
(2021) 03 RAJ CK 0056

In the Rajasthan High Court

Case No : Civil Writ Petition No. 12979 Of 2019

Mayuri Bansal

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 16-03-2021

Acts Referred:

Constitution Of India, 1950 — Article 15(3), 16(1), 16(4), 226

Citation : (2021) 03 RAJ CK 0056

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Dinesh Godara

Final Decision : Dismissed

Judgement

1. By way of the present writ petition the petitioner has challenged action of the respondents in ignoring the petitioner and giving appointment to respondent No.5 - Rajan Chechani.
2. The facts appertain are that the petitioner vied for the post of Accounts Officer notified by recruitment notification No.01/2018-19 issued by respondent - AVVNL.
3. In the notification aforesaid, out of 8 posts, 2 posts were reserved for female candidates.
4. After the recruitment process was undertaken, the respondent - AVVNL issued provisional merit list (Annex.P/4) in which petitioner's name was mentioned at Serial No.12.
5. After undertaking the exercise of document verification etc, the list of selected candidates was issued on 07.09.2018 and appointment was offered initially to 7 candidates (last candidate being - Dinesh Kumar).
6. It is the contention of the learned counsel for the petitioner that the respondents have filled the eight post by offering appointment to Rajan Chechani (respondent No.5), who was reflected at merit No.11, ahead of petitioner, who

was at merit No.12.

7. Learned counsel for the petitioner contended that there were two posts reserved for 'women' category and only two female candidates namely Khusbhu Jain and Neha Lakhani have been offered appointment, who stood at merit No.3 & 10 respectively in the provisional merit list.

8. Learned counsel for the petitioner argued that Khusbhu Jain (merit No.3) has secured her appointment on the basis of her own merit and, therefore, in order to comply with the spirit of reservation, the respondents ought to have offered appointment to the petitioner, while ignoring Rajan Chechani.

9. In considered opinion of this Court, the arguments of the petitioner is fallacious and contrary to the settled legal position. Reservation of women category operates horizontally and if there is sufficient representation of women, the women candidate cannot be given additional reservation, ahead of the merit position.

10. Since two posts were reserved for women and two female candidates namely Khusbhu Jain and Neha Lakhani have already been given appointment, the petitioner cannot claim any right against two seats reserved for female candidates.

11. Hon'ble the Supreme Court in the case of Rajesh Kumar Daria Vs. RPSC reported in (2007) 8 SCC 785 has held as under :

"9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are 'vertical reservations'. Special reservations in favour of physically handicapped, women etc., under Articles 16(1) or 15(3) are 'horizontal reservations'. Where a vertical reservation is made in favour of a Backward Class under Article 16(4), the candidates belonging to such Backward Class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota reserved for the respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. (Vide - Indira Sawhney, R.K. Sabharwal v. State of Punjab, Union of India v. Virpal Singh Chauhan and Ritesh R. Sah v. Dr. Y.L. Yamul.) But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of 'Scheduled Caste Women'. If the number of women in such list is equal to or more than the number of special reservation quota, then there

is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women."

12. In light of judgment of Hon'ble the Supreme Court in *Rajesh Kumar Daria* (supra) and this Court in the case of *Smt. Megha Shetty Vs. State of Rajasthan & Ors.* reported in 2013 (4) RLW 3227 (Raj.), there is no merit in the present petition for which, it is, hereby, dismissed.