

Ashok Kumar Gupta and anr. Vs. State of M.P. and ors.

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Court : Madhya Pradesh

Decided On : Apr-08-2002

Reported in : 2002(3)MPHT530; 2002(2)MPLJ616

Judge : Rajendra Menon, J.

Acts : Madhya Pradesh Panchayat Sanvida Shala Shikshak (Appointment and Conditions of Services) Rules, 2001 - Rule 5(8)

Appeal No. : Writ Petition No. 1821/2001

Appellant : Ashok Kumar Gupta and anr.

Respondent : State of M.P. and ors.

Advocate for Def. : K.N. Gupta, Govt. Adv.

Advocate for Pet/Ap. : Jitendra Maheshwari, Adv.

Judgement :

ORDER

Rajendra Menon, J.

1. They are heard.

2. Petitioners have filed this writ petition inter alia contending that they are entitled to be considered for appointment as teachers under the provision of the Madhya

Pradesh Panchayat Samvida Shala Shikshak (Niyukti Avam Seva Shartcon) Niyam, 2001 (hereinafter referred to as the Niyam of 2001). It is contended that they are eligible to be appointed to the post of Samvida Shala Shikshak (Science) Group-II.

3. The petitioner No. 1 who has passed B.A., with Mathematics and Diploma in Education had applied for the said post on the ground that he has educated 28 persons in Gram Panchayat, Bargany. Copy of the certificate issued by the Collector has been filed as Annexure P-1. Similarly, the petitioner No. 2 contends that he has passed B.Sc., M.Sc. and B.Ed. He is also eligible to seek appointment on the post of Samvida Shala Shikshak (Science) Group-II as he has educated 17 persons in Gram Panchayat, Sijaura (Khiriya) and has obtained the necessary certificate under the Padhna-Badhna Yojana. Copy of the same has been filed as Annexure P-2.

4. The petitioners contention is that the respondent No. 4, Janpad Panchayat, Datia had issued an advertisement for recruitment of Samvida Shala Shikshak, Group-II and Group-III. The petitioners had applied for the post of Samvida Shala Shikshak (Science), Group-II. However, it is their case that certain relaxations have been made and the benefit to which they are entitled under the rules have not been extended to them. It is the case of the petitioners that they are entitled to 5% marks for having participated in the Padhna-Badhna Yojana. They were called for the interview and on the basis of the selection, a list was prepared vide Annexure P-7. In the said list, the petitioner No. 1 is at serial No. 24 and similarly, the petitioner No. 2 is at serial No. 29. Initially, the benefit of 5% additional marks were granted to them. Subsequently, the same was cancelled and a fresh date of interview was given as 28th to 30th September, 2001. They again appeared in the interview and in the subsequent list (Annexure P-9), their names appear at serial Nos. 61 and 64 respectively and in this list, the benefit of 5% marks is not extended to them.

5. It is the case of the petitioners that under the Niyam of 2001 (Annexure P-6), certain additional percentage of marks are to be allowed to the persons who have participated in the Padhna-Badhna Yojana. In particular, they contended that

according to Rule (8) (Ga) such persons who have made minimum of 5 persons literates and who have been issued the certificate by the Collector are entitled to the addition of 5% marks. According to the petitioners, they have participated in the aforesaid Yojana and had made literate 28 and 17 persons respectively. It is their case that in spite of the aforesaid 5% marks to which they are entitled have not been granted to them.

6. The respondent Nos. 1, 2 and 3 have filed their return and in Paragraph 5.7 of the return it has been averred by the respondents that the certificates, Annexures P-1 and P-2 issued are with regard to II Guruji and there is no direction to award 5% marks to II Guruji, the petitioners were not Guruji but II Guruji hence they are not entitled to this benefit.

7. The appointments of Samvida Shala Shikshak are governed by the Niyam of 2001 which is filed as Annexure P-6. Clause (8) (Ga) of the said Niyam of 2001 provides for awarding 5% marks to such of the teachers who have participated in the Padhna-Badhna Yojana and have made at least 5 persons literate.

8. In the present case, it is admitted that the petitioners have participated in the Padhna-Badhna Yojana and also fulfil the criteria of having made 5 persons literate. The only objection of the respondents is that the certificate indicates that they are II Guruji and not Guruji.

9. On a perusal of the rules as contained in the Niyam of 2001 and other documents on record, it is seen that there is no classification of Guruji, into Guruji II or Guruji. In fact, in the rules in question, the words used are only teachers. The rules are silent with regard to any further classification of teachers into different categories. That being so, the contention of the respondents seems to be without any basis.

10. There is nothing on the record to indicate that the benefit of 5% additional marks is to be granted to any particular class of teachers. The rules only stipulate that a person should have taught minimum 5 persons under the literacy scheme. Nothing has been brought on record to show as to on what basis the classification as submitted in Paragraph 5.7 of the return is being made.

11. In view of the above, this Court is of the considered view that denial of 5% marks to the petitioners is contrary to the provisions of the Niyam of 2001. The petitioners are entitled to 5% marks under the provision of Clause (8) (Ga) of the Niyam of 2001 and the action of the respondents in not awarding the said 5% marks is clearly illegal and cannot be sustained.

12. It is, therefore, directed that the respondents shall reconsider the case of the petitioners for selection/appointment to the post of Samvida Shala Shikshak (Science) Group-II by awarding them 5% marks as provided for in the rules and in case after awarding such marks it is found that they are eligible, further action be taken for issuing the appointment orders, in case they are otherwise eligible.

13. With the aforesaid directions, the writ petition is disposed of.