
(2020) 08 RAJ CK 0028

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2112 Of 2020

Sunil Kumar Bakliwal

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0028

Hon'ble Judges : Inderjeet Singh, J

Bench : Single Bench

Advocate : Shobit Tiwari, Anil Mehta, Archana, Tanveer Ahamad, Sara Parveen, Priya Pareek

Final Decision : Disposed Of

Judgement

1. This writ petition has been filed by the petitioner challenging the order dated 31.01.2020 passed by the Rajasthan Civil Services Appellate Tribunal,

Jaipur whereby the learned Tribunal issued the notice of appeal as well as of the stay application to the respondents and denied ad interim stay order

as prayed by the petitioner.

2. The Co-ordinate Benches of this court passed the following orders on 06.02.2020 and 02.07.2020:-

06.02.2020:-

Counsel for the petitioner submits that while adjudicating the stay application, Rajasthan Civil Service Appellate Tribunal has the virtually decided that

the matter and has made observation that a person who is from SC/ST category if senior from the general category person, would be entitled to

promote against the unreserved posts.

Replying upon the circular dated 13.9.2013 and 12.9.2019, learned counsel

submits that the issue relating to the circular dated 13.9.2013 is pending for (D.B. SAW/261/2020 has been filed in this matter. Please refer the same for further orders) consideration before this court in S.B.Civil Writ Petition No.8328/2016 in the case of ""State of Rajasthan Vs. Kailash Narayan Meena"" wherein the Tribunal's view as taken in the present order was stayed vide order dated 27.9.2019.

Learned counsel submits that the State has taken a contrary stand as to what had been taken in writ petition no. 8328/2016 and resultantly all the posts of the year 2018-19 are being filled by the promotion from SC/ST candidates alone. Leaving no course for general category which goes contrary to the circular issued by the State Government dated 26th July, 2017 and in terms of the law laid down by the Supreme Court.

Application has been moved by one of the candidates who has been placed by seeking impleadment on the ground that the applicant has been promoted against the vacancy of the year 2019-2020 and the involved in the the present writ petition should not be come in the way for the promotion of the applicant. Learned counsel for the petitioner submits that he has not assailed the promotion given in the year 2019-2020 and only assails the promotion conducted in the year 2018- 2019.

Issue notice of the writ petition as well as the stay application, returnable within three weeks.

Notices be given ""dasti"", if desired. In the meanwhile, the effect and operation of the order dated 31st January, 2020 passed by the Tribunal shall remain stayed and the respondents Department is restrained from the issuing posting under the promotion order dated 14.10.2019 for the year 2018-19 only.

02.07.2020:-

Ms. Archana, Adv. appears on behalf of Mr. Anil Mehta, AAG. This Court finds that stand of the State Government is required to be disclosed before this Court.

Learned counsel for the respondent- Ms. Archana may file short reply before the next date.

Misc. Application No.2/2020 dated 04.03.2020 for impleadment filed by two persons Ram Kumar Chahil and Kishan Khoiwal has already been

allowed by (D.B. SAW/261/2020 has been filed in this matter. Please refer the same for further orders) Coordinate Bench of this Court vide order

dated 22.05.2020.

Learned counsel for the newly added respondents Mr. Tanveer Ahamad submitted that as far as respondents Ram Kumar Chahil and Kishan

Khoiwal are concerned, these persons are senior to the petitioner in the promotion order dated 14.10.2019 and they have been promoted against the

reserved post. Learned counsel submitted that due to interim order passed by this Court on 06.02.2020, the respondents Ram Kumar Chahil and

Kishan Khoiwal, have also not been given posting orders.

Mr. Shobit Tiwari, counsel for the petitioner does not dispute the aforesaid fact that these two persons are senior to the petitioner and they have been

promoted against the reserved vacancies.

This Court modifies the order dated 06.02.2020 to the extent of permitting the State Government to issue orders in favour of Ram Kumar Chahil and

Kishan Khoiwal, if the State Government intends to promote & post them.

List this case on 15th July, 2020 after showing name of Mr. Anil Mehta, AAG in the cause list.

3. Learned counsel for the petitioner submitted that the stay application filed on behalf of the petitioner is pending consideration before the Tribunal.

4. Learned counsel appearing on behalf of the respondents submitted that the Tribunal may be directed to decide the stay application as early as

possible.

5. In that view of the matter, writ petition is disposed of with the direction to Tribunal to decide the pending stay application before 27.08.2020 without

prejudice to the order passed by Tribunal or by High Court. The interim orders passed by Co-ordinate Benches of this court on 06.02.2020 then

modified on 02.07.2020 shall continue till disposal of the stay application by the Tribunal.a