

(1992) 01 RAJ CK 0055

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6570 of 1991

Prahalad Mali

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-01-1992

Acts Referred:

Citation : (1992) 2 RLW 665 : (1992) 3 WLC 65 : (1992) WLN 346

Hon'ble Judges : M.B. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.B. Sharma, J.—This Court had admitted this petition and had given notice to the State Government as far back as on 5th December 1991. The controversy in this petition relates to the career of the petitioner who claims to stand higher in the merit list but has been denied not only interview but appointment also and the persons lower in merit have been given appointment and it was thought proper that State should be called upon to file return within three weeks so that the case may be disposed of at orders stage on the stay application. But despite time having been granted to the learned Deputy Government Advocate, reply has not been filed and Mr. Saxena has shown his inability to assist the court by filing reply and has said that he has written letters to the Education Secretary, either to change the office-in-charge appearing here on behalf of the Director, School Education or to make other arrangements so that, reply is filed in time and the relevant record is produced for perusal of the court. This matter shows very sorry state of affairs as said by Mr. Saxena that the Secretary or other officers of the Government have not cared to the various communication addressed by him. The Deputy Government Advocate or for that matter any Government Advocate attached to this Court has no other mode of approach to the officer-in-charge except through the Secretary of the concerned department. In the absence of any reply this Court has no option but to say that the facts contained in the writ petition which is supported by an affidavit are correct and court will proceed to

dispose of the writ petition on the facts as they are stated in the writ petition.

2. The case of the petitioner is that he passed B.A. in English Literature from the University of Rajasthan in the year 1987. Thereafter, on completion of the degree, petitioner also passed B.Ed, in the year 1988-89 and he is presently B.A., B.Ed. An advertisement was issued by the respondent No. 3, Deputy Director, Education (M) Ajmer-Zone, Ajmer for a number of posts of teacher Gr. II in the pay scale No. 12, and in different subjects including English and he being eligible, applied for one of the posts of teacher Gr. II in English. There were total forty posts. His application was received in time and he came to know on 23rd October 1991, through his other colleagues, Satyendra Kumar and Gopal Lal Gurjar, who had also applied that interview letters have been issued to them under the merit list prepared in the office of the respondent No. 3. The petitioner immediately went to Ajmer, contacted the concerned authorities/officials and requested them to issue interview letter to him also. On enquiry it was found that the merit list of 120 persons (three times) of 40 posts, was prepared in which the name of the petitioner was mentioned at Serial 93. Whereas the names of Shri Satyendra Kumar was mentioned at serial No. 96. He was also informed that interview letter have been issued to all 120 persons but as said by the petitioner he had not received any interview letter. The petitioner also met the Deputy Director concerned, but to no effect.

3. It will appear from the aforesaid averments in the writ petition which are supported by an affidavit that a merit list in English subject for 120 candidates was prepared and the name of the petitioner appears at serial No. 93 and the persons lower in merit to him have been called for interview. The possibility that the petitioner might not have been called for interview and even if his interview letter might have been issued, it might not have reached to him, cannot be excluded. When he approached to the concerned authorities/officials, he should have been interviewed and if found suitable, he should have been given appointment. But the reasonable consideration of the petitioner for the post of Teacher Gr. B in English Subject was denied. He was not interviewed.

4. Consequently, I hereby allow this writ petition and direct the respondents to consider the case of the petitioner and if the petitioner is found suitable and the persons junior in merit to the petitioner have been given appointment, the petitioner should be given appointment from the date, persons junior to him were appointed. He shall not be eligible for arrears but he shall be entitled to the seniority. The effect of this order be given immediately but in no case later than two weeks from the date a certified copy of this order is made available in the office of the respondent No. 3 by the petitioner. A copy of this order be also sent to the Chief Minister, Government of Rajasthan, Jaipur and the Chief Secretary, Government of Rajasthan, Jaipur.