
(2003) 07 RAJ CK 0100
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3936 of 2003

Prakash Chand

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 09-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 32

Citation : (2004) 2 RLW 992 : (2003) 4 WLC 301

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : Ram Kr. Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

Ashok Parihar, J.—The petitioner applied for the post of Teacher Gr.III in pursuance to the advertisement issued by the respondents in the year 1998. As per circular, issued by the State Government in regard to the above selections, 10 bonus marks were provided for residents of the District, for which the selections were to be made, and further 5 bonus marks were provided for the residents of rural area of the District. Providing benefit of bonus marks, as referred above, came to be challenged by some of the candidates by way of filing writ petitions before this court.

2. In view of different views, expressed by some of the Benches, the matter came to be referred to the Larger Bench of this court. The Larger Bench decided the controversy in favour of the petitioners, who had challenged the validity of providing bonus marks on the basis of residency, as referred above. The controversy ultimately came to be raised before the Supreme Court in the SLPs, filed by the following categories of persons:

"(1). Those filed by the original writ petitioners who were aggrieved by the direction in the judgment either confining its application prospectively or denying relief on the ground that writ petitioners would not have been selected even if 10

or 15 bonus marks are excluded. The appellant in the first these appeals - Kailash Chand Sharma - belongs to this category. He hails from the district of Karouli and he applied for the job in Barmer district.

(2) Those candidates who have not been offered appointment, though selected on the strength of the weightage accorded for residents of the District and rural areas comprised therein.

(3) Those selected on the basis of weightage and appointed after 21.10.1999, whose appointments were likely to be cancelled in view of the directions in the impugned judgments.

(4). Official respondents in the writ petitions, viz., State of Rajasthan and Zila Parishads."

3. The Supreme Court, while deciding the controversy, involved in the present matter in the case of Kailash Chand Sharma v. State of Rajasthan and Ors. (1), and other connected Civil Appeals, issued following directions in Para 51 of the judgment, which are reproduced as under:

"Having due regard to the rival contentions adverted to above and keeping in view the factual scenario and the need to balance the competing claims in the light of acceptance of prospective overruling in principle, we consider it just and proper to confine the relief only to the petitioners who moved the High Court and to make appointments made on or after 18.11.1999 in any of the districts subject to the claims of the petitioners. Accordingly, we direct:

(1). The claims of the writ petitioners should be considered afresh in the light of this judgment vis-a-vis the candidates appointed on or after 18.11.1999 or those in the select list who are yet to be appointed. On such consideration, if those writ petitioners are found to have superior merit in case the bonus marks of 10% and/or 5% are excluded, they should be offered appointments, if necessary, by displacing the candidates appointed on or after 18.11.1999.

(2). The appointments made upto 17.11.1999 need not be reopened and reconsidered in the light of the law laid down in this judgment.

(3) Writ Petition No. 542/2000 filed in this court under Article 32 is hereby dismissed as it was filed nearly one year after the judgment of the High Court and no explanation has been tendered for not approaching the High Court under Article 226 at an earlier point of time."

4. The judgment in the case of Kailash Chand Sharma (Supra) has further been followed by the Supreme Court in the case of Harshendra Choubisa and Ors. v. State of Rajasthan and Ors. (2).

5. The present writ petition has been filed relying on the judgment of the Supreme Court, as referred above, after a considerable long delay much after the judgment of Supreme Court. Since the Supreme Court has only confined the relief to those petitioners who had filed writ petitions at the earliest, in my

opinion, no relief can be granted to the petitioner in the present writ petition even as per directions of the Supreme Court, as referred above. The writ petition is liable to be dismissed only on the ground of delay and laches. Learned counsel for the petitioner has submitted that in similar matters this Court has issued directions to the respondents to consider the representations of the petitioners and pass necessary orders. In view of clear directions of Supreme Court, as referred above, no direction for considering the representation can be and should be given now after such a long delay. Giving unlimited discretion to the authorities would only create further complications and open up new channel of irregularities which may be committed by the concerned authorities. The writ petition is dismissed accordingly as having no merits.