
(2020) 01 RAJ CK 0333

In the Rajasthan High Court

Case No : Special Appeal Writ No. 1441 Of 2019

Shyam Sunder Sharma

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 03-01-2020

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2020) 01 RAJ CK 0333

Hon'ble Judges : Sangeet Lodha, J; Mahendar Kumar Goyal, J

Bench : Division Bench

Advocate : Kailash Choudhary

Final Decision : Disposed Of

Judgement

This special appeal preferred by the appellant is reported to be barred by limitation of 262 days, which is accompanied by an application under Sec.5 of Limitation Act.

For the reasons mentioned in the application, the same is allowed. Delay in filing the appeal is condoned.

Heard.

This intra court appeal is directed against the order dated 3.10.2018 passed by learned Single Judge of this Court whereby the writ petition preferred by the appellant stands disposed of in the light of Single Bench decision of this court in the matter of Sunil Vs. State of Rajasthan and others (S.B.Civil Writ Petition No.12762/2018) decided on 7.9.2018.

During the course of arguments, it transpires that special appeals involving the identical issue, have already been disposed of by a Coordinate Bench of this Court at Jodhpur vide order dated 9.8.2019 passed in D.B.Spl. Appeal Writ No.1733/2018 (Virendra Kumar & anr. Vs. The State of Raj. and anr. & connected appeals).

The operative portion of the decision dated 09.08.2019 reads as under:

"32. Keeping the principle enunciated in Dash (supra), it is evident from the facts in the present set of appeals that the recruitments, which were initiated in 2012, were bogged down by litigation; the earmarking of vacancies, the lottery system, allegations of introduction of the lottery system mid-stream, increase in the number of vacancies, etc became the subject matter of multiple writ petitions which led to court interventions on about five occasions. The incomplete recruitment, (incomplete because some vacancies had been filled up but in regard to others either the process had not been completed, or the selected lists not fully operated), and vacancies accruing later, were all combined; those who could not be appointed, due to the discontinuance of the selection process (of 2012) were allowed to participate in the fresh process;

they were afforded age relaxation, apart from those candidates who fulfilled the eligibility criteria. In these circumstances, the State's decision to carry out the entire exercise afresh, after combining the left-over vacancies (of 2012) cannot be faulted. This contention, therefore, fails. Likewise, in the opinion of the court, the petitioners in Ravindra have not made out a cause for intervention; that names of some of them were included in the select list, cannot be the basis for holding the 2018 recruitment arbitrary; nor can they enforce any right, as candidates selected in the 2012 recruitment process. Clearly, the vacancies from that selection process could be clubbed with later vacancies and made subject of a fresh recruitment process. No rule or regulation, or binding norm which precluded the State from holding a recruitment in respect of such combined vacancies was shown to the court.

33. As far as the last contention, with regard to inclusion of names of ineligible candidates, or those who submitted false information or declarations (with respect to their fulfilling any eligibility condition, or their applying for more than one vacancy, or more than one member of the same family applying, contrary to terms of the advertisement is concerned) this court is of the opinion that the State should take expeditious action to delete their names from the select list, in accordance with law. In the case of candidates whose names were deleted, it is a matter of record that many of them have approached the court. Their names shall be dealt with in accordance with the final order of the court, in their case.

34. As a result of the above discussion, the appeals have to succeed in part; the respondent State shall draw the select list, after excluding the names of those reserved category candidates, who were granted age relaxation, and were afforded the opportunity of participation in the selection through draw of lots, for the open category. A fresh select list, based upon a new draw of lots to be conducted from amongst names of all eligible candidates, (excluding those reserved category candidates who had availed age relaxation benefits, but were allowed a second chance in the draw of lots for the general category candidates) shall be prepared, in respect of balance vacancies. The respondents shall also ensure that names of ineligible candidates, or those who made false declarations

are suitably removed, in accordance with law; this is subject to the final outcome of the proceedings initiated by such candidates.

35. In the light of the foregoing discussion, the appeals are partly allowed; all applications too are therefore, disposed of."

Accordingly, this appeal is disposed of in terms of the decision rendered by Coordinate Bench of this court in D.B.Civil Special (Writ) No. 1733/2018 and connected appeals decided on 09.08.2019.