
(2011) 02 MP CK 0061

In the Madhya Pradesh High Court

Case No : Writ Petition No. 3134 of 2009 (s)

Smt. Chitralkha Shakya

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 08-02-2011

Acts Referred:

Citation : (2011) 2 MPHT 346

Hon'ble Judges : S.N Aggarwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—Briefly stated the facts of the case relevant for the disposal of this writ petition are that the Petitioner belongs to a reserved category and was born in Chhattisgarh. She got married in Jaura under the jurisdiction of district Morena, Madhya Pradesh. She has done her degree of Bachelor of Engineering in Electronics Engineering from MITS College, Gwalior. She was an aspirant for her appointment to the post of lecturer advertised by M.P. Public Service Commission in 2005. She applied for her appointment against a post reserved for schedule caste. She was not found eligible for her appointment against a reserved seat as she did not originally belong to State of Madhya Pradesh. She has, therefore, filed the present writ petition seeking following reliefs:

i. Respondent No. 2 - M. P. Public Service Commission may kindly be directed to re-constitute the interview Board and conduct a afresh interview for the Petitioner and award her requisite marks.

ii. After conducting interview of the Petitioner her name be included in the merits list upon being finding fit she be declared as successful candidate.

2. In response to the notice of this writ petition, reply has been filed by the M. P. Public Service Commission being Respondent No. 2 herein. The reliefs claimed by the Petitioner in the present writ petition have been opposed by Respondent No. 2 mainly on the ground that in terms of advertisement, the Petitioner was not

eligible for her appointment against a reserved seat as she did not originally belong to State of Madhya Pradesh.

3. The only short question that arises for consideration in the present writ petition is whether the Petitioner on the basis of her marriage in the State of Madhya Pradesh can claim appointment against a post reserved for schedule caste candidate who originally belongs to State of Madhya Pradesh.

4. Mr. Prashant Sharma, learned Counsel appearing on behalf of the Petitioner has strenuously argued that prior to carving out a separate State of Chhattisgarh in the year 2002, all residents of Chhattisgarh and Madhya Pradesh were treated as part of one common State i.e. State of Madhya Pradesh and, therefore, according to him, the Petitioner cannot be denied appointment on the ground that she does not originally belong to Madhya Pradesh. The learned Counsel has further argued that the Petitioner has done her entire education starting from High school upto Bachelor degree in engineering from Madhya Pradesh and that according to him is also an additional ground to consider her as originally belonging to Madhya Pradesh. Mr. Prashant Sharma has placed heavy reliance on a document being Annexure-P/6 at page 25 of the paper book, which is a certificate dated 2-6-2009 issued by the Naib Tehsildar, Jaura, District Morena, certifying that the Petitioner is a local resident of Jaura. On the strength of this certificate, learned Counsel has argued that Petitioner fulfills all the eligibility criteria prescribed in the advertisement for appointment against a post reserved for schedule caste candidate originally belonging to State of Madhya Pradesh.

5. Per-contra, Mr. R. D. Jain, learned Advocate General, appearing on behalf of the MPPSC has argued that after bifurcation and carving out a separate State of Chhattisgarh, Petitioner cannot claim that she originally belongs to Madhya Pradesh merely because she was married in Jaura under the jurisdiction of district Morena in Madhya Pradesh. The contention of learned Advocate General is that Petitioner cannot acquire original residency of State of Madhya Pradesh by virtue of her marriage in Madhya Pradesh as she was admittedly born in an area which upon bifurcation was allotted to the State of Madhya Pradesh. Learned Advocate General has prayed for dismissal of this writ petition.

6. I have given my anxious thought to the above rival arguments advanced by the learned Counsels for both the parties but I am sorry, I could not persuade myself to agree with the submissions made on behalf of Petitioner, for the reasons to follow hereinafter.

7. The relevant clause in the advertisement pursuant to which Petitioner had applied for her appointment to the post of lecturer against a post reserved for schedule caste candidate originally belonging to State of Madhya Pradesh is extracted below:

6- vuqlwfpr tkfr ,oa vuqlwfpr tutkfr ds fy;s vkjf{kr in dsoy e/; izns"k ds ewy fuoklh vuqlwfpr tkfr ,oa vuqlwfpr tutkfr ds fy, vkjf{kr gS A NRrhIx< lfgr vU; izns"kkksa ds ewy fuoklh ,sls vkosnd tks vius ewy fuokl ds jkT; esa vuqlwfpr

tkfr ,oa vuqlwfrp tutkfr oxZ ds :i esa ekU; gks] vukjf{kr Js.kh ds mEehnokjkssa ds fy;s foKkfir inksa ds fo:) gh fopkfjr fd;s tkosxs] vkjf{kr in ds fo:) ugha gS A

8. It may be seen from the above condition contained in the advertisement that there are two prerequisites for eligibility for appointment against a post reserved for schedule caste candidate and those two prerequisites are; (i) that a candidate must belong to schedule caste or schedule tribe category and (ii) that such a schedule caste or schedule tribe candidate must also originally belong to State of Madhya Pradesh.

9. It may also be seen from the above clause contained in the advertisement that the advertisement does not bar a schedule caste or schedule tribe candidate belonging to Chhattisgarh from applying for consideration but in that case, the consideration of such a reserved category candidate belonging to State of Chhattisgarh can only be against an unreserved post.

10. In the present case, the Petitioner was admittedly born in an area which upon bifurcation and carving out a separate State of Chhattisgarh came under the jurisdiction of Chhattisgarh. Her father was a resident of Chhattisgarh for last more than 50 years. Merely because the Petitioner had her education in Madhya Pradesh or because she was married in Madhya Pradesh would not confer upon her the status of "original resident" of State of Madhya Pradesh. Since, the Petitioner was not "original resident" of Madhya Pradesh, she was rightly denied appointment by the Respondents against a post reserved for reserved candidate belonging originally to State of Madhya Pradesh. The "Local residence certificate" Annexure-P/6 at page 25 of the paper book relied upon by the Petitioner is a certificate issued by the Naib Tehsildar, Jaura, certifying that the Petitioner is a "local resident" of Jaura under the jurisdiction of district Morena in Madhya Pradesh and this certificate of local residence, in the opinion of this Court, is of no legal consequence. The local residence of a person cannot be equated with "original residence". A person may originally belong to "A" State but because of certain contingencies, he may migrate to "B" State and become a local resident of that "B" State. Would it confer a status of "original resident" of "B" State on such a person? The answer to this is plain "No". When the condition in the advertisement, pursuant to which the Petitioner had applied for her appointment, prescribes a condition of "original resident" which condition she admittedly does not fulfill, she has no right to claim appointment against a post reserved for reserved category originally belonging to State of Madhya Pradesh.

11. Before parting with this order, I would like to note that the Petitioner in the present petition has not challenged the constitutionality or vires of twin conditions prescribed in the advertisement for appointment against a post meant for reserved category originally belonging to State of Madhya Pradesh.

12. In the facts and circumstances of the case stated hereinabove, I do not find any merit in this petition which fails and is hereby dismissed but with no order as to costs.