

Manoj Kumar Rana and Another Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Jan-10-2001

Reported in : 2001(1)AWC694; (2001)1UPLBEC371

Judge : O.P. Garg, J.

Acts : Uttar Pradesh Procedure for Direct Recruitment of Group `C' posts (outside the purview of U.P. Public Service Commission) Rules, 1998 - Rule 5; [Constitution of India](#) - Article 326

Appeal No. : C.M.W.P. No. 18679 of 2000

Appellant : Manoj Kumar Rana and Another

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Rohit Agarwal, ;O.P. Agarwal and ;Pramod Jain, Advs.

Judgement :

O. P. Garg, J.

1. An advertisement was published in the daily news papers on 10th August, 1998 inviting applications on or before 31.8.1998 for appointment to the twentythree posts of Junior Assistant in the pay scale of Rs. 3,050-4,950 issued by the District

Magistrate, Baghpat--respondent No. 2. Out of these 23 vacancies, 12 were earmarked for other backward class communities, 1 for scheduled caste and 1 for scheduled tribes. A true copy of the advertisement has been enclosed as Annexure-1 to the writ petition. The petitioners also applied for their appointment to the post of Junior Assistant. Roll No. 000502 was allotted to the petitioner No. 1 and No. 000713 to the petitioner No. 2. Both the petitioners were declared successful in the written test. Thereafter, a typing test was held on 17.3.1999 and then the petitioners were called for interview. In the final result which was declared on 31.3.2000. the names of the petitioners did not find a place. It is alleged that though the number of vacancies were notified as 23 in the advertisement dated 10.8.1998. only 18 candidates were selected whose names figured in the final result. It is also alleged that the calculation of marks of the petitioners was incorrect and If the marks are calculated accurately, the petitioners would have been declared successful. According to the petitioners, the petitioner No. 1 has secured 101 marks and petitioner No. 2 has secured 84 marks in the written examination. According to Rule 5 of the U. P. Procedure for Direct Recruitment for Group 'C' Posts (outside the purview of the U. P. Public Service Commission) Rules. 1998 (hereinafter referred to as 'the Rules'), 20% of the marks obtained by a candidate in the written examination is added. The addition of 20% marks towards the marks obtained in the written examination was wrongly calculated in the case of both the petitioners. Likewise, the calculation of aforesaid 20% marks in regard to selected candidates is also wrong. While by virtue of wrong calculation, the selected candidates have been given higher marks, the petitioners have been given lower marks. That apart, the petitioners have not been given the benefit of 'sports quota' as both the petitioners are entitled to get benefit of this quota in accordance with Rule 5 (d) of the rules. The marks obtained by the petitioners in the type test have also not been included. The malice on the part of the respondents is also established, according to the petitioners, by the mere fact that while all other candidates have been awarded more than 3 marks in the interview, the petitioners have been awarded 2.7 and 2.8 marks respectively in the interview. The petitioners have, therefore, prayed that the result declared by the respondent No. 2 on 31.2.2000 (Annexure-4 to the petition) be quashed and a writ in the nature of writ of mandamus be issued to the respondent No. 2 not to declare

the result of remaining five vacancies.

2. Heard Sri Pramod Jain, learned counsel for the petitioner as well as the teamed standing counsel. Sri Jain, more or less reiterated the submissions which have been raised in the writ petition and vehemently contended that on account of wrong calculation of marks, the entire selection stands vitiated and it deserves to be quashed. On the other hand, the learned standing counsel contended that the marks obtained by a candidate in the typing test are immaterial, inasmuch as, according to the provision of rules, only those candidates are eligible to appear in the interview, who have proficiency in Hindi and English typing. If a candidate does not know typing, he is ineligible to be called for interview. Since the petitioners were successful in the typing test, they were called for interview. So far as the question of reduction in vacancy is concerned, the advertisement dated 10.8.1998 very specifically made it clear that the vacancies shall be determined at the time of appointment and the same may increase or decrease. At the time of declaration of result, only 18 vacancies were available and, therefore, 18 candidates have been selected. So far as wrong computation of marks is concerned, the learned standing counsel drew the attention of this Court to the Government Order dated 28.8.1998 by which Rule 5 (1)(a) (1) of the rules has been amended and the result has been prepared by computing marks of the candidates in accordance with the said rule. The plea taken in the rejoinder affidavit by the petitioners that clause (1) of the amended rules of 1998 clearly states that the posts which have the prescribed minimum academic qualification of Intermediate or less, the rules shall not apply. This assertion is absolutely incorrect. A bare perusal of the amendment of Rule 1 clearly indicates that the rules are not applicable to the posts which have the prescribed minimum academic qualification lower than the Intermediate Examination. Admittedly, the minimum qualification for the post, in question, is Intermediate. Therefore, the amended rules are fully applicable to the post for which the recruitment test was held.

3. After having heard learned counsel for the parties, this Court is of the view that the averments made in the writ petition and the submissions made by the learned counsel for the petitioners are not sustainable in law. The result has been prepared strictly in accordance with the amended provision of Rule 5 of the rules.

The petitioners have not been able to show any cause for awarding less marks in the interview to them. Interview depends on one's performance. If the petitioners have secured less than 3 marks in the interview, they have to blame themselves and not to the authorities who interviewed them. Since they were successful in the written examination and typing examination, they were called for interview and it was not incumbent upon the respondents to notify the marks obtained by a particular candidate in the typing test. Mere proficiency in typing is sufficient to become eligible for being called for interview. There does not appear to be any defect of procedure in the conduct of the examination, determination of vacancies, or marks assigned to the candidates.

4. A copy of the marks obtained by the candidates belonging to the general category under different heads is Annexure-5 to the writ petition. The petitioner No. 1 (Roll No. 000502) and petitioner No. 2 (Roll No. 000713) have secured 39.385 and 39.100 marks in total. No candidates belonging to the general category who had secured 39.385 or less marks has been extended the benefit of appointment. All the candidates of the general category who were appointed have secured more than 39.385 marks.

5. It was also urged that the petitioners were entitled to weightage of the marks under the category 'sportsman' as contemplated in Rule 5 (d) of the amended rules. The amended rule provides that marks to a sportsman shall be awarded in the following manner :

'(d) marks to a sportsman shall be awarded in the following manner subject to the maximum of five per cent marks of the total marks fixed for test for selection :

(i) If the candidate is a sportsman of International level5 marks

(ii) If the candidate is a sportsman of National level 4 marks

(iii) If the candidate is a sportsman of State level 3 marks

(iv) If the candidate is a sportsman of University/ College/ School level 2 marks'

6. On behalf of the State, it was urged that the petitioners did not submit any certificate of their being 'sportsmen'. There is a specific column 6-Gha for the purpose. It was left blank by the petitioner No. 1. The petitioner No. 2 also crossed the said column and no certificates to indicate that the petitioners fell in the category of 'sportsman' were filed. The assertion on behalf of the petitioners that the forms were interpolated is wide off the marks. If the petitioners were, in fact, entitled to the weightage of the marks in view of the rule, aforesaid, they would have filed certificates to indicate that they were sportsmen of any one of the categories mentioned in the amended rule. The fact that they did not attach any certificate with the application form and failed to furnish the relevant information gives a death blow to the plea that they are entitled to the weightage of marks as 'sportsman'.

7. After having scanned the material brought on record, it is felt that there has been no illegality or procedural irregularity in the declaration of the result. The petitioners failed to compete in the recruitment test, though their failure was marginal. The jurisdiction of this Court is very limited in such matters. If the procedures adopted are according to law and due compliance of principles of natural justice, fair play and equity has been made scrupulously, in that event, this Court would be slow enough to interfere by invoking its extraordinary writ jurisdiction under Article 226 of the [Constitution of India](#). The writ petition is devoid of any merits and substance.

8. The writ petition is accordingly dismissed without any order as to costs.