
(2000) 12 SC CK 0076
In the Supreme Court Of India
Case No : Civil Appeal No: 7318 of 2000

Tabassum Qureshi

APPELLANT

Vs

Rajasthan Public Service Commissioner and Another

RESPONDENT

Date of Decision : 12-12-2000

Acts Referred:

The Examination Under Para (3) Of Government Notification Dated 26-2-1998

Citation : AIR 2000 SC 1153 : (2000) AIRSCW 941 : (2000) AIRSCW 4218 : (2000) 68 ECC 531 : (2000) 117 ELT 281 : (2000) 3 JT 133 : (2000) 2 SCALE 304 : (2000) 3 SCC 367 : (2000) 2 SCR 231 : (2000) 2 Supreme 228 : (2000) 4 Supreme 222

Hon'ble Judges : S. S. M. Quadri, J;Ruma Pal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.S.M. Quadri J.-Leave is granted.

2. The appellant challenges the validity of the order of the High Court in DB Civil Special Appeal No. 92 of 2000 dated 3-5-2000 dismissing her appeal and confirming the order of a learned Single Judge in WP No. 2905 of 1998 dated 11-1-2000.

3. The controversy in this appeal relates to the appellant's right to appear in the Rajasthan State Subordinate Services Combined Competitive (Preliminary) Examinations, 1997. She applied for the said examination pursuant to notification issued by the Rajasthan Public Service Commission, Ajmer on 26-2-1998. On 22-5-1998 the Commission informed her that she was found not to fall under any of the categories of the notification and therefore her candidature stood rejected. She assailed the validity of the said order in the writ petition before the High Court which was dismissed by the learned Single Judge on 11-1-2000, which was affirmed by the Division Bench on 3-5-2000 in DB Civil Special Appeal No. 92 of 2000 - the order under challenge.

4. Ms Shobha, the learned counsel appearing for the appellant contends that the appellant falls under para (3) of the notification and that the Rajasthan Public Service Commission as well as the High Court erred in not allowing her to have the benefit of the notification. Shri B.D. Sharma, the learned counsel appearing for the Public Service Commission contends that as she had already availed of 5 chances, she would not be entitled to one more chance under the notification.

5. In view of these rival submissions, it is necessary to read para (3) of the notification of 26-2-1998 under which the appellant claims the right; it reads as under:

"(3) In pursuance of the judgment of the Hon'ble High Court, those candidates who have not availed an extra chance under the notification dated 11-8-1995, can also apply under the aforementioned advertisement. Others shall not apply."

6. A perusal of para (3) of the notification extracted above shows that those candidates who had not availed an extra chance under notification of 11-8-1995, were entitled to apply under notification of 26-2-1998. We consider it unnecessary to interpret the said notification issued on 11-8-1995 as it fell for consideration of the High Court in SB Civil Writ Petition No. 3377 of 1997, and the order in that case dated 13-2-1998 was accepted by the respondent. The relevant portion of that order is in the following terms:

"In other words, the benefit of one more chance shall be available not only to those candidates who have availed four chances before the change in syllabus and scheme and one additional chance under the proviso to sub-rule (1) which was added vide notification dated 15-5-1993, but also to those who completed four chances after the change in syllabus and scheme."

7. On a perusal of the judgment of the High Court it is evident that the benefit of one more chance was available not only to those candidates who availed of four chances before the change in syllabus and scheme and one additional chance under the proviso to sub-rule (1) which was added by notification dated 15-5-1993 but also to those who availed of four chances after the change in syllabus and scheme. That order was pronounced on 13-2-1998 and thereafter the notification of 26-2-1998 was issued. It is obvious that pursuant to the judgment the said notification was issued with a view to provide an additional chance. It is submitted that the appellant did not have an opportunity to take the additional chance which was made available to her under the 1995 notification. If that be so, she is entitled to one more chance. We may note here that after issuance of the 1999 notification the policy of giving only limited chances to the candidates to appear in the said examinations, has been abolished.

8. It is brought to our notice that pursuant to the interim orders of the High Court, the appellant was permitted to take examinations and she did appear in all the examinations: preliminary, mains and interview. But because the writ petition out of which this appeal arises, was dismissed by the High Court, she was not allowed to avail of the benefit of the said examinations.

9. For purposes of this writ petition, we do not consider it necessary to go into the retrospectivity of the 1999 notification. Suffice it to hold that on the facts of this case for the abovementioned reasons, the appellant is entitled to appear in the examinations pursuant to the 1998 notification and accordingly she can avail the benefit of the examinations she had appeared in pursuant to the interim orders of the High Court. It is needless to mention that now the Rajasthan Public Service Commission shall declare the result of the said examinations taken by the appellant.

10. The order under challenge is accordingly set aside. The appeal is allowed in the above terms. There shall be no order as to costs.