
(2007) 05 RAJ CK 0122
In the Rajasthan High Court

Radhey Shyam

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 31-05-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 1 RLW 914

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

H.R. Panwar, J.—By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to allow the petitioner to appear in the Examination Scheduled to be held on 15.2.2005 in pursuance of the advertisement Annx. 1 dated 13.8.2004 for the post of Junior Instructors DPCS/COPA and consider his candidature for the said post and also seeks quashing of the Order Annex.7 dated 29.1.2005.

2. I have heard learned Counsel for the parties. The facts and circumstances giving rise to the instant writ petition are that the respondent No., vide advertisement Annx. 1 dated 13.8.2004, advertised the posts of Junior Instructors in the pay scale of Rs. 5000-8000/- under the Rajasthan Technical Education Service Rules, 1975 (for short, "the Rules, 1975" hereinafter) calling applications to be submitted by 10.9.2004. The petitioner having possessed the requisite qualification for the post in question, in pursuance of the advertisement Annx. 1, applied for the post by submitting the application along with the requisite Postal Order of Rs. 50/-. In the advertisement, there were as many as 5 posts of DPCS/COPA advertised, out of which two were reserved for Scheduled Caste candidates, one for Scheduled Tribe candidate and two for Other Backward Class candidates. The petitioner is a member of schedule caste and, therefore, he applied against the post reserved for Scheduled Caste candidates. It has been stated in the writ petition that the petitioner possesses the requisite qualification

of DPCS/COPA, which he obtained vide Annex.4 from the State Trade Training Council and in this regard, National Trade Certificate Annx.5 has been issued in his favour by the National Council for Vocational Training, Government of India. It has also been stated that the petitioner has served on the post of Instructor of Computer Operator and Programme Assistant Trade in Jaju Industrial Training Centre, Pisangan, and District Ajmer vide Annx.6. However, the petitioner was denied consideration on the post in question vide Annx.7, hence, this writ petition.

3. A reply to the writ petition has been filed by the respondents stating therein that for appointment on the post of Instructor, a person should be having the National Trade Certificate or Three Years' Diploma in the concerned Branch but the petitioner does not possess the requisite qualification for appointment on the post of Junior Instructor, i.e. COPA, the full form of COPA is Computer Operator and Programming Assistant, as also he is not possessing the National Trade Certificate in COPA.

4. Petitioner filed a rejoinder to the reply stating therein that in the advertisement Annx. 1 itself, the post advertised is DPCS/COPA at serial No.2 of the said advertisement dated 13.8.2004 and the Training Manual for Industrial Training Institutes and Centres (Annx.10), Appendix XVI-C provides the List of Trades which were revised during 1996-2002 under CTS, clearly goes to show that DPCS has been renamed as COPA and thus the petitioner possesses the requisite qualification for the posts advertised. It has been mentioned in the rejoinder that even the respondents themselves advertised the post as DPCS/COPA and, therefore, now the respondents cannot resile from their own stand and deny consideration and appointment of the petitioner on the post of Junior Instructor on the ground that he does not possess the qualification of COPA where DPCS and COPA are the same and the DPCS has been renamed as, COPA vide Annx.10. It has further been stated that the petitioner possesses the national Trade Certificate issued by the National Council of Vocational Training (Annx.5) and, thus, the denial of consideration of petitioner's case for appointment on the post of Junior Instructor is without any basis as the petitioner fulfills both the qualifications as advertised vide Annx.1 and the stand taken in the reply is unfounded. It has been stated that the Director, Technical Education, Government of Rajasthan issued a Circular dated 22.11.1997 wherein it has been specifically mentioned that the name of DPCS has been renamed as COPA vide Annx.8. The Ministry of Labour, Government of India, New Delhi, vide Circular Annx.9 dated 22/27th September, 1997 addressed to all the State Directors dealing with Craftsmen Training Scheme, issued directions mentioning therein that the syllabi of the trade of DPCS has been renamed as Computer Operator and Programming Assistant, which clearly goes to show that there had been no change in the syllabi of the Course of DPCS which has been renamed as COPA. It has further been stated that all the I.T.Is. In India are governed and controlled by the Director General, Employment & Training, Ministry of Labour, New Delhi, which prescribes the Training Manual for Industrial Training Institutes

and Centres in Appendix XVI-C providing the list of trades which were revised in the years 1996-2000 under CTS wherein in the list of the trades of DPCS has been specified at serial No.15, as against which it has been stated that DPCS has been renamed as COPA in the year 1996 vide Annx.10 and thus the petitioner is possessing the requisite qualification. The petitioner has also placed on record Annx. 1 issued by the Director, Directorate of Technical Education, Rajasthan, Jodhpur, appointing the petitioner as Computer Operator & Programming Assistant when the petitioner was working as the Assistant in Jaju ITI, Pisangan, District Ajmer, to take examination for the Course of COPA by the order dated 25.2.2002, which clearly goes to show that the respondents themselves have considered the petitioner to be a practical examiner for the course of COPA and, therefore, now the respondents cannot turn back and say that the petitioner does not possess the requisite qualification for the post of Computer Operator and Programming Assistant (COPA).

5. The facts stated in the rejoinder have not been controverted by the respondents and in my view, rightly so. Many of the documents annexed with the rejoinder are authoritative documents of the respondents themselves and, therefore, the action of the respondents denying consideration and rejecting the candidature of the petitioner for the post of junior instructor is erroneous and illegal, and as such cannot be sustained in the eyes of law.

6. By the Order dated 14.2.2005, the respondents were directed to provisionally permit the petitioner to appear in the examination for the said post and in compliance of the order of this Court dated 14.2.2005, the petitioner appeared in the examination conducted by the respondent for the post of junior Instructor in pursuance of the advertisement Annx. 1; however, it was directed that the result of the examination shall not be declared until further orders of this Court. By the order dated 23.2.2007, the learned Government Advocate was directed to file the result of the petitioner and in pursuance thereof, Mr. S.K. Vyas, Government Advocate appearing for the respondents, produced a sealed envelope containing the result of the petitioner and on being asked to open the envelope and show the result of the petitioner, the Government Advocate has shown the result of the examination. It appears that the petitioner secured 76 marks out of 100 marks and, thus, he has passed the said examination. The Government Advocate has been asked to re-seal the result in the envelope and sent the same to the concerned respondent. In this view of the matter, the writ petition deserves to be allowed.

7. In the result, the writ petition is allowed; the impugned order Annx.7 dated 29.1.2005, denying consideration of candidature of the petitioner, is set aside and the respondents are directed to consider the candidature of the petitioner and if he is otherwise eligible for the post of Junior Instructor, he may be provided appointment on the said post. The stay petition stands disposed of. There shall be no order as to costs.