
(2020) 02 RAJ CK 0113

In the Rajasthan High Court

Case No : Civil Writ Petition No. 18476 Of 2019

Subhash Pargi

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 04-02-2020

Acts Referred:

Citation : (2020) 02 RAJ CK 0113

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Dinesh Ojha, Shreyansh Mehta, K.S. Rajpurohit

Final Decision : Dismissed

Judgement

1. The present writ petition has been preferred seeking a direction to the respondents to issue an experience certificate and award bonus marks in conformity with such certificate.

2. Briefly narrated, the facts of the case are that the petitioner applied for the post of Nurse Grade-II notified for TSP area vide advertisement dated 30.05.2018.

3. The present petitioner along with other petitioners preferred a writ petition being S.B. Civil Writ Petition No.9170/2018; Imran Khan & Ors. Vs. State of Raj. & Ors., which came to be disposed of by this Court vide order dated 03.07.2018.

4. The order dated 03.07.2018, passed in petitioner's earlier writ petition is reproduced here in extenso:-

"1. Learned counsel for the parties are in agreement that in similar controversy, this Hon'ble Court at Jaipur Bench had passed the following order in Jaipal Meena & Ors. Vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.12152/2018) decided on 01.06.2018:-

"At the very outset, representative of the petitioners submits that in the identical

matter, after affording opportunity of hearing to the counsel for the State-respondents, this Court on 17th April, 2018, in the case of Vishnu Kumar Sharma & Ors. v. State of Rajasthan & Ors., made the following order:

"Mr. Shyam Arya, AAG, appearing on behalf of the State-respondent submits that the instant writ application instituted by the petitioners is pre-mature.

Further, the petitioners have approached this Court before the concerned authority i.e. CM & HO, Bharatpur, could deal with the issue for issuance of experience certificate.

Learned Additional Advocate General further undertakes that in case the petitioners applied before the competent authority for issuance of experience certificate(s), needful will be done by the concerned authority.

In view of the above, in case the petitioners applied to the competent authority for issuance of experience certificate(s), on or before 24th April, 2018; the competent authority is directed to ensure issuance of necessary certificate(s), in accordance with the procedure on or before 8th May, 2018.

With the observations and directions, as indicated above, the writ application stands closed."

It is further contended that now the date of the recruitment process involved herein has now been extended to 3rd July, 2018, to submit the application forms. Accordingly, the petitioners are directed to apply to the competent authority for issuance of the Experience Certificate(s) on or before 6th June, 2018. The competent authority is directed to ensure issuance of the necessary Experience Certificate in accordance with the procedure on or before 20th June, 2018.

With the observations and directions, as indicated above, the writ application stands closed."

2. In light of the aforementioned precedent law, the present writ petition is disposed of with direction to the respondents to ensure the issuance of necessary experience certificate to the petitioner(s) in accordance with the procedure on or before 03.07.2018."

5. It is the assertion of the petitioner that immediately after passing of the order dated 03.07.2018, the petitioner moved a representation before the competent authority for issuance of experience certificate on 03.07.2018 itself

6. In support of the assertion aforesaid, the petitioner has enclosed an undated representation/application (Annex.6) addressed to the Additional Director (Administration), Medical & Health Services, Raj. Jaipur, inter alia requesting to issue an experience certificate, along with receipt dated 03.07.2018 issued by the Courier service provider.

7. Mr. Shreyansh Mehta, learned counsel for the respondents opposing petitioner's contention, submitted that the representation (Annex.6) was

addressed to the Additional Director (Administration) and not to the competent authority i.e. Chief Medical and Health Officer, Banswara. It was argued that the Additional Director at Jaipur is not the authority concerned for issuance of the experience certificate and the petitioner ought to have made his representation to the Chief Medical and Health Officer, Banswara.

8. It was further asserted that according to the order dated 03.07.2018, passed in petitioner's earlier writ petition, the petitioner was required to approach the competent authority before 03.07.2018, whereas no such request for issuance of experience certificate was made by the petitioner on 03.07.2018.

9. Mr. Mehta argued that it is very difficult to believe that the petitioner had contacted the CMHO concerned with the copy of the order and requested him to issue experience certificate on 03.07.2018 itself, when the order was passed by this Court.

10. An additional affidavit has been filed by the petitioner asserting therein that the request for issuance of experience certificate was made on 03.07.2018 itself and the separate communication addressed to the CMHO concerned was offered on 03.07.2018, but since he refused to accept the same, the representation was sent through courier on 03.07.2018.

11. While observing that petitioner's assertion in the petition and in the additional affidavit are difficult to be accepted, even if it is assumed that the petitioner had made such request for issuance of experience certificate on 03.07.2018, this Court is of the opinion that the petitioner is not entitled for issuance of experience certificate.

12. A perusal of the judgment dated 03.07.2018, reproduced herein above clearly shows that petitioner's case was disposed of in terms of order dated 01.06.2018, rendered in the case of Jaipal Meena(supra), in which a clear stipulation was made that the petitioner was required to apply to the competent authority for issuance of experience certificate on or before 06.06.2018, with a simultaneous direction to the competent authority to ensure issuance of experience certificate to the petitioner(s) in accordance with procedure on or before 20.06.2018.

11. Petitioner's case was disposed of in the same terms. It was the duty of the petitioner to point out to the Court when securing the order on 03.07.2018 that practically no time would be left at petitioner's disposal to move application for grant of experience certificate.

12. The petitioner has neither sought any modification of the order dated 03.07.2018, nor has he allowed sufficient time to the CMHO concerned to issue the experience certificate, when the last date of recruitment process was 03.07.2018.

13. In view of the facts obtaining in the present case, particularly because last date of recruitment was 03.07.2018, this Court is of the view that direction to

issue experience certificate cannot be given as petitioner's writ petition itself was disposed of on 03.07.2018.

14. This Court does not find any laxity or failure on the part of the respondents, given the fact that the order for issuance of experience certificate was issued in petitioner's favour by this Court on the last date of recruitment i. e. 03.07.2018 and there is no evidence to show that request for issuance of experience certificate was made well in time.

15. That apart, having failed to secure requisite experience certificate, the petitioner has not taken up any measure to ensure issuance of experience certificate for good 15 months.

16. This Court does not find it to be a case warranting interference. Petition is thus, dismissed.

17. Stay petition also stands dismissed.