
(1995) 07 RAJ CK 0007

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1661 of 1992

Smt. Pushpa Devi

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 21-07-1995

Acts Referred:

Citation : (1996) 2 RLW 145 : (1996) WLC 515 : (1995) 2 WLN 505

Hon'ble Judges : N.C. Kochhar, J

Bench : Single Bench

Judgement

N.C. Kochhar, J.—Advertisement Annexure-5 was issued by the Secretary, Zila Parisad, Bharatpur, respondent No. 2 inviting applications for the posts of Teacher Gr.III. so as to reach in the office of the said respondent latest by 25th September, 1991. According to the Rules prescribed by the State Government certain marks by way of credit were to be given to the residents of the District concerned (Bharatpur District in the case of the petitioner) and certain marks by way of credit were to be given to the residents of the villages in the District-Bharatpur in the State of Rajasthan. The petitioner submitted her application form on 25th September, 1991 and attached therewith the certificate dated 24.9.1991 (Annex. 2) issued by the Administrator of the Gram Panchayat Mesena, Panchayat Samiti-Weir, District- Bharatpur, certifying that the petitioner is the President of village-Khadraya, Panchayat Samitiweir, District-Bharatpur. However, the certificate about the petitioner being the resident of District-Bharatpur which was to be issued by the Assistant Collector of Bhartpur District was not attached with the Form. The petitioner was called for interview but was not given any credit for being the resident of the District-Bharatpur and/or for being the resident of rural area and as such, she was not selected for appointment as Teacher Gr III.

2. The petitioner filed this writ petition stating that since till the time of submission of the application form, the certificate had not been received from the Assistant Collector it had not been submitted along with the application from

but that soonafter the application form had been submitted the certificate dated 25.9.1991 (photo stat copy of Annex. 1) was received by her and was submitted by her husband Shri Kailash Chand Tiwari who handed it over to the receipt clerk and the receipt clerk told him that he would attach the same with the application form and further that when she was called for interview she wanted to submit a copy, there of to the interviewing. Authorities but it was not accepted. The petitioner has contended that she has wrongfully been denied the marks of being the resident of a rural area and of the District Bharatpur. The writ petition has been opposed by the respondents, who in their reply have denied the receipt of the certificate Annexure-1, and have contended that since, the petitioner failed to submit the said certificate alongwith her form she was not granted any marks for being the resident of District-Bharatpur and or for being the resident of rural area. It has also been denied that the petitioner's husband had submitted the certificate Annexure-1 by handing it over to the receipt clerk on 25.9.1991. itself.

3. I have heard the learned Counsel for the parties and have perused the record of the case.

4. It is not disputed before me that if the petitioner was treated as a resident of rural area in District Bharatpur she was entitled to be awarded ten marks: five for being the resident of District Bharatpur and additional five for being the resident of the village in the above said district. Annexure-1 shows that it was issued by the Assistant Collector on 25.9.1991. The petitioner's allegations that her husband had handed over the original of Annexure-1 to the receipt clerk in the Office of the respondent No. 2 on 25.9.1991 find corroboration from the affidavit sworn by her husband and filed alongwith the writ petition. No affidavit of the receipt clerk has been filed controverting these allegations. The averment in the writ petition that even at the time of the interview the petitioner wanted to hand over a copy of Annexure-1, has also not been controverted by the appropriate person. Even otherwise if a certificate is obtained by someone for a particular purpose, it is not understandable why that person would not submit it for being used for the purpose concerned but would hold it back by keeping it with himself/herself. The petitioner admittedly had shown in the form that she is resident of the village concerned and even if the certificate had not been attached alongwith the form or thereafter there was no reason why the said certificate was not asked from her or was not accepted when she wanted to submit it later on, even if it had not been handed over to the receipt clerk on 25.9.1991. The respondents admittedly had received the certificate dated 24.9.1991 (Annexure 2) issued by the Administrator of the Gram Panchayat concerned and there was thus evidence to show that she is resident of rural area in District Bharatpur and she could not be deprived of the benefit without being given an opportunity to produce the certificate from the authority concerned about her being the resident of District-Bharatpur, even if the certificate had not been received earlier.

5. Consequently, while allowing the writ petition, I direct that the petitioner

should be given appointment as Teacher Gr. III within one month from today treating her as having been appointed from, the date when the person next in merit to her has been appointed but she will not be entitled to get the salary for the period prior to today, although she will be treated to have been in service for all this period for the purpose of seniority, fixation etc.

6. The writ petition is disposed of accordingly.