

(2020) 02 RAJ CK 0174

In the Rajasthan High Court

Case No : Civil Writ Petition No. 17762 Of 2019

Manoj Kumar

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 06-02-2020

Acts Referred:

Citation : (2020) 02 RAJ CK 0174

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : R. R. Khilery, Mahaveer Bishnoi, Shreyansh Mehta, K. S. Rajpurohit

Final Decision : Disposed Of

Judgement

1. The present writ petition has been preferred by the petitioner for the following prayer :

"It is, therefore, most humbly prayed that this writ petition may kindly be allowed with cost and by and appropriate writ, order or directions; (i) the respondents may kindly be directed to consider the candidature of the petitioner under MBC Category instead of OBC Category in pursuance of the notification dated 16.10.2019 (Annex.13) for the post of Nurse Grade-II advertised in pursuance of advertisement dated 30.05.2018 (Annex.4). (ii) the petitioner may kindly be called for documents verification after considering his candidature under MBC Category. (iii) if petitioner found eligible and stands in the merit list of MBC Category then he may be given appointment on the post of Nurse Grade-II in pursuance of the advertisement dated 30.05.2018 (Annex.4).

Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner."

2. The precise facts, relevant for the present purpose, are that the petitioner applied for the post of Nurse Grade-II, pursuant to the advertisement dated

30.05.2018, while showing his category as OBC-NCL. After submitting the application form as OBC-NCL a certificate of Most Backward Caste (MBC) came to be issued in petitioner's favour.

3. The petitioner has claimed that his candidature be considered as MBC in place of OBC-NCL.

4. Mr. Mehta, learned counsel for the respondents, at the outset, submitted that pursuant to notification dated 16.10.2019, the State has permitted all OBC candidates to amend their application forms, which the petitioner did, and as a matter of fact his candidature has been considered as an MBC candidate.

5. Mr. Mehta pointed out that inspite of considering petitioner's candidature as an MBC candidate, he does not fall in merit of such category. He added that notwithstanding the fact that petitioner is having a judgment dated 29.08.2019 in his favour for grant of bonus marks, but the same cannot be given, inasmuch as the petitioner had not claimed bonus marks in his application form. In absence of claim of bonus marks, he was not awarded bonus marks.

6. It is pertinent that inspite of a clear stand taken in the reply that the petitioner had not claimed bonus marks anywhere in his application and thus, he is not entitled to get bonus marks even if a certificate is issued in his favour, no rejoinder to the reply aforesaid has been filed.

7. Hence, this Court is inclined to accept the stand of the respondents that sans any claim and certificate, bonus marks cannot be allowed.

8. The petitioner may, however, file a representation claiming bonus marks on the basis of experience, he has gained while working under NRHM Scheme, within a period of two weeks from today.

9. In case, any such representation is filed before the respondent No.3 within a period of two weeks from today, the same shall be decided in accordance with law within a period of four weeks.

10. It is, however, made clear that direction to decide petitioner's representation has been issued only with a view to ensure expeditious redressal of his grievance and the same may not be construed to be a direction to decide it in a particular manner.

11. The stay application is also disposed of.