

(2009) 10 RAJ CK 0026
In the Rajasthan High Court
Case No : Civil Writ Petition No. 480 of 1997

Prakash Chand Mehala

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-10-2009

Acts Referred:

Citation : (2009) 10 RAJ CK 0026

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Judgement

Govind Mathur, J.—The District Establishment Committee, Zila Parishad, Rajsamand vide its Advertisement No. 5/94 invited applications from eligible candidates to be considered for appointment as Teacher Grade III against the existing vacancies relating to Operation Black Board Scheme. Considering himself eligible, the petitioner applied to be considered for appointment but by treating the Diploma in Teaching possessed by him from Rani Durgavati Vishwavidyalaya, Jabalpur unrecognized, the respondents rejected his candidature, hence, this petition for writ is preferred.

2. As per the petitioner, he was admitted to the Diploma Course concerned in the year 1985 and qualified the same in the year 1987. The Government of Rajasthan de-recognized the Diploma concerned on 2.7.1987 with a specific assertion that the de-recognition shall be having no effect for the students, who were admitted to the Course in Educational Session of 1985-86 and that was reiterated by a subsequent notification dated 19.12.1988.

3. In reply to the writ petition, stand of the respondents is that the petitioner approached the Court after expiry of the select list and, therefore, no relief as prayed can be given. It is also stated that the qualification possessed by the petitioner i.e. Diploma in Teaching is not recognized one and as such he was not eligible to be considered for appointment.

4. Heard learned Counsel for the petitioner.

5. It is not in dispute that the petitioner was admitted to Diploma Course in Teaching conducted by Rani Durgavati Vishwavidyalaya, Jabalpur in the Educational Session 1985 and the Government of Rajasthan de-recognized the same qualification from the Educational Session 1986-87 and onwards thereto. The Government of Rajasthan in its notifications dated 02.07.1987 and 19.12.1988 made it clear that that the de-recognition of the qualification of Diploma in Teaching from Rani Durgavati Vishwavidyalaya, Jabalpur shall be having no effect, if admission in the course was taken in the Educational Session of 1985. In view of the factual position above, it cannot be said that the petitioner was not eligible or was lacking qualification to be considered for appointment as Teacher Grade III under the advertisement No. 5/94. Hon'ble the Supreme Court in Suresh Pal and Others Vs. State of Haryana and Others, , while dealing with the issue relating to eligibility of the incumbents who were admitted in a specific course prior to its de-recognition held as under:

We are of the view that since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though at the time of their joining the course it was recognized, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was derecognized by the State Government on January 9, 1985. We would, therefore, allow the appeal and direct the State Government to recognize the certificates obtained by the petitioners and others similarly situate as a result of completing the certificate course in Shri Hanuman Vayayam Prasarak Mandal, Amravati for the purpose of appointment as Physical Training Instructor in government schools in Haryana.

6. In view of the discussion, the petitioner was eligible to be considered for appointment as Teacher Grade III under the advertisement given.

7. With regard to the question that whether the petitioner approached the Court during currency of the select list or not, it is relevant to note that at the first instance, the petitioner approached this Court before its Jaipur Bench by way of filing a petition for writ on 13.12.1995 and on basis of an objection raised by the counsel for the respondents, the writ petition was returned for its proper presentation before Principal Seat of this Court. The order passed by the Court in earlier writ petition preferred by the writ petitioner reads as follows:

S.B. Civil Writ Petition No. 293/1996

11.12.96 Hon'ble Mr. Tibrewal, J.

Mr. Manoj Chaudhary, for the Petitioner. Mr. Mukesh Verma for the Respondents.

Mr. Verma appearing for the respondents takes a preliminary objection that the matter relates to give appointment to the petitioner by District Establishment Committee, Rajsamand, which is under the jurisdiction of the Principle Seat of

the High Court. This factual aspect is not denied by learned Counsel also.

Hence, the office is directed that the writ petition be returned to the petitioner to file it at the Principle Seat, Jodhpur and this petition should be shown as disposed of so far this High Court is concerned.

8. In view of the order aforesaid, this writ petition was presented before this Court at Jodhpur on 21.1.1997. As per the respondents, the select list expired on 30.12.1996, however, in view of the factual position stated above, it is apparent that the petitioner filed the writ petition prior to that i.e. on 30.12.1996, as such the objection raised by the respondents regarding filing of the writ petition after expiry of the select list is of no consequence.

9. For the reasons aforesaid, the petition for writ deserves acceptance, accordingly the same is allowed. The respondents are directed to consider candidature of the petitioner for the purpose of appointment as Teacher Grade III and accord appointment, if he stands in merit. It is made clear that if the petitioner is found suitable for appointment, then he shall be entitled for consequential benefits on notional basis.

10. The respondents are required to make compliance of the directions given above within a period of three months from the date the petitioner serves a certified copy of this order upon them.

No order to cost.