
(1996) 02 RAJ CK 0020
In the Rajasthan High Court
Case No : C.W.P. No. 7205 of 1993

Suman Kumari (Smt.)

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 1 LLJ 990 : (1996) 2 RLW 385 : (1996) 2 WLC 531 : (1996) 1 WLN 209

Hon'ble Judges : Arun Madan, J

Bench : Single Bench

Advocate : Ajay Rastogi and Resham Bhargava, for the Appellant; B.C. Chirania, for the Respondent

Final Decision : Allowed

Judgement

Arun Madan, J.—In this writ petition, under Article 226 of the Constitution of India, the grievance of the petitioner is that she was appointed as Teacher Grade III vide order dated February 5, 1992 (An-nexure 5) on respondents having invited applications for appointment on the posts of Teachers Grade II! and in pursuance of that advertisement the petitioner applied for the said post. Along with the application, the petitioner had furnished all the requisite documents and after due screening of her application form as well as the documents the petitioner was given appointment as Teacher Grade III in Zilla Parishad, Distt. Jhun-Jhunu. The petitioner is a graduate from the University of Rajasthan and she has been appointed after due selection on the basis of the testimoni-als and game Certificates furnished by her. Thereafter merit list was prepared by the respondents and her name figured at serial No. 123 in the order of merit. It has been further contended in the writ petition that the Block Development Officer, Panchayat Samiti, Alsisar issued an order dated February 15, 1992, whereby 32 Lady Teachers Grade III were given appointment in different schools of the Panchayat Samiti and the petitioner was given posting in Government Primary

School, Govindpura. It has been further contended by the petitioner that pursuant to the appointment order dated February 5, 1992, the petitioner joined the duties and had also submitted her joining report to the school authorities. It has been further contended that thereafter the petitioner has been faithfully discharging her duties with the said school and she remained in service from February 5, 1992 to November 24, 1993 when her services came to be terminated vide Exts.11 and 12 dated November 18, 1993 and November 24, 1993 respectively. Soon after the receipt of the termination order referred to above, the petitioner approached the respondents and explained them the entire position and had also assured them regarding the validity of the certificates and other relevant documents which she had submitted and it was also contended by her that she had been given appointment after adopting due process by the Selection Committee but no heed was paid to her request and her services were abruptly brought to an end as a result of which she had been left with no other alternative remedy but to move this Court by way of instant writ petition. It is under these circumstances that the impugned action on the respondents in terminating the services of the petitioner has been challenged on the grounds, inter alia, that the criteria adopted for giving appointment to as many as 123 candidates as per the first merit list and subsequently giving appointment to the candidates upto serial No. 153 is arbitrary and irrational for the reason that even if she was not qualified to be appointed on the basis of the sports certificate submitted by her even then her candidature could not be rejected for the reason that she had secured 49.3% marks in aggregate in her B.A. Examination and if benefit of 5% grace marks is added to this which was given to other candidates as well then she comes within the zone of consideration having secured 54.3% marks. During the course of hearing it has been contended by Shri Resham Bhargava, learned counsel for the petitioner that the candidates who were less meritorious than the petitioner were given appointment by the respondents which is quite apparent from the list of candidates vide Annexure-A and B to the writ petition.

2. A perusal of Annexure-A reveals that the name of the petitioner finds place in the category of general category candidates at serial No. 123 and the percentage of marks shown against her name is 54.31% awarded by Selection Committee whereas 49.31 marks were secured by her in graduation. Even if 5% marks are reduced from the aggregate of 54.31 % even then the petitioner comes within the zone of consideration and she was accordingly given appointment on the said post on February 5, 1992 considering her position in the order of merit along with other candidates. Perusal of Annexure-A further reveals that the candidates who secured less marks than the petitioner were given appointment as Teacher Grade III whose names appear from serial Nos. 125 to 153, whereas if the 5% marks are reduced even then the petitioner comes within the eligibility criteria at serial No. 129 since the persons junior to him (her) have been given appointment. The last candidate who was given appointment was placed at serial No. 153 had secured 49.02% marks. The candidate who was just below the

petitioner on revision of the list was Kamala Kumari at serial No. 130 who had secured 49.29% marks was also given appointment as Teacher Grade III.

3. Shri B.C. Chirania, learned counsel for the respondents while controverting the contentions advanced by the learned counsel for the petitioner has contended at the bar that though the petitioner was given appointment as Teacher Grade III on February 5, 1992 but her candidature was rightly rejected on November 24, 1993 since as the Sports Council of Rajasthan did not give recognition to the Baseball game in respect of which Certificate had been furnished by the petitioner and for this reason her candidature was rejected by the respondents. It has, however, been, fairly stated by the learned counsel i for the respondents that so far as merit position of the petitioner is concerned, the respondents have no grievance on that score since she was eligible to be considered for giving appointment on the percentage of marks which she secured and keeping this aspect in view she was initially given appointment on February 5, 1992.

4. In support of his contention Shri Chirania, learned counsel for the respondents has placed reliance upon the order dated July 15, 1993 passed by this Court in SBCWP No.2772 of 1992 in the matter of Smt. Sumanlata v. State and Ors. SBCWP No.2772 of 1992, dated July 15, 1993, wherein the question which had arisen for consideration of the learned Single Judge of this Court was whether the petitioner who had applied for appointment on the post of Teacher Grade III in pursuance of the Advertisement dated February 5, 1992 could be given appointment for the reason that on the basis of the inquiry conducted by the police with regard to the genuineness of the certificate furnished by the said candidate, which was in serious doubt and whether such a candidate be given appointment particularly when the document furnished by her was admittedly forged. I am of the opinion that the ratio of the said decision is neither attracted nor applicable to the facts of this case because admittedly in this writ petition there is no dispute with regard to the genuineness of the Sport Certificate which the petitioner had furnished and the respondents have failed to prove that the same is forged. Rather the contention of the learned counsel for the respondents is that notwithstanding the fact that the certificate is genuine yet the petitioner could not be given appointment because the Sports Council of Rajasthan had not given due recognition to the Baseball game and it was for this reason that her appointment came to be terminated at a later stage.

5. I have heard the learned counsel for the parties at length and also examined their rival claims and contentions and also perused the relevant documents placed on the record. During the course of hearing, it has been contended by Shri Chirania that there are 3 candidates who were placed at serial Nos.123, 506 and 941 namely, Suman, Sushma and Kamala Kumari, who were given appointment earlier and who had secured 54.31%, 54.08% and 51.08% marks respectively in aggregate, their services were terminated by the respondents for the reasons that they had not furnished requisite Sports Certificate on the basis of which they had been given appointments earlier. I am of the opinion that once

having given appointment to the candidates after due screening of the documents furnished by them just as in the case of the petitioner here it was not open to the respondents at the later stage to terminate their services, since the said candidates had not concealed the nature of certificates which were very much within the knowledge of the respondents at the time when they were given appointment and this fact was in their full knowledge and once having given appointment it is not open to the respondents, even on natural justice to have rejected the candidature of the said candidates on the ground of not having furnished the requisite certificates.

6. Consequently, the writ petition is allowed and the impugned orders dated November 18, 1993 and November 24, 1993 Ex. 11 and 12 respectively are quashed and set aside and respondents are directed to reinstate the petitioner with all consequential benefits by determining the seniority of the petitioner in accordance with her merit position as on the date of her first appointment i.e. on February 5, 1992. The respondents are, however, at liberty to draw-up fresh seniority-list with a view that the seniority of the petitioner and other candidates is not disturbed who have been accommodated at a later stage. No order as to costs.