

(2024) 11 RAJ CK 1303

In the Rajasthan High Court, Jodhpur Bench

Case No : Civil Writ Petition No. 1515 Of 2019

Tara Chand

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 12-11-2024

Acts Referred:

Citation : (2024) 11 RAJ CK 1303

Hon'ble Judges : Arun Monga, J

Bench : Single Bench

Advocate : C.P. Soni, Pawan Bharti, I.R. Choudhary

Final Decision : Dismissed

Judgement

Arun Monga, J

1. The petitioner herein is challenging a test conducted by the respondents i.e. Physical Efficiency Test (PET) pursuant to the advertisement dated 25.05.2018 (Annex.1) for the post of Constable and seeks reconduct of the same. Further, petitioner seek appointment on the post in question.

2. Briefly speaking relevant facts as pleaded in the petition are that The respondent department issued an advertisement for the appointment of Constables (General Duty) and other posts through the Constable Recruitment Examination 2018, advertising a total of 13,142 vacancies and inviting applications from eligible candidates.

2.1 The petitioner, being eligible in all respects, submitted his online application in the OBC category for the Sri Ganganagar district. After considering his candidature, the respondents issued the petitioner an admission card with Roll No. 3007198 to participate in the written examination held on 15.07.2018 at Surendra Group of Institutions, Sri Ganganagar. The petitioner was successful in the written examination and declared eligible to participate in the Physical Efficiency Test (PET).

2.2 The respondents issued the petitioner an admission card for the PET, scheduled for 12.09.2018 at 6:00 a.m. at Dr. Karni Stadium, Bikaner. On the day of the test, the petitioner appeared and was required to complete a 5 km race on a track that was 385 meters per lap. However, 85 meters of the track was sandy and uneven, making it unsuitable for the race. Despite objections from the candidates regarding the track's condition, the respondents refused to make any changes, stating they had no instructions to do so. As a result, the candidates, including the petitioner, were compelled to race on the uneven track. Many candidates, despite passing height, chest, and weight measurements, could not complete the race and were disqualified from the selection process.

2.3 The petitioner submitted a detailed representation to respondent no. 4 requesting the race be reconducted, but no action was taken on his representation. Hence this petition.

3. Stand taken by the respondents in their reply is that the PET (5 km race) was conducted on the permanent track of Dr. Karni Singh Stadium, which is well-suited for the race. The petitioner did not complete the 5 km race, consisting of 13 laps, within the maximum allowed time of 25 minutes and was, therefore, declared unqualified. The track was inspected by the board before the race began, and after being deemed suitable, the race was conducted on it. Therefore, it is incorrect to state that the track was unsuitable for the race. The petitioner, having participated in the race, failed to complete it within the stipulated time and has alleged that the track was unsuitable. It is important to note that there was no excessive soil or sand on the track to cause any obstruction in running. The present writ petition has been filed based on misrepresentation of facts.

3.1 It is submitted that no representation or complaint regarding the physical test was received by the respondents, nor was any assurance given regarding the rescheduling of the PET. Furthermore, it is pertinent to mention that the advertisement clearly stated that candidates would be given only one chance to appear for the PET, and no appeals would be entertained regarding the PET. Therefore, candidates who were allowed to participate in the physical examination, but failed to complete the 5 km race within 25 minutes, were declared unqualified cannot be given another chance. It is an admitted fact that the petitioner submitted a representation on 05.01.2019, while the PET was conducted on 12.09.2018. As such, the present writ petition is merely an afterthought, filed after the petitioner failed to succeed in the PET. The petitioner is attempting to take advantage of vacant seats due to the unavailability of suitable candidates by misrepresenting the facts.

3.2 The respondents have acted in a proper and legal manner. The petitioner has filed this writ petition on false and frivolous grounds, and as such, the petition deserves to be dismissed.

4. In the aforesaid backdrop, I have heard the learned counsel for the petitioner

as well as learned counsel for the respondents and gone through the case file.

5. After considering the facts and circumstances of the case, it is evident that the petitioner's claim pertains to the selection process for the post in question, which was initiated through an advertisement dated 25.05.2018. The petitioner seek to challenge the outcome of PET, asserting that he should have been declared eligible.

6. The parties have set up rival contentions regarding the sustainability of the PET race track. Adjudicating these issues requires the production of elaborate evidence, which is not feasible in the writ petition. In any case, the same race track was used for all other candidates.

7. It is noteworthy that no interim protection of any kind was granted to the petitioner during the pendency of the writ proceedings. At this belated stage, it is not feasible to assess the merits of the petitioner's performance, especially since the records related to the selection process for unsuccessful candidates are no longer available. As per well-established legal principles, an unsuccessful candidate is not entitled to challenge the entire selection process once it has reached its final conclusion, solely on the grounds of failing to succeed in the competition. The petitioner, therefore, cannot seek to annul or alter the selection process simply because he was not selected.

8. At this belated stage, it is not feasible to assess the merits of the petitioner's performance, especially since the records related to the selection process for unsuccessful candidates are no longer available. As per well-established legal principles, an unsuccessful candidate is not entitled to challenge the entire selection process once it has reached its final conclusion, solely on the ground of failing to succeed in the competition. The petitioner, therefore, cannot seek to annul or alter the selection process simply because he did not succeed in PET.

9. In the absence of selection records, it is not possible to substantiate the petitioner's claim of being more meritorious than the selected candidates, particularly those who have already been serving on the post for the past almost 6 years. Furthermore, none of the selected candidates have been made a party to these proceedings, and this has been noted as a significant omission. Moreover, as there are currently no vacant posts available, it would not be appropriate to displace the existing candidates, especially after such a long period of service. Consequently, since the relevant records are not available, it is not possible to verify the petitioner's seniority or rank in comparison to the selected candidates. Additionally, I find myself in agreement with the respondents' position, as outlined in their reply, which has not been contradicted by the petitioner.

10. In the premise, the writ petitions lack merit and the petitioner's claim is not supported by sufficient evidence or legal grounds, and no relief can be granted at this stage due to the unavailability of essential records and the passage of considerable time since the final selection.

11. As an upshot, no grounds to interfere.
12. Dismissed.
3. Pending application, if any, stands disposed of.