
(2019) 05 RAJ CK 0192

In the Rajasthan High Court

Case No : Civil Writ Petition No. 7048 Of 2019

Sumitra Kumari Sharma

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 22-05-2019

Acts Referred:

Citation : (2019) 05 RAJ CK 0192

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : VLS Rajpurohit, Kailash Choudhary, Manish Vyas

Final Decision : Disposed Off

Judgement

It is submitted by learned counsel for the petitioner that the issue raised in the present writ petition is squarely covered by the judgment in the case of Manish Kumar Nagda & Ors. v. State of Rajasthan & Ors. : S.B.C.W.P. No.8529/2018, decided on 23.07.2018.

Learned counsel for the respondents submits that though the issue raised is similar to that of Manish Kumar Nagda (supra), the State Government has challenged the validity of the judgment before the Division Bench wherein notices have been issued.

In view of the above fact situation, the writ petition filed by the petitioner is decided in terms of the judgment in the case of Manish Kumar Nagda (supra). However, it goes without saying that in case the judgment in the case of Manish Kumar Nagda (supra) is varied by the Division Bench, the same would apply to the case of petitioner.

In the case of Manish Kumar Nagda (supra), the Court has directed as under :-

"30. This Court completely follows such precedent law of Bharat Singh (supra), and while giving such purposive interpretation to the applicability of the notification dated 19.05.2018, this Court directs the respondents to permit the

petitioners, who give in writing within 20 days from today, that they wish to migrate from advertisement 01/2018 dated 12.04.2018 to the advertisement No.02/2018 dated 12.04.2018. However, this Court makes it clear that those persons, who have not filled their forms before 07.05.2018, in pursuance of either of the advertisement, would not be entitled for any benefit arising out of this judgment.

31. This Court further makes it clear that after receiving such requests from the existing petitioners, who have filled their application forms under the advertisement 01/2018 dated 12.04.2018, the same shall be processed by the respondents alongwith all other candidates, who are being processed under the advertisement No.02/2018 dated 12.04.2018, and the petitioners shall thereafter be considered as per their otherwise eligibility and merits, and such appropriate consideration shall be made alongwith all other candidates, who are already in the pipeline of the advertisement No.02/2018. The selection in pursuance of the advertisement No.02/2018 dated 12.04.2018 for the post in question shall not be finalized until the aforesaid exercise is completed. The petitioners shall be treated at par, for the purpose of being considered as TSP Area candidates, while switching them over in the right spirit of the notification dated 19.05.2018 from advertisement No.01/2018 to the advertisement No.02/2018 for the post of Teacher Grade III Level I Classes I to V, as the last date for filling such forms was 07.05.2018, whereas the notification dated 19.05.2018 came about 12 days ahead and the selection process is still going on. It shall be open for the respondents to increase the posts in the Advertisement No.02/2018, if so required.

32. The present writ petition is accordingly allowed. The stay applications also stand disposed of."

In view of the above, the writ petition filed by the petitioner stands disposed of with a direction to the respondents to consider the case of the petitioner in light of the judgment in the case of Manish Kumar Nagda (supra), within a period of 30 days from today by passing a speaking order. Necessary consideration shall made, which shall include issuance of necessary certificate and consideration on eligibility. It is made clear that the necessary consideration, as stated above, shall include permitting the petitioner for counseling or any other component of the selection process which shall remain subject to final outcome of the consideration made by the respondents in accordance with the aforesaid order.