

(2010) 03 RAJ CK 0088
In the Rajasthan High Court

Teena Dadeech and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 12-03-2010

Acts Referred:

Citation : (2010) 2 WLN 432

Hon'ble Judges : Jagdish Bhalla, C.J.;Dinesh Maheshwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This intra-court appeal has been preferred against the common order dated 28.01.2010 passed by the learned Single Judge of this Court in a batch of writ petitions insofar it relates to CWP No. 900/2010. By the impugned order, the learned Single Judge found no substance in the writ petitions preferred in challenge to the process of recruitment under the advertisement dated 18.08.2008 (Annex. 6).

2. The petitioners-appellants, said to be working as Anganwadi Workers for more than one decade, submitted their applications in response to the said advertisement dated 18.08.2008 whereby the respondents had invited applications for filling up the posts of Female Supervisor under the Rajasthan Women and Child Development (State and Subordinate Service) Rules, 1998 ("the Rules of 1998"); and, for their names having not been included in the list of candidates called for interview, preferred the writ petition in this Court (CWP No. 900/2010)

3. The petitioners-appellants stated the grievance that though under the Rules of 1998, the posts of Female Supervisors have to be filled in 100% by direct recruitment out of which, 75% shall be from open market and 25% from Anganwadi Workers but the advertisement was not containing the quota reserved for Anganwadi Workers upto the extent of 25%; and contended that their right of fair consideration has been jeopardized. It was submitted before the learned

Single Judge that the respondents were under obligation to publish a separate list of Anganwadi Workers who had submitted their applications against 25% quota reserved under the Rules. It was further submitted that contrary to settled principles of law, the amendment in the Rules of 1998, as made in the year 2009, has been taken note of while publishing the list of candidates who are to be called for interview. The petitioners-appellants alleged that they had been working as Anganwadi Workers for more than a decade and were sought to be denied the legitimate right of consideration while curtailing the avenues of promotion.

4. The learned Single Judge found the submissions meritless with the observations that under the scheme of the Rules of 1998, the post of Female Supervisor is to be filled by way of direct recruitment; 75% of vacancies are to be filled from open market and 25% from Anganwadi Workers; and separate eligibility for open market candidates and Anganwadi Workers has been provided. The learned Single Judge observed that the advertisement dated 18.08.2008 was confined only to the vacancies of open market candidates to be filled by direct recruitment; and so far as 25% quota reserved for Anganwadi Workers to be filled by way of open selection was concerned, that had not been advertised by the respondents and there was no reason for the respondents to provide 25% quota for Anganwadi Workers in the recruitment in question.

5. The learned Single Judge further observed that as and when the vacancies under the 25% quota of Anganwadi Workers are advertised by the respondents, the petitioners-appellants, would have a right of fair consideration if eligible; but the advertisement impugned being confined to open market candidates only, the petitioners could be considered thereunder only if found suitable in terms thereof. The learned Single Judge further found meritless the submissions relating to the amendment made in the Rules in the year 2009 and so also the submissions about avenues of promotion with the observations that the avenues have not been curtailed; and as and when the vacancies would be advertised of Anganwadi Workers, the appellants would get opportunity to participate, if found eligible.

6. It is contended in challenge to the order passed by the learned Single Judge that the Rules of 1998 do not postulate that there would be separate direct recruitment for open market candidate and for Anganwadi Workers, and the learned Single Judge has erred in observing that only 75% vacancies of Female Supervisor are being filled up. It is further submitted that in view of the amendment made in the Rules of 1998 by the notification dated 13.10.2009, the post of Female Supervisor will have to be filled up 50% from amongst Gram Sevikas and only after all of them are promoted as Female Supervisors that vacancies will be filled up from open market and Anganwadi Workers, which would essentially result in jeopardizing the rights of Anganwadi Workers like the appellants.

7. We find no case for interference in this intra-court appeal for more than one

reason. In the first place noticeable it is that the petitioners-appellants admittedly made the applications pursuant to the advertisement dated 18.08.2008 and, obviously, took chance for selection under the said advertisement and then, came out with challenge to the process of recruitment only after finding themselves not included in the list of candidates called for interview. The writ petition was filed by the petitioners only in the year 2010, about 11/2 years after the commencement of the process of recruitment and only after publication of the list of candidates being called for interview. Such a belated attempt on the part of the petitioners-appellants to question the process of recruitment, that too only after finding themselves unsuccessful, could not have been countenanced in the writ jurisdiction.

8. The appellants appear having no case on merits either for the advertisement dated 18.08.2008 clearly stated that the applications were being invited for filling in the posts from open market. The advertisement is directly referable to such 75% of posts that are to be filled in from open market. It is, of course, true that 25% posts of Female Supervisors are to be filled in from amongst the Anganwadi Workers but the advertisement in question does not pertain to the Anganwadi Workers and could only be referred to the other 75% posts available for open selections.

9. In the context of the advertisement in question and the rights claimed by the petitioners-appellants, the amendment allegedly made in the Rules in the year 2009 cannot as such be considered having a bearing on the issue. In any case, the amendment cannot be considered infringing any of the vested rights of the persons like the appellants. The learned Single Judge appears to be right in his reasoning that as and when the vacancies are advertised for Anganwadi Workers, the petitioners-appellants will get an opportunity, if found eligible in the Rules.

10. As a result of the foregoing discussion, we find no case for interference at the instance of the appellants.

11. The appeal fails and is, therefore, dismissed summarily.