
(2008) 05 RAJ CK 0003
In the Rajasthan High Court

Roop Chand @ Rupa Ram and Roop Singh	APPELLANT
Vs	
State and Others	RESPONDENT

Date of Decision : 05-05-2008

Acts Referred:

Citation : (2008) 05 RAJ CK 0003

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Gopal Krishan Vyas, J.—In both the above writ petition, the controversy involved is identical, therefore, the facts of SB Civil Writ Petition No. 948/2005 are taken into consideration for adjudicating the matter.

2. The petitioner was appointed by Gram Panchayat, Malsar on the post of Assistant Secretary in the year 1991 @ Rs. 350/- per month. Later on, the said amount was enhanced to Rs. 600/- per month and sanction was issued by Vikas Adhikari, Panchayat Samiti, Sardarsahar vide Annexure-3. The case of the petitioners is that a decision was taken by the State Government for absorption of Assistant Secretaries who were appointed in different Gram Panchayats on the post of Secretary, Gram Panchayat. The said decision was taken by the State Government vide communication dated 28.2.2000 (Annexure-5) and subsequent to that order, a relaxation was granted by the State Government vide communication dated 14.11.2000 for absorption.

3. The case of the petitioners is that they were working on the post of Assistant Secretary in different Gram Panchayats on the date the decision was taken by the Government for absorption of the Assistant Secretaries on the post of Secretary, Panchayat Samiti.

4. According to the petitioners, all the Gram Panchayats of the State were informed to forward the names of those Assistant Secretaries working in the different Gram Panchayats of the State on the said post. The information with

regard to the petitioners were to be sent for the purpose of absorption on the post of Secretary to the State Government in accordance with the decision taken by the Government but somehow due to inaction on the part of the respondents, the names of the petitioners were not communicated to Panchayati Raj Department of the State Government although at the relevant time both the petitioners were working on the post of Assistant Secretary in the respective Gram Panchayats of Panchayat Samiti, Sardarsahar. Therefore, by way of filing present writ petitions, it is prayed by the petitioners that although they were eligible and were entitled within the four corners of the decision taken by the State Government for absorption on the post of Secretary, Gram Panchayat but their cases were not considered for want of information from Panchayat Samiti, Sardarsahar and respective Gram Panchayats. Therefore, it is submitted that respondents may be directed to absorb the petitioners on the post of Gram Sewak from the date the similarly situated persons were absorbed on the said post along with all consequential benefits with interest @ 18% per annum.

5. Learned counsel for the petitioners vehemently argued that the case of similarly situated persons were considered in accordance with the decision taken by the State Government for absorption on the post of Gram Sewak then how the case of the petitioners can be discriminated by the respondents for want of information and the respondents are under obligation to consider the case of the petitioners even now because admittedly they were working on the post of Assistant Secretary on the date the case of other similarly situated persons were considered and absorbed on the post of Secretary, Gram Panchayat.

6. In the reply filed by the respondents, it is admitted that at the relevant time, the names of the petitioners were not communicated to the State Government for the purpose of absorption but by way of filing certain documents, it is submitted that during the pendency of the writ petition, the cases of the petitioners were recommended for absorption on the post of Secretary as per the decision taken by the State Government but the cases of the petitioners were rejected on the ground that presently they are not working on the post of Assistant Secretaries. So also, it is observed in the communication dated 23.2.2007 that the screening committee so constituted for the purpose not found the petitioners eligible for absorption because the petitioners are not working at present on the post of Assistant Secretaries.

7. After hearing both the parties and perusing the entire record of the case, I am of the opinion that a large number of Assistant Secretaries who were working in various Gram Panchayats of different districts were given benefit of absorption on the post of Secretary after considering their cases. Further, as per the respondents, those names were considered for which information was sent by the different Gram Panchayats for the purpose of absorption through B.D.O., Panchayat Samitis.

8. Admittedly, in this case, the name of the petitioners were not communicated by the concerned officer of the Panchayat Samiti, Sardarsahar although the

petitioners were working on the post of Assistant Secretary at the relevant time in the respective Gram Panchayats, therefore, obviously, the petitioners were denied absorption for want of information. As such, the respondents cannot discriminate the petitioners for the purpose of considering their case for absorption on the post of Secretary on the ground that presently petitioners are not working on the post of Assistant Secretary because similarly situated persons were granted the same benefit as per the decision taken by the Government for absorption vide Annexure-5 dated 20.2.2000 and 14.11.2000. The contention of the respondents that during the pendency of the cases of the petitioners were forwarded for absorption as per above decision but for the reason that the petitioners are not working at present on the post of Assistant Secretary, therefore, their candidature was rejected by the State Government. In my opinion, this is not proper. The cases of the petitioners were required to be considered upon same parameter on which cases of similarly situated persons were considered because on that date, admittedly the petitioners were working on the post of Assistant Secretary and due to fault which is attributable upon Gram Panchayats and Panchayat Samiti, Sardarsahar in not forwarding information, the petitioners cannot be deprived from their valuable right of consideration for absorption.

9. Accordingly, both the writ petitions are allowed. The respondents are directed to consider the cases of petitioners at par with the similarly situated persons and while taking into consideration the fact that both the petitioners were working on the post of Assistant Secretary on the date of taking decision by the Government for absorption, within a period of two months from the date of receipt of certified copy of this order and if the petitioners are found eligible, they shall be absorbed on the post of Secretary with all consequential benefits as granted to similarly situated persons. However, the petitioners will not be entitled for back wages and they shall be entitled to notional benefits only. If the above directions are not complied with within the stipulated period, then the petitioners will be entitled for full back wages.