

(2011) 02 RAJ CK 0093

In the Rajasthan High Court

Case No : Civil Writ Petition No. 7604 of 2008

Rajesh Kumari

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 07-02-2011

Acts Referred:

Citation : (2011) 02 RAJ CK 0093

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—Under an order dated 12.9.2008 passed by Chief Medical and Health Officer, Hanumangarh an appointment was accorded to the Petitioner for a period of two years as General Nurse Midwife subject to certain conditions as referred in the order of appointment itself. As per Condition No. 6, the candidates having Senior Secondary School Certificate (Vocational) without qualifying the Bridge Course were not entitled or eligible to be employed on the post concerned. The Petitioner being aggrieved by the condition aforesaid preferred this petition for writ.

2. This Court on 27.9.2008, while issuing notice to show cause to the Respondents directed as an interim measure not to cancel the Petitioner's appointment for lacking eligibility as per Condition No. 6 referred above.

3. It is submitted by learned Counsel for the Petitioner that this Court in several cases including Ramraj Tada v. State of Rajasthan and Ors. SBCWP No. 4005/2008 decided on 8.8.2008 held that the qualification of Senior Secondary (Vocational) is a qualification sufficient to meet the eligibility requirements relating to Senior Secondary School Examination. The relevant portion of the judgment referred above reads as under:

In the facts of instant case, this Court is of the opinion that since NCTE alone holds competence and in absence of guidelines or directives from NCTE, decision

impugned taken by Respondents in denying consideration to such candidates holding Senior Secondary (Voc.) as ineligible in no manner can be said to be in consonance with existing Scheme of Rules, 1996 particularly in terms of amendment dt.28/06/06 and such action of the Respondent deserves to be set aside.

Consequently, all the petitions succeed and are hereby allowed. The decision taken by Respondents holding Petitioners ineligible on the premise in their qualification of Senior Secondary (Vocational) without Bridge Course, is hereby quashed and set aside. Respondents are directed to consider Petitioners who hold qualification of Senior Secondary (Vocational) as eligible for the post of Primary / Upper Primary School Teachers and consider their candidatures for appointment based on their participation having taken place in pursuance of advertisement dated 30.10.2006 and if their names find place in order of merit in respective category, they may be considered and if found suitable, be appointed, however, they will be entitled for seniority, notional fixation etc., and all other service benefits but will not be entitled for salary for the intervening period during which they did not actually work.

In the instant matter also, the Respondents are making appointment to the post of Prabodhak i.e. a post relating to teaching and while making appointments to the post aforesaid, the Respondents are required to adhere the norms prescribed by National Council of Teachers Education.

4. In view of the law laid down by this Court in the case of Ramraj Tada, the Petitioner is eligible to hold the post of General Nurse Midwife. Accordingly, this petition for writ is allowed. The instructions given in Condition No. 6 of the order dated 12.9.2008 passed by the Chief Medical and Health Officer, Hanumangarh therefore is declared illegal and the Petitioner is declared eligible to hold the post of General Nurse Midwife, as such, her appointment is made absolute.