

(2024) 12 RAJ CK 1229

In the Rajasthan High Court, Jaipur Bench

Case No : Civil Writ Petition No. 17366 Of 2024

Laxita Kumari Patidar

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 09-12-2024

Acts Referred:

Constitution of India, 1950 — Article 21, 25, 38, 39(e), 41, 47

Citation : (2024) 12 RAJ CK 1229

Hon'ble Judges : Anoop Kumar Dhand, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Arun Monga, J

1. The petitioner herein seeks direction to the respondents to issue corrected experience certificate to her and declare her result afresh after granting 10% bonus marks and, if petitioner makes it on merit list, then grant appointment to her on the post of Auxiliary Nurse & Midwives.

2. The facts in brief are as follows:-

2.1 The respondents issued a notification dated 19.05.2023 (Annex.5) for the post of Auxiliary Nurse & Midwives (ANM) and the bonus marks were also to be awarded against the experience of previously working on the post of ANM. The petitioner, being eligible, submitted her application form.

2.2 The respondents called the petitioner for document verification, pursuant to which she submitted all her documents including experience certificate dated 06.06.2023 (Annex.4) issued by Chief Medical & Health Officer, Udaipur (respondent No.6 herein). However, the name of the petitioner did not find place in the provisional merit list dated 06.10.2023 (Annex.8). She approached the competent authority to include her name in the merit list as names of less meritorious candidates were included in the said list. She also submitted a

representation dated 10.10.2023 (Annex.9)

2.3 The aforesaid representation of the petitioner was rejected vide order dated 02.09.2024 on the ground that as per the experience certificate she was not having the requisite experience of one year. Therefore, the petitioner was not entitled to get bonus marks as the date of working mentioned in the certificate is 01.05.2018 to 21.02.2019. Hence, this petition.

3. Learned counsel for the petitioner contends that while issuing work certificate to the petitioner, the competent authority has correctly mentioned that she has worked for 385 days, i.e. more than one year, which entitles her to get 10% bonus marks. However, owing to the typographical error, when the certificate dated 06.06.2023 (Annex.4) was issued, instead of 01.02.2018, a wrong date has been mentioned therein as 01.05.2018, which makes the total duration of work little less than one year. Due to which, the petitioner was not given the benefit of bonus marks.

4. On a Court query, learned counsel for the respondents, who appears on advance service of copy of petition, submits that the petitioner would have been entitled to 10% bonus marks, had her experience been calculated as more than one year. Thus, with the additional 10% marks, she would have made it on the merit list.

5. In the context of the aforesaid controversy, candid stand taken by the respondents in their reply in para No.8 thereos is as below:-

"8. That in the present writ petition, the petitioner has made an averment that she had been issued wrong experience certificate for which the respondent department is liable. In the humble submission, the duty to obtain the experience certificate is upon the petitioner and to submit the same along with the necessary documents in the application form is also the duty of the petitioner. In the present matter, the petitioner ought to have applied for rectification of error in the experience certificate as and when the same was issued. However, the present petitioner took no steps in the direction of rectification of mistake in the experience certificate. Further, vide communication dated 28.06.2023 the respondent department has invited all the applicants applying in the recruitment of 2023 to get their application form rectified in between 29.06.2023 to 07.07.2023, but the present petitioner has not applied/ informed the respondent department during the said period and did not rectify her application form. In such scenario, the experience certificate submitted the petitioner along with the present writ petition cannot be considered for a selection in pursuance to the recruitment of 2023.

(Emphasis supplied)"

6. In view of the aforesaid, it is the respondent No.6, the CM&HO, i.e. a State functionary, who has committed the mistake of wrongly mentioning the date of work experience as noted hereinabove, for which petitioner cannot be held

responsible. Clearly, the shoe is on the other foot. The respondents are trying to take advantage of their own wrong for issuing an incorrect certificate and making the petitioner run from pillar to post. Their stand is, therefore, being noted only to be rejected.

7. As an upshot, the petition is allowed. The work experience certificate issued by competent authority (CM&HO) since already states total period to be 385 days, therefore, it is ordered that same be treated w.e.f. 01.02.2018. Merit position of the petitioner be accordingly re-determined within a period of 30 days from today. In case petitioner is otherwise found suitable and meritorious, due credence of her performance be given to her by issuing appointment letter.

8. For the period, she remained out of service, on the principle of 'no work no pay', she shall not be entitled to salary, however, all other notional benefits shall be accorded to her on parity with her counter-parts with whom she had competed, but for no fault of her could not be issued appointment letter.

9. All pending application(s), if any, shall also stand disposed of.