
(2020) 07 RAJ CK 0016
In the Rajasthan High Court
Case No : Civil Writ Petition No. 8023 Of 2020

Rohit Kumar

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 29-07-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 07 RAJ CK 0016

Hon'ble Judges : Inderjeet Singh, J

Bench : Single Bench

Advocate : Sandeep Kalwaniya, S. Zakawat Ali

Final Decision : Dismissed

Judgement

Counsel for the petitioner submits that the issue involved in this writ petition has already been considered by this court in the matter of Kana Ram Jat

Vs. State of Rajasthan and others (S.B. Civil Writ Petition No.7574/2020) wherein on 23.07.2020 it has been held as under:-

This writ petition has been filed by the petitioner with the following prayer:- ""It is, therefore, humbly prayed that your Lordships may graciously be

pleased to accept and allow this writ petition with costs and further be pleased to direct the respondents to the following effect:-

1) By an appropriate writ, order or direction, direct the respondents to accord permission to submit option for allocation of division in pursuance to

information/notice dated 26.06.2020 and thereafter given him joining in allocated division as per his merit/ranking position alongwith all consequential benefits;

2) By an appropriate writ, order or direction, the condition of information/notice dated 26.06.2020 more particularly not including in allocation of

division for Sr. Teacher, to selected candidates who have not joined in time may kindly be set aside and quashed.

3) Any other appropriate order, which may be considered just and proper in the facts and circumstances of the case, may kindly be passed in favour

of the petitioner.

4) Costs of the petition may kindly be awarded in favour of the petitioner.

Initially the petitioner was appointed on the post of Teacher Grade-III vide order dated 11.09.2012. In pursuance to the advertisement issued by the

respondents the petitioner was selected on the post of Teacher Grade-II vide order dated 27.09.2018 and in the said order a condition was stipulated

by the respondents for joining on the post of Teacher Grade-II upto 05.10.2018. However, the petitioner who was already in service did not join on the

said. Thereafter, the petitioner kept mum for two years and some other persons filed S.B. Civil Writ Petition No.23680/2018 (Sunita Kumari Meena

Vs. The State of Rajasthan and connected petitions) before this court which was allowed by the Co-ordinate Bench of this court vide order dated

02.04.2019 which reads as under:-

Consequently these petitions are disposed of with the direction that the allocation of ranges/divisions to Senior Teachers selected pursuant to the

advertisement dated 13.07.2016 be done afresh in accordance with the observations of this court earlier in the judgment. This direction be complied

within a period of two months from today.

A copy of this order be placed in each connected petition.

And a copy of this order also be furnished to Mr. Ganesh Meena, AAG for onward transmission and compliance.

The above order of the Single Bench was upheld by the Division Bench in the matter of State of Rajasthan and Ors. Vs. Poonam Sharma (D.B.

Special Appeal Writ No.815/2019 decided on 29.08.2019) in which the following directions were issued:-

(a) The State shall issue a circular/order within four weeks, expressly stating that cadre allocations (to different divisions) made are only provisional

and that such allocations would be made finally in a time bound manner, to be clearly indicated in such an order or circular;

(b) Await the receipt of all recommendations for 3 months and thereafter take up the process of determination of cadre allocations, in accordance

with the rules and circulars applicable and complete such cadre allocations within 6 months from today;

(c) The State is further directed that cadre allocations made finally pursuant to the above directions, shall not be treated as transfers, but instead as revised initial postings of the concerned teachers.

(d) The circular issued pursuant to the above directions shall also mention that it has been issued pursuant to the present order.

17. The State's appeals therefore have to fail. They are accordingly dismissed, subject to the above directions.

In compliance of the order dated 29.08.2019 passed by the Division Bench, the respondents have done reshuffling for allotment of districts vide

circular dated 26.06.2020 (Annexure-6) and started the process of counseling in which a condition was imposed by the respondents that candidates

who have not joined their services, they are not to be included in the counseling process. The relevant condition imposed by the respondents held is as

under:-

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Aggrieved by this condition, the petitioner has filed the present writ petition.

Counsel for the petitioner submits that the condition imposed by the respondents is arbitrary in nature as the petitioner was not given posting as per the

option filled by him and he was not included to participate in the counseling process.

Heard counsel for the petitioner and perused the record.

This writ petition filed by the petitioner deserves to be dismissed for the reasons;

firstly, the petitioner who was already working on the post of Teacher Grade-III, failed to join on the post of Teacher Grade-II in pursuance to the

appointment order dated 27.09.2018 and violated the condition stipulated in the appointment order where he has to join upto 05.10.2018; secondly, the

petitioner violated the terms and conditions of the appointment order dated 27.09.2018 he has not joined upto 05.10.2018, therefore in my considered

view he is estopped to claim his joining on the said post after a delay of two years; thirdly, in the facts and circumstances of the present case, I am not

inclined to exercise the extraordinary jurisdiction of this court under Article 226 of the Constitution of India.

In that view of the matter, this writ petition stands dismissed.

In that view of the matter, this writ petition stands dismissed in view of the judgment passed by this court in the matter of Kana Ram Jat (supra).