
(2021) 02 RAJ CK 0049
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2394 Of 2020

Pooja Rajpurohit	Vs	APPELLANT
Rajasthan Public Service Commission, Ajmer, Rajasthan		RESPONDENT

Date of Decision : 16-02-2021

Acts Referred:

Citation : (2021) 02 RAJ CK 0049

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Moti Singh, Renuwati Rajpurohit, Tarun Joshi

Final Decision : Dismissed

Judgement

1. The respondent-Rajasthan Public Service Commission (hereafter referred to as ""Commission"") had published two separate recruitment notifications dated 28.03.2018 - One for Non-TSP area being advertisement No.04/ / A.S.O./2017-18 (hereinafter referred to as ""advertisement No.04"") and another for TSP area being advertisement No.05/ /A.S.O./TSP/2017-18 (hereinafter referred to as ""advertisement No.05"").
2. It is noteworthy that above referred notifications issued by the Commission were with a view to fill up 201 posts of Non-TSP area while 24 posts of TSP area.
3. The petitioner applied for the post of Assistant Statistical Officer under advertisement No.05, meant for TSP area and submitted her application form on 12.05.2018.
4. Petitioner cleared the written test in the result declared on 03.01.2020 and came to receive a letter dated 27.01.2020, inviting her for counselling on 10.02.2020. When the petitioner appeared for counselling, the Commission found

that she did not possess Special Bonafide Resident Certificate, commonly known as TSP certificate. Vide a communication dated 10.02.2020, the petitioner was required to produce TSP certificate within five days, failing which it was stated that her candidature would be rejected.

5. Anticipating rejection of her candidature, petitioner has approached this Court for the following reliefs :-

(i) The respondents may kindly be directed to consider the candidature of the petitioner while taking into account specially that the petitioner is ""Non

TSP candidate instead of ""TSP Candidate and thereafter, if the candidature of the petitioner is found as per merit, the petitioner may be called for

further selection process and allow participating in the final selection list.

(ii) That the communication issued by the respondent dated 10.02.2020 (Annexure-6) may kindly be quashed and further respondent may kindly be

directed to consider the candidature of the petitioner against the Advertisement no. 4/Exam/A.S.O./2017-18 dated 28.03.2018 (Annexure-2) as Non

TSP Candidate.

(iii) 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.

(iv) the petition may kindly be allowed the cost of this writ petition.

6. The petitioner has approached this Court with a case that she is otherwise a meritorious candidate and her marks are more than the cut-off marks

of her category for non-TSP area, thus, her candidature be considered under advertisement No.04, meant for Non-TSP area candidates.

7. Mr. Moti Singh, learned counsel for the petitioner submitted that the petitioner originally is/was a resident of district Pali, but had migrated to district

Dungarpur in the year 1982 and thus, she was under a bonafide belief that she is a resident of TSP area.

8. According to the petitioner, since she was a bonafide resident of Dungarpur (for which she was having a certificate), she was entitled to be

considered under the notification No.05, meant for TSP area candidates.

9. It is argued by Mr. Moti Singh that rejection of petitioner's candidature, per se, because of the fact that she failed to submit TSP certificate, is illegal

and the respondents ought to have considered her candidature for the posts

advertised for Non-TSP area.

10. In other words, petitioner's case is that she should be permitted to migrate to advertisement No.04.

11. In support of the contention aforesaid, learned counsel relied upon the judgment of this Court rendered in case of Manish Kumar Nagda & Ors.

Vs. State of Rajasthan & Ors. (SBCWP No.8529/2018) more particularly para No.30 of the said judgment and submitted that as this Court had

permitted all the candidates to move to advertisement No.02/2018, meant for TSP area, the petitioner should also be permitted to switch to

advertisement No.04, meant for Non-TSP area.

12. Learned counsel further relied upon judgment of this Court rendered in case of Suman Inaniyan Vs. State of Rajasthan & Ors. (SBCWP

No.4465/2020) to buttress that human error should be ignored and merit alone should be given precedence.

13. It was also argued by Mr. Moti Singh that the Commission has declared common result on 03.01.2020 and thus, the process of selection and

scrutiny has been done simultaneously and if the direction is given to the Commission to consider her candidature qua the posts notified for Non-TSP

area, the Commission will have no difficulty in such consideration and rights of no other candidate will be affected, as appointment orders have not

been issued.

14. Mr. Tarun Joshi, learned counsel appearing for respondent- Commission, on the other hand, strongly opposed petitioner's prayer and submitted that

the petitioner is not entitled to relief as claimed for. According to him, two separate advertisements were issued for TSP and Non-TSP area and the

petitioner having applied under advertisement meant for TSP area, has to be considered under that advertisement and in absence of a TSP certificate,

once her candidature has been rejected, she cannot make a prayer to move to other advertisements meant for Non-TSP area.

15. Mr. Joshi, submitted that petitioner's contention that her candidature is still pending and has not been rejected is factually incorrect, inasmuch as

vide communication dated 13.03.2020, she has been informed that her candidature has been rejected.

16. Learned counsel relied upon the judgment of this Court dated 05.12.2018 rendered in case of Monika Meena Vs. State of Rajasthan & Ors.

(SBCWP No.17583/2018) and submitted that in almost identical circumstances, this Court has rejected a similarly situated petitioner's writ petition, who had prayed that she be moved to advertisement meant for Non-TSP area candidates.

17. Heard.

18. Opening part of the advertisement No.05 contains the following note in bold letters :-

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19. In the teeth of the aforesaid special note, the petitioner ought not to have applied under the advertisement No.05, which was essentially meant for TSP area candidates.

20. In the opinion of this Court, the petitioner having applied for the post of Assistant Statistical Officer cannot plead ignorance of the fact that she is

not a bonafide resident of TSP area and thus, cannot obtain Special Bonafide Certificate. She cannot afford to forget/ignore that Special Bonafide

Resident Certificate can only be granted to persons, bonafidely living in TSP area.

21. Be that as it may. If the petitioner had read the form carefully, she would have learnt that she will be required to furnish a TSP certificate, which

she did not and could not have, while submitting application form.

22. Her candidature has been rejected. It is too late in the day to approach this Court with a prayer that her candidature be considered against

advertisement No.04, meant for Non-TSP area candidates, particularly when she had not even moved the Commission for this purpose.

23. May be, the petitioner has secured more marks than the cut- off marks in her category declared for the Non-TSP area candidates, but the same

by itself, does not confer any right to switch over to other advertisement that too after the result has been declared.

24. So far as judgment of Manish Kumar Nagda (supra) relied upon by Mr. Singh is concerned; suffice it to observe that it was a case, wherein some

areas were declared as TSP area, during the pendency of the recruitment and having regard to beneficial nature of notification, Coordinate Bench of

this Court has passed direction to consider all the candidates who were later covered in TSP area, against the advertisement meant for TSP area

candidates. But the same is not the position here. Petitioner cannot claim shifting from one advertisement to another when the fault lies in herself.

25. Adverting to the judgment of Suman Inaniyan (supra), it is to be noticed that, due to inadvertence the petitioner therein had furnished incorrect

marks of her graduation and despite directions given by this Court on petitioner's earlier writ petition, the respondents refused to permit the petitioner

to carry out correction in the form in relation to her marks. On the contrary, the petitioner in the present case has sought to change his category, which

hits at the very root of eligibility and forms the very basis of selection.

26. The judgments relied upon by Mr. Singh thus, do not lend any support to the cause of the petitioner.

27. As against the judgments cited by learned counsel for the petitioner, the case relied upon by Mr. Joshi is on the mark. It will be apt to reproduce

relevant extract of the judgment in case of Monika Meena (supra) :-

Once the petitioner had applied pursuant to the advertisement dated 02.04.2018, she would be governed by the said advertisement only and her

candidature could not be reckoned against the advertisement dated 04.05.2018 meant for TSP area. Merely because in the application form the

petitioner indicated her residence within TSP area, she could not change her status which for the said advertisement was confined to ST (women), so

as to treat her application pursuant to the advertisement dated 04.05.2018.

28. As a consequence of discussion foregoing, the writ petition is dismissed.

29. Stay application also stands dismissed.