

(2020) 01 RAJ CK 0193

In the Rajasthan High Court

Case No : Review Petition (Writ) No. 144 Of 2018

Rajeev Kumar Jaiswal And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 27-01-2020

Acts Referred:

Citation : (2020) 01 RAJ CK 0193

Hon'ble Judges : Sangeet Lodha, J;Dr. Pushpendra Singh Bhati, J

Bench : Division Bench

Advocate : Harish Purohit, Archana Purohit, Manish Vyas

Final Decision : Dismissed

Judgement

1. This review petition has been filed by the petitioner seeking review of order dated 31.5.18 passed by the learned Single Judge of this Court, whereby the writ petition preferred by the petitioners challenging the validity of Entry No.2 of the Schedule appended to Rajasthan Technical Education (Engineering) Service Rules, 2010 (for short "the Rules of 2010") prescribing eligibility qualification for promotion to the post of Head of the Department and Principal, has been disposed of with the directions that the Rules of 2010 shall not operate retrospectively and the vacancies which arose prior to the date of commencement of the Rules i.e. 8.1.10 shall be filled in accordance with the provisions of the Rajasthan Technical Education Service Rules, 1973 (for short "Rules of 1973").

2. Learned counsel appearing for the petitioners contended that the petitioners had never challenged the validity of the provisions of Entry No.2 of the Schedule appended to the Rules of 2010 on the ground that the same could not have been made applicable retrospectively. Learned counsel submitted that the challenge of the petitioners to the Entry No.2 of the Schedule was on the ground that the respondents failed to implement the All India Council for Technical Education (AICTE) Regulations, 1999 immediately and therefore, the petitioners were

deprived from relaxation made available by Regulation 5 of the Regulations of 1999 and consequently, the opportunity of promotion on the basis of the qualification they were possessing.

3. On 14.10.19, this Court directed the respondents to file an additional affidavit explaining as to why the petitioners were not found eligible for consideration for promotion to the post of Principal/Joint Director. In compliance thereof, an additional affidavit has been filed on behalf of the respondents taking a categorical stand that the petitioners case was considered for promotion to the post of Principal/Joint Director in the year 2009-10, however, as per the seniority he was not found eligible for promotion and subsequent thereto, the promotions have been accorded in accordance with the Rules of 2010.

4. Since no person junior to the petitioners has been promoted against the vacancies existing prior to commencement of the Rules, no prejudice has been caused to the petitioners on account of the relaxation available under the AICTE Regulation 1999 being not implemented by the respondents immediately inasmuch as, even otherwise, on availing the relaxation prescribed for a period of five years in eligibility qualification as provided for, the petitioners could not have been promoted on the said post against the existing vacancies. Obviously, all future promotions have to be made in accordance with the provisions of the Rules of 2010. Suffice it to say that the order under review does not suffer from any error apparent on the face of record.

5. For the aforementioned reasons, no case for review of the order passed by a coordinate Bench of this Court is made out.

6. The review petition is therefore, dismissed. No order as to costs.