dated 22.07.2014, the petitioner was selected by the RPSC, whereafter the order of appointment was issued by the respondent-Department, whereby though the petitioner stood 2nd in merit and is resident of Bikaner, she has been accorded posting at Bharatpur, whereas the candidates at merit No. 1 and 3, who were resident of Jodhpur and Ajmer respectively, have been accorded posting at Jodhpur and Ajmer respectively and that one post, which was lying vacant at Bikaner, has been filled up by respondent No.2, who is at merit No.6.

Submissions have been made that the action of the respondents, in skipping granting of the posting at Bikaner to the petitioner and according posting to respondent No.2 at Bikaner is without any basis and, therefore, as the postings have been accorded to candidates at merit No.1 and 3, the same treatment be accorded to the petitioner and, therefore, the order impugned to the said extent deserves to be set aside/modified.

A reply to the writ petition has been filed by the respondent-State, inter alia, indicating that after appointment was made on 27.02.2019, the petitioner and the respondent No.2 have joined at their respective places of posting.

Further submissions have been made that there is no violation of rules and/or fundamental rights and, therefore, the writ petition filed by the petitioner is not maintainable.

Submissions have also been made that there is no provision in the Rules to seek choice of the candidates for postings and merely because the petitioner stands at No.2 in the merit, she cannot seek posting at Bikaner as per her choice and that as appointments have been made by the respondents as per the requirement, the order of appointment does not call for any interference.

Learned counsel for the respondent No.2 submits that the averments made in the writ petition regarding political interference is baseless and, therefore, the petition deserves to be dismissed.

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

A perusal of the order dated 27.02.2019 (Annex.-3) according postings pursuant to the selections to the candidates, clearly reflect that while candidates at merit No.1 and 3 have been accorded postings at the place of their residence and the petitioner, who was at merit No.2, resident of Bikaner, despite there being vacancy at Bikaner, was not treated similarly and respondent No.2, who was at merit No.6 though a resident of Jaipur, has been accorded posting at Bikaner.

The submissions made by learned counsel for the respondents that as there are no provisions for according choice to the candidates, the respondents are free to post the candidates as per their choice, cannot be countenanced.

Merely because a discretion is available with the respondents, does not mean that the discretion can be exercised arbitrarily. The respondents have to adopt some fair basis while exercising the discretion.

As noticed hereinbefore, once in a particular manner postings were accorded to the candidates at merit No. 1 and 3 i.e. at their place of residence, apparently there was no reason not to give the same treatment to the petitioner, who was at merit No.2 by the respondents.

No reason has been indicated in the reply for skipping giving of the same treatment to the petitioner. The only reason indicated is that as the discretion lies with the respondent, they have exercised the same as they like, which cannot be permitted.

In view of the above fact situation, wherein apparently the discretion exercised by the respondents in according postings is on its face arbitrary, whereby the petitioner, who is at No.2 in merit has not been accorded posting at the place of her residence while giving the same to the candidates at merit No. 1 and 3, the

order impugned to the said extent cannot be sustained.

Consequently, the writ petition filed by the petitioner is allowed. The order dated 27.02.2019 (Annex.-3) to the extent postings have been accorded to the petitioner at Bharatpur and the respondent No.2 at Bikaner, is quashed and set aside. The respondents are directed to pass a fresh order pertaining to the postings of the petitioner and respondent No.2 in light of the observations made hereinbefore.

The needful be done by the respondents within a period of three weeks.