

(2019) 01 RAJ CK 0021

In the Rajasthan High Court

Case No : Civil Writ Petition No. 15362 Of 2018

Rao Sulochana Kumari

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 03-01-2019

Acts Referred:

Citation : (2019) 01 RAJ CK 0021

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : V.R. Choudhary, Dinesh Ojha, P.R. Singh

Final Decision : Allowed

Judgement

This writ petition has been filed by the petitioner seeking a direction to the respondents to appoint the petitioner on the post of Teacher Grade - III (Level-2) for the subject - Hindi under General-Widow category in Chittorgarh District pursuant to the selection made vide order dated 03.09.2018 with all consequential benefits.

It is, inter alia, indicated in the writ petition that pursuant to the advertisement dated 31.07.2018 (Annex.-P/7), the petitioner applied for the post of Teacher Grade - III (Level-2) for the subject - Hindi in OBC Female Widow category. Having obtained marks higher than the cut-off as declared on 03.09.2018 (Annex.-P/8), wherein all candidates in Widow category were accorded appointment based on horizontal reservation, the name of the petitioner appeared in the list of selected candidates dated 03.09.2018 (Annex.-P/9), whereby the petitioner was allotted District - Chittorgarh. Pursuant thereto, the petitioner appeared in the counseling camp for verification of documents and allotment of school. During the course of document verification, certain objections were raised including the fact that in the 3rd year of the petitioner's graduation, subject-Hindi was not studied by her and after verification, she was held ineligible. The petitioner made representation, which was not responded.

It is submitted by learned counsel for the petitioner that a perusal of the documents presented by the petitioner before the authorities pertaining to her graduation indicate that the petitioner had studied subject-Hindi during her 1st & 2nd year B.A. Examination as subsidiary subject and as the said subject was offered during two years only at the graduation level, it cannot be said that the petitioner did not fulfill the requirements, as stipulated in the advertisement, of petitioner having passed graduation or equivalent examination with subject-Hindi as optional subject and, therefore, the action of the respondents in holding the petitioner ineligible, deserves to be quashed and set aside.

Reliance was placed on Division Bench judgment of Delhi High Court in Govt. of NCT of Delhi & Ors. v. Sachin Gupta : W.P.(C) 1520/2012, decided on 07.08.2013 and Komal Purohit v. State of Raj. & Ors.: SBCW No.13707/2018, decided on 12.10.2018 by this Court.

Learned counsel appearing for the respondents vehemently opposed the submissions made by learned counsel for the petitioner. It was submitted that the stipulation made in the advertisement is clear and the Expert Committee has by its determination dated 12.06.2018 has clearly come to the conclusion that those who have studied subject-Hindi as optional/elective/ additional/honours, only are eligible and those having studied Hindi as compulsory/general/ foundation, are ineligible and as admittedly the petitioner has studied subject-Hindi as a subsidiary subject, she is not entitled for any relief.

Further submissions were made that even during the course of her graduation, she has studied subject-Hindi only for two years and, therefore, also she is ineligible for being considered for the post of Teacher Grade - III (Level-2) and as such the petition deserves dismissal.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

A perusal of the mark-sheet produced by the petitioner Annex.-P/4 indicates that the petitioner had passed her B.A. from North Gujarat University, wherein she had appeared in 1st year B.A. Examination for subject-English, one principal subject and two subsidiary subjects; similarly in 2nd year B.A. Examination, the petitioner appeared in subject-English, one principal subject and two subsidiary subjects and in 3rd year B.A. Examination, the petitioner appeared in English as a special subject. The petitioner has also produced a certificate dated 16.11.2018 issued by the Controller of Examination Hemchandracharya, North Gujarat University, Patan indicating that the petitioner was a bonafide student of the University, she had passed her Bachelor of Arts examination held in March-June 2002 with main subject Gujarati and that she had subsidiary subject Psychology and Hindi in 1st and 2nd years. Subsequent thereto, the petitioner also produced copies of syllabus of B.A. 1st year and B.A. 2nd year on record.

The certificate issued by the University (Annex.-P/14) is quite clear, wherein the petitioner had studied subject-Hindi for two years i.e. 1st year and 2nd year of

B.A. as subsidiary subject.

Delhi High Court in the case of Sachin Gupta (supra), clarified that in some Universities, mandatory subjects are referred to as 'subsidiary' subject. The Court also dealt with the requirement of candidates having studied the subject concerned in all parts/years of graduation and came to the conclusion that all the Universities in India do not offer particular subject in all three years of graduation and if the requirement is read as having studied the subject for all the three years, those candidates, who have studied concerned subjects from the Universities, which are not teaching the subjects in all three years of graduation course offered by them would be rendered ineligible would be absurd and ultimately came to the conclusion that the candidates, who have studied the concerned subject in all the years, in which the subject was taught during the graduation course undertaken by them, are eligible to be pointed to the post of Trained Graduate Teachers ('TGT').

In view of the above determination made by Division Bench of Delhi High Court, against which Special Leave Petition filed before the Supreme Court has been rejected, insofar as the plea raised by the respondents regarding the petitioner having studied subject-Hindi in two years only, has no substance.

So far as the objection regarding the petitioner not having studied the subject as optional and having studied the same as 'subsidiary', which has been clarified by Delhi High Court as equivalent to 'mandatory', which is another form of 'compulsory' subject. This Court in the case of Komal Purohit (supra) has laid down that those who have done their graduation with subject-English as compulsory subject are eligible for Teacher Grade - III (Level-2) for subject-English and all determinations made by the respondents contrary to the directions were quashed and set aside.

In view of the above, the petitioner having studied subject-Hindi as subsidiary subject as offered by North Gujarat University is eligible for appointment to the post of Teacher Grade - III (Level-2) for subject-Hindi and the rejection of her candidature by the respondents cannot be sustained.

Consequently, the writ petition filed by the petitioner is allowed. The cancellation of her candidature during counseling vide Annex.-P/11, is quashed and set aside. The respondents are directed to hold counseling of the petitioner and accord her appointment in terms of her selection made vide select list dated 03.09.2018 (Annex.-P/9) for District - Chittorgarh. The petitioner would be entitled to all consequential benefits from the date the persons lower in merit to the petitioner were granted appointment. However, she would be entitled to monetary benefits from the date she is granted appointment.

The respondents are directed to do the needful within a period of four weeks from today.

No orders as to costs.