
(2016) 05 RAJ CK 0137
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7590 of 2015

Ms. Abha Kumari

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 23-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 WLCRajUC 179

Hon'ble Judges : Miss Jaishree Thakur, J.

Bench : Single Bench

Advocate : Mr. M.S. Purohit, Advocate, for the Petitioner; Mr. Mahesh Thanvi, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Miss Jaishree Thakur, J.—The present writ petition has been filed under Article 226 of the Constitution of India seeking quashing of order dated 27.4.2015 and with a further prayer for appointment on the post of PTI Grade-III against the Divorce quota.

2. In brief, the facts are that the Rajasthan Public Service Commission (for short "the RPSC") issued a notification in the year September, 2013 inviting applications for appointment on the post of PTI Grade-II and III. The petitioner, being eligible for appointment, applied immediately. At the time of the filling in the application form, the category, as filled by the petitioner, was General NCC Cadet(Female) category. The petitioner was called for written examination on 21.2.2015. After having participated in the examination, the petitioner moved a representation on 20.3.2015 stating that she should be considered in the General Woman(Divorce) Category, as she had been granted divorce by her husband by a decree dated 24.11.2014. The petitioner was not offered appointment as she did not have the requisite marks in the General Category, but would have come into zone of consideration if she had been considered in General Woman(Divorce) Category, as she had secured 163.66 marks. Aggrieved against the decision, not

to include her in the General Woman(Divorce) category, the present writ petition has been filed.

3. Mr. M.S. Rajpurohit, learned counsel appearing on behalf of the petitioner contends that after filling in the application form and before examination had taken place, the petitioner got a decree of divorce on 24.11.2014 and she approached the concerned department for changing her category, which has not been done. It is argued that in case, the category is allowed to be changed from General NCC Cadet category to General Woman (Divorce) category, the petitioner who has secured 166.66 marks which is more than the cut-off marks General Woman (Divorce) category which is at 96.66, she would become eligible for appointment

4. Reliance has been placed upon a judgment rendered in the case of Jamna Rajpurohit v. State of Rajasthan & ors., S.B. Civil Writ Petition No. 8899/2012 decided on 29.8.2012, wherein the petitioner had applied in the General Woman category and after having appeared in the written examination, within 15 days, her husband died and the court had allowed her to change category from General Woman to Widow category. Reliance has also been placed on the judgment rendered in Reetu Kalasua v. State of Rajasthan & ors., S.B. Civil Writ Petition No. 10867/2012.

5. Per contra, Mr. Mahesh Thanvi, learned counsel appearing on behalf of the respondents submits that the judgment relied upon in the case of Jamna Rajpurohit(supra) has no application in the present case, as in that matter, the woman after facing the process of selection in General Woman category, made a request to change her category to Widow category looking to death of her husband after the submission of the application form, whereas in the present case, an application for correction had been made in the category after the examination had been concluded and it was based on a divorce decree that had been obtained prior to the written examination.

6. I have heard the learned counsel for the parties and have perused the record of the case

7. It is apparent that the date when the petitioner submitted an application to be considered for appointment to the post of PTI Grade-III, she did not have any decree of divorce. On 24.11.2014, a decree of divorce was passed in her favour but, admittedly, no such information was given to the RPSC. Since the petitioner had applied in the category of General NCC Cadet (Female) category, the RPSC would have no occasion to treat her in as a divorced woman, since they did not have any information about the divorce decree having been passed.

8. In view of the fact that the petitioner had obtained a decree of divorce but failed to inform the respondent about change in category, no such direction can be given. The judgment relied upon in Reetu Kalasua v. State of Rajasthan & ors., S.B. Civil Writ Petition No. 10867/2012, has been set aside in Rajasthan Public Service Commission & anr. v. Reetu Kalasua & anr., D.B. Civil Special

Appeal(Writ) No. 1193/2014, wherein in similar circumstances, the Hon''ble Division Bench came to hold that change of category was only after completion of the selection process and if the category was not changed, it could be faulted upon.

9. In the present case, the petitioner, though was aware of the decree of divorce having been granted in the month of November, 2014, only chose to inform the department-RPSC after having undertaken the written examination and, as such, would not be entitled to change in the category.

10. Resultantly, the writ petition is dismissed.