
(2015) 09 RAJ CK 0092

In the Rajasthan High Court

Case No : Civil Writ Petition Nos. 9689, 9690, 9692, 9734, 9751 and 9778/2015

Surta Ram Choudhary and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 03-09-2015

Acts Referred:

Citation : (2015) 09 RAJ CK 0092

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : Suman Choudhary, S.K. Verma, Kailash Jangid and T.S. Rathore, for the Appellant; S.S. Ladrecha, AAG and Vikas Choudhary, for the Respondent

Final Decision : Disposed Off

Judgement

Sandeep Mehta, J.—Learned AAG Mr. Ladrecha, who has filed a general caveat in these matters, appears for all the respondents.

2. Heard learned counsel for the parties.

3. The petitioners, who belong to Ex-Servicemen category, seek appointment on the post of Vidhyalaya Sahayaks pursuant to notification dated 8.8.2015 issued by the Government of Rajasthan under the Rajasthan Vidhyalaya Sahayak Subordinate Service Rules, 2015 (for short "the Rules of 2015"). A few posts are reserved for the Ex-servicemen.

4. The petitioners' online application forms are not being accepted for various reasons viz. not holding the qualification of senior secondary or not having experience certificate in accordance with Rule 2(j) of the Rules of 2015.

5. Learned counsel for the petitioners contend that as per Rule 6A of the Rajasthan Civil Services (Absorption of Ex-Servicemen) Rules, 1988 (for short "the Rules of 1988"), the petitioners have a right of preferential treatment by giving appropriate relaxation in educational qualification as well as experience criterion. They submit that a matriculate Ex-Servicemen holding a graduation

certificate issued by the Armed Forces after putting in 15 years of service is to be treated as a graduate for the purpose of present recruitment and thus, he would be better qualified than a person having a senior secondary certificate. They further submit that the competent authority has power to relax the experience criterion under Rule 41 of the Rules of 2015. They contend that the requirement of experience as contained in the advertisement is contrary to the definition of experience in Rule 2(j) of the Rules of 2015. They further submit that if a rigid interpretation is given to the experience criterion as prescribed in the advertisement then no ex-servicemen would be able to secure appointment in the questioned selection process because the experience certificates issued to them by the Armed Forces where they served cannot be in conformity with Rule 2(j) of the Rules of 2015 looking to the job description of the petitioners while serving the forces. They submit that as per Rule 2(j) of the Rules of 2015, the experience gained by a candidate, academic as well as non-academic, is acceptable for the purpose of seeking recruitment on the post of Vidhyalaya Sahayaks. Thus, as per them, the non-academic experience gained by the petitioners on account of their long stint in the armed forces is to be treated sufficient so as to entitle them for appointment as Vidhyalaya Sahayaks. They thus pray that the authorities are required to adopt a pragmatic approach in the matter and by exercising the powers of relaxation available under Rule 41 of the Rules of 2015, the experience certificates held by the ex-servicemen alike the petitioners should be treated at par so as to entitle them to compete in the selection process.

6. Learned AAG Shri Ladrecha admits that there is apparently some conflict in the Rules of 2015 and Rule 6A of the Rules of 1988. However, as per him, the powers of relaxation are to be exercised by the competent authority under Rule 41 of the Rules of 2015 and, therefore, the petitioners should be required to submit representations to the competent authority for claiming appropriate relaxation and upon the competent authority being satisfied that their cases are fit for relaxation of experience criterion, the petitioners can be allowed to participate in the selection process. He, however, does not dispute the fact that the graduation certificate held by a matriculate ex-servicemen, who has put in not less than 15 years service in the forces, has to be treated to be above par the requisite educational qualification for the purposes of the recruitment in question.

7. In view of the facts narrated above, the instant writ petitions are disposed of with a direction that the respondents shall accept the offline application forms of the petitioners with the certificates (educational as well as experience) issued to them by the Armed Forces. At the same time each petitioner shall be required to submit a detailed representation to the appropriate authority for claiming relaxation in the experience criterion. Upon receiving such representation, the appropriate authority shall objectively consider the prayer for relaxation keeping in view the provisions of Rule 6A of the Rules of 1988 and decide the same by a reasoned speaking order within a period of three weeks from the date of

submission and positively before the finalization of the selection in the ongoing recruitment process for the posts of Vidhyalaya Sahayaks.

8. The petitioners' right of selection shall remain subject to the fate of their representation which shall be decided by the appropriate authority as per the above directions.

9. In case, the petitioners are aggrieved by the orders passed on their representations, they shall be at liberty to approach this Court by way of fresh writ petitions.

10. Stay petitions are also disposed of.

11. No order as to costs.

12. A copy of this order be placed in each file.