
(2014) 05 RAJ CK 0152
In the Rajasthan High Court
Case No : Civil Writ Petition No. 13064/2013

Shiv Charan

APPELLANT

Vs

RSRTC and Others

RESPONDENT

Date of Decision : 20-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 05 RAJ CK 0152

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Nupur Bhati, Mr. N.S. Charan, Mr. Awar Dan, Mr. Suresh Charan, Mr. Vikas Bijarnia and Mr. Jog Singh, Advocate for the Appellant; Harish Purohit for respondent RSRTC, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Dr. Vineet Kothari, J.—By these petitions, the petitioners have challenged the notices seeking to terminate their services during probation period from the post of Conductors from respondent RSRTC vide Annex. 6 dated 30/9/2013.

2. The petitioners were appointed in the selection process undertaken in pursuance of Advertisement dated 23/3/2012, in which on account of revision of merit list, upon change of answer key on the basis of expert opinion, it is stated that 56 new persons came in the revised merit list above the present petitioners and the petitioners were pushed down in merit list and on account of such revision of marks/merit, the impugned termination notices were served upon them after they had already served for 3-4 months on probation, to make way for the new appointees, who found place in merit list upon revision of the merit list and those persons had already been also offered appointment vide order dated 20/9/2013.

3. Upon issuance of notices of the writ petition, the respondent RSRTC has filed reply to the writ petition with which a copy of the judgment of coordinate bench

of this Court at Jaipur in the case of Bhag Prakash & Ors. vs. RSRTC & Ors. - SBCWP No. 18940/2013 & four others writ petitions decided on 20/12/2013 has been produced by the respondent in which after quoting the observation of earlier judgment of the same bench in the case of Hemendra Kumar Jangid & ors. vs. State of Rajasthan & Ors. - SBCWP No. 15788/2013 dated 19/12/2013, the learned Single Judge (Hon'ble Justice M.N. Bhandari) decided the batch of writ petitions pertaining to same selection process of conductors of 2012 in the following manner and with the following directions:-

1-This court is not inclined to cause interference in the impugned show cause notice for termination or an order of termination of services of the petitioners, if any.

2-The petitioners were appointed and continued in service and appointment and continuance was not to their default, however, this court cannot ignore revision of merit list and consequence thereof. To balance the equities, a direction is given to the respondents to allow the petitioners to appear in the next selection without debarring them on the ground of age.

3-Before parting with the judgment, it would be necessary to direct that respondents not to make appointments in future to any post unless they first call for the objections to the questions and answers and finalise it followed by publication of select list. This is to avoid type of litigation brought herein.

4. Learned counsel for the respondent--RSRTC, Mr. Harish Purohit submitted that the present writ petitions also deserve to be disposed of in same terms. He also drew the attention of the Court towards the order passed by this Court in the case of Sandeep Kumar Babal vs. State of Rajasthan & ors. - SBCWP No. 1460/2013 decided on 14/5/2014 in which relying upon the order of Division Bench in the case of Vinita Sharma & ors. Vs State of Rajasthan & ors. - DB Civil Special Appeal (W) No. 207/2013 decided on 2/8/2013, this Court dismissed the writ petition.

5. Learned counsel for the petitioners, Dr. Nupur Bhati & Mr. N.S. Charan, however, vehemently argued that for the fault of the respondent RSRTC in giving wrong answer key earlier and later on revising the same on the basis of so called expert opinion, the petitioners cannot be thrown out of services and suitable direction either for continuing their services or for payment of monetary compensation deserves to be given by this Court.

6. Having heard the learned counsels at some length and after giving consideration to the rival submissions, this Court does not find any ground to take a different view of the matter for the present, from the one already taken by the coordinate bench in the aforesaid case of Bhag Prakash (supra) in which the learned Single Judge at Jaipur Bench cautioned the respondent RSRTC not to make such mistakes in future and the consequential direction for not making any appointments in future before inviting objections to the questions and answers and publication of final select list and also directed the respondent RSRTC to

allow the petitioners before the Jaipur Bench to appear in the next selection process without debarring them on the ground of age bar.

7. While this Court may express sympathy with the plight of the petitioners in the present set of writ petitions, who on account of the revision of merit list on the basis of so called expert opinion at a later stage which has not been placed on the record of this Court but which resulted in the issuance of impugned notices for termination of their services, but the relief as claimed viz. either of protecting their services or monetary compensation cannot be awarded by this Court in exercise of jurisdiction under Article 226 of the Constitution of India since the requisite factual foundation for the same has not been laid in the writ petitions and the Court can only express hope that the recruitment agencies, be it RSRTC or the State or any other Public Authority, should exercise a great caution and care and try to make the written examinations and the selection process foolproof, as far as possible. Such later revision of answer keys at a later stage, even by the intervention of the Court is likely to upset the persons already appointed & lest it would result in a situation like the present one.

8. However, this sympathy would not be enough to take a different view of the matter as already taken by the coordinate bench at Jaipur Bench and to maintain uniformity in a judicial discipline & decorum, this Court disposes of the present writ petitions in the same terms as quoted above in the case of Bhag Prakash (supra).

9. Accordingly, the present writ petitions are disposed of. No costs. Copy of the order be sent to the parties concerned forthwith.