

Manoj Kumar and ors. Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Mar-05-2004

Reported in : RLW2004(2)Raj1322; 2004(2)WLC631

Judge : Shiv Kumar Sharma, J.

Acts : Rajasthan Medical and Health Subordinate Service Rules, 1965 - Rule 11; Rajasthan Nursing Council Regulations, 1964 - Regulation 46(2); [Constitution of India](#) - Articles 14 and 21

Appeal No. : S.B. Civil Writ Petition No. 1190 of 2004

Appellant : Manoj Kumar and ors.

Respondent : State of Rajasthan and ors.

Advocate for Def. : Bharat Vyas, Additional Adv. General

Advocate for Pet/Ap. : Manish Bhandari,; K.C. Sharma,; D.K. Bhardwaj and;

Judgement :

Shiv Kumar Sharma, J.

1. Question relating to unemployment involved in these writ petitions reminds me the words of Nani A. Palkhiwala who while delivering lecture at Trinity College Cambridge on November 7, 1990 said:-

'Perceptive observers in foreign countries where Indians work and prosper are baffled by one question how does India, with its great human potential and natural resources, manage to remain poor? The answer is that we are not poor by nature but poor by policy. You would not be far wrong if you called India the world's leading expert in the art of perpetuating poverty. India is rattling and rattling violently with spare human capacity. More than 30 million are registered with our 840 Employment Exchange. According to objective estimates, there must be at least 20 million other unemployed who are not registered.'

2. All the unemployed petitioners are registered with Employment Exchanges and appear to have possessed required qualification from the Institutions situated in the State of Karnataka, for the purpose of registration with Rajasthan Nursing Council (for short 'RNC'). It also appears that each of the petitioner has although submitted required documents and deposited fee in the sum of Rs. 1000/- (One Thousand) the RNC has not taken any decision.

3. In the meanwhile the State of Rajasthan issued a short term advertisement for appointment on 617 vacant posts of Nurse Grade- II on a consolidated pay of Rs. 4500/-. The advertisement provides that last date of submission of application from is March 10, 2004 and only those applicants shall be considered for appointment who are registered with RNC as Nurse Grade 'A'.

4. Contention of the petitioners in support of their grievance is two fold:-

(i) Such a condition is arbitrary and against the relevant statutory rules, and

(ii) for the inaction on the part of RNC, they would be deprived in seeking appointment on the post of Nurse Grade-II.

5. In some of writ petitions, the State of Rajasthan filed written statements justifying the conditions incorporated in the advertisement. It was also stated that last date for submitting the application forms has been extended to March 31, 2004.

6. I have heard the rival submissions.

7. Rule 11 of the Rajasthan Medical & Health Subordinate Service Rules 1965 (for short '1965 Rules') provides for Academic/Technical qualifications and experience for direct recruitment to the posts enumerated in the schedule according to which a candidate must, in addition to such experience as is required, possess the qualifications given in column No. 4 of the schedule and working knowledge of Hindi written in Devnagari script and knowledge of Rajasthan culture. As per column 4 of the Schedule the minimum qualification for direct recruitment to the post of Nurse Grade-II is as under:-

1. RNRC or its equivalent qualification recognised by Government.

2. Regd. 'A' Grade Nurse.

8. Clause (ii) of Section 13 of the Rajasthan Nurses Midwives, Health Visitors and Auxiliary Nurse-Midwives Registration Act 1964 (for short '1964 Act') provides that nurses, midwives, health visitors and auxiliary nurse-midwives who hold corresponding certificates issued by authorities in other states in India and foreign Council, recognised by the Indian Nursing Council, shall be entitled to be registered under 1964 Act. In order to carry out the purposes of 1964 Act, the RNC made the Rajasthan Nursing Council Regulations 1964 (for short '1964 Regulations'). Regulation 46(2) of 1964 Regulations provides that Nurses, Midwives, Lady Health Visitors who join the service in Rajasthan from any other State must have herself/himself registered with the RNC within 3 months after joining under Clause (ii) of Section 13 of 1964 Act by applying in Form VIII.

(9). Conjoint reading of relevant statutory provisions demonstrates that registration with RNC as 'Nurse Grade 'A' can not be a condition precedent for making an application seeking appointment for the post of Nurse Grade II. Such application can not be rejected merely on the ground that registration certificate issued by RNC is not appended with it. The registration certificate is only required when the name of applicant is included in select list.

10. In my considered view act of incorporating condition in advertisement that 'only those applicants shall be considered for appointment who are registered with RNC as Nurse Grade 'A' is arbitrary, against the relevant statutory provisions and

violative of Articles 14 and 21 of the [Constitution of India](#). The State of Rajasthan in imposing said condition acted without jurisdiction and unnecessarily harassed unemployed petitioners. In such a situation, it is necessary to issue necessary directions to prevent such harassment.

11. For these reasons I dispose of the instant writ petitions in the following terms:-

(i) Condition incorporated in the advertisement that only those applicants shall be considered for appointment who are registered with Rajasthan Nursing Council as Nurse Grade 'A', stands quashed and it is directed that application forms if submitted without registration forms if submitted without registration certificate issued by RNC, shall be accepted and considered for the appointment to the post of Nurse Grade II.

(ii) On the basis of respective merit of the applicant, merit list shall be drawn and if the name of the applicant is included in the select list he shall be required to submit the registration certificate issued by RNC. Without submitting the registration certificate, no applicant shall be entitled to appointment.