

(2024) 11 RAJ CK 1313

In the Rajasthan High Court, Jaipur Bench

Case No : Civil Writ Petition No. 11216 Of 2021

Lalit Kumar

APPELLANT

Vs

The State Of Rajasthan

RESPONDENT

Date of Decision : 27-11-2024

Acts Referred:

Constitution of India, 1950 — Article 265

Rajasthan Municipalities Act, 2009 — Section 130, 131, 131(1)

Citation : (2024) 11 RAJ CK 1313

Hon'ble Judges : Manindra Mohan Shrivastava, CJ; Ashutosh Kumar, J

Bench : Single Bench

Advocate : Sunil Kumar Singodia, Shikha Sharma, G.S. Gill

Final Decision : Allowed

Judgement

Arun Monga, J

1. Having remained unsuccessful in the selection for the post of LDC in the OBC (PH) category, the petitioner is before this Court challenging an advertisement dated 18.01.2013, claiming that as per the mandate of law, one post ought to have been included / kept reserved in the OBC (Physically Handicapped) category as well.

2. The petitioner claims to be 40% disabled due to a locomotive disorder in his left leg.

3. Brief facts, as pleaded in the petition, are that the respondent department issued an advertisement ("Rajasthan Panchayati Raj Recruitment-2013") for the appointment of LDCs in various districts, with a total of 19,515 posts. Pursuant to the recruitment process, the petitioner applied for the post of LDC in District Pali under the Physically Handicapped category, as the petitioner has a locomotor disability. To support this, the petitioner is submitting a copy of the disability certificate dated 11.02.2002. Selection for the LDC post was to be based on the documents submitted by the candidates. The petitioner also has experience as a

computer operator and holds an RS-CIT certificate, in addition to the required educational qualifications.

3.1. It is relevant to note that the selection process has been challenged on various grounds before this Hon'ble Court and the Hon'ble Supreme Court, which delayed its completion. As a result, the respondents are now offering appointments to LDCs, and several posts remain vacant.

3.2. Since the petitioner was not offered appointment in the Pali District under the PH category, the petitioner filed an application under the Right to Information Act on 06.04.2013 seeking information. Several RTI applications were submitted at different levels, and it was revealed that there were 690 LDC posts in Pali District, with 21 reserved for PH candidates. The posts were further divided: 7 for LD, 7 for BL, and 7 for HI. The petitioner's name appeared at S. No. 17, where he was incorrectly categorized as OBC LD, with no bonus marks awarded, and he was shown as not selected.

3.3. It is clear that the petitioner's case was neither considered under the PH category nor were bonus marks provided, which were given to other candidates. Since the petitioner is eligible for the posts and the respondents are not providing the appointment despite awarding bonus marks to others, the petitioner is left with no option but to file this writ petition. Hence, this writ petition.

4. At the very outset, on a Court query being posed to the learned counsel for the petitioner as to why the petitioner has chosen to be a fence-sitter for as long as 8 years before filing the writ petition to challenge the advertisement on the ground that the reservation in the OBC (PH) category has not been provided, he submits that the petitioner was sanguine that he would be otherwise selected without staking his claim for reservation.

5. The explanation of the petitioner, as rendered by his learned counsel, is obviously suggestive of the fact that the petitioner intentionally chose not to challenge the advertisement, under the belief that if he competed in the other category, he stood a better chance of selection.

6. It is only after he remained unsuccessful, having chosen to take his chance, that he took the somersault of claiming to be from OBC (PH) category, knowing full well that at the relevant time he could have sought the benefit of the same either by representing to the respondents that they ought to provide one post in the OBC (PH) category as per law, or by even otherwise challenging the advertisement at the very threshold.

7. At this stage, it transpires that all the posts, which were advertised have been filled as per the availability of candidates.

8. On a Court query, learned counsel for the respondents submits that the posts in the OBC category, which remain unfulfilled, were re-notified in subsequent selections and have also been filled-up.

9. In the premise, on both grounds of delay and laches, as well as on merits, I find that the petition is completely devoid of merit and therefore does not deserve any indulgence.

10. Dismissed accordingly.

11. Pending application(s), if any, stand disposed of.