

(2019) 12 RAJ CK 0115

In the Rajasthan High Court

Case No : Special Appeal Writ No. 1476, 1478, 1569, 1697 Of 2018, 96, 116, 839 Of 2019

Sunita And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 04-12-2019

Acts Referred:

Citation : (2019) 12 RAJ CK 0115

Hon'ble Judges : Sabina, J;Narendra Singh Dhaddha, J

Bench : Division Bench

Advocate : Ashok Yadav, Raj Dev Tripathi, Babu Lal Sharma, Mukesh Sharma, Vandana Sharma, Naina Saraf, K.S. Rawat, Atma Ram Meena

Final Decision : Disposed Of

Judgement

Vide this order, above mentioned appeals would be disposed of.

We have heard learned counsel for the parties and have gone through the record available on the file carefully.

Order passed by the learned Single Judge dated 03.10.2018 reads as under:

"In the present batch of writ petitions the question raised for consideration of this court are that (i) whether the procedure for direct recruitment on the basis of Lottery system, is valid and legal, (ii) whether the vacancies year marked for reserved category after having been filled up, the candidates of reserved category could be considered against Open/General category vacancies, (iii) whether the left over vacancies of the selection process of year 2012, to the extent where appointments could not be made, could be withdrawn and included in the selection process of year 2018, (iv) whether the manual scavengers were/ are not entitled for preference in the selection process.

Sh. Rajendra Prasad, learned Additional Advocate General submits that the questions of which reference has been made (supra) have been examined and

decided by the Co-ordinate Bench of this court in the matter of Sunil Vs. State of Rajasthan and others (S.B. Civil Writ Petition No.12762/2018) decided on 07.09.2018.

On perusal of the above judgment in the matter of Sunil (supra), I find myself in complete agreement with the view and answers given by the Co-ordinate Bench of the aforesaid questions in the matter of Sunil (supra) and in my considered view the questions raised in the present petitions are squarely covered by the judgment of the Co-ordinate Bench in the matter of Sunil (supra) and in light thereof the present petitions stand disposed of.

Copy of this order be separately placed in each file."

Thus, a perusal of the above order reveals that the writ petitions filed by the appellants were disposed of in terms of the decision given in S.B. Civil Writ Petition No. 12762/2018 decided on 07.09.2018 as the questions raised in the writ petitions filed by the appellants were the same.

During the course of arguments, it has transpired that in similar cases, appeals were filed and the said appeals have been disposed of vide order dated 09.08.2019 (in D.B. Special Appeal Writ No.1733/2018 and connected appeals) by the Principal Bench at Jodhpur. The relevant para of the decision dated 09.08.2019 reads as under:

"Keeping the principle enunciated in Dash (supra), it is evident from the facts in the present set of appeals that the recruitments, which were initiated in 2012, were bogged down by litigation; the earmarking of vacancies, the lottery system, allegations of introduction of the lottery system mid stream, increase in the number of vacancies, etc became the subject matter of multiple writ petitions which led to court interventions on about five occasions. The incomplete recruitment, (incomplete because some vacancies had been filled up but in regard to others either the process had not been completed, or the select lists not fully operated), and vacancies accruing later, were all combined; those who could not be appointed, due to the discontinuance of the selection process (of 2012) were allowed to participate in the fresh process; they were afforded age relaxation, apart from those candidates who fulfilled the eligibility criteria. In these circumstances, the State's decision to carry out the entire exercise afresh, after combining the left-over vacancies (of 2012) cannot be faulted. This contention, therefore, fails. Likewise, in the opinion of the court, the petitioners in Ravindra have not made out a cause for intervention; that names of some of them were included in the select list, cannot be the basis for holding the 2018 recruitment arbitrary; nor can they enforce any right, as candidates selected in the 2012 recruitment process. Clearly, the vacancies from that selection process could be clubbed with later vacancies and made subject of a fresh recruitment process. No rule or regulation, or binding norm which precluded the State from holding a recruitment in respect of such combined vacancies was shown to the court.

33. As far as the last contention, with regard to inclusion of names of ineligible candidates, or those who submitted false information or declarations (with respect to their fulfilling any eligibility condition, or their applying for more than one vacancy, or more than one member of the same family applying, contrary to terms of the advertisement is concerned) this court is of the opinion that the state should take expeditious action to delete their names from the select list, in accordance with law. In the case of candidates whose names were deleted, it is a matter of record that many of them have approached the court. Their names shall be dealt with in accordance with the final order of the court, in their cases.

34. As a result of the above discussion, the appeals have to succeed in part; the respondent State shall draw the select list, after excluding the names of those reserved category candidates, who were granted age relaxation, and were afforded the opportunity of participation in the selection through draw of lots, for the open category. A fresh select list, based upon a new draw of lots to be conducted from amongst names of all eligible candidates, (excluding those reserved category candidates who had availed age relaxation benefits, but were allowed a second chance in the draw of lots for the general category candidates) shall be prepared, in respect of balance vacancies. The respondents shall also ensure that names of ineligible candidates, or those who made false declarations are suitably removed, in accordance with law; this is subject to the final outcome of the proceedings initiated by such candidates.

35. In the light of the foregoing discussion, the appeals are partly allowed; all applications too are therefore, disposed of."

Accordingly, these appeals are disposed of in terms of the decision given in D.B. Civil Special (Writ) No. 1733/2018 and connected appeals decided on 09.08.2019.