

(2020) 08 RAJ CK 0182
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4475 Of 2020

Rayji Manju Mandroop

APPELLANT

Vs

Rajasthan Public Service Commission And Ors

RESPONDENT

Date of Decision : 18-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0182

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Kuldeep Mathur, Tarun Joshi

Final Decision : Allowed

Judgement

1. The petitioner has preferred the present writ petition being aggrieved of rejection of his candidature by the Rajasthan Public Service Commission, as according to it, petitioner did not possess requisite qualification.

2. Mr. Kuldeep Mathur, learned counsel for the petitioner informed that the petitioner has studied Economics and Geography in First & Second Year of his graduation, however in Final Year, as per the syllabus prescribed by the University, these subjects were not taught, for which RPSC has taken a telescopic view that he had not studied these subjects in graduation.

3. Mr. Mathur, submitted that the issue involved in the present writ petition is squarely covered by the judgment, passed by this Court in Rao Sulochana Kumari Vs. State of Raj. & Ors. : S.B. Civil Writ Petition No.15362/2018.

4. The operative portion of the judgment aforesaid reads thus:

"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"

5. Mr. Tarun Joshi, learned counsel appearing for the respondent - RPSC is not in a position to dispute aforesaid factual and legal position.

6. The writ petition thus, succeeds. The impugned communication dated 04.12.2019 rejecting petitioner's candidature is, therefore, quashed and set aside. The respondent- RPSC is directed to recommend the name of the petitioner for appointment, if he is otherwise found eligible. Needful be done within a period of four weeks from today.

7. In the event of petitioner being recommended for appointment, the State shall proceed in furtherance of the recommendation so made as expeditiously as possible but in no case later than three months.